with respect to drug safety, and for other purposes.

S. RES. 115

At the request of Mr. SALAZAR, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 115, a resolution designating May 2005 as ''National Cystic Fibrosis Awareness Month''.

AMENDMENT NO. 578

At the request of Mr. SPECTER, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of amendment No. 578 intended to be proposed to H.R. 3, a bill Reserved.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROWNBACK (for himself and Mr. NELSON of Nebraska):

S. 933. A bill to amend title XVIII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals; to the Committee on Finance.

Mr. NELSON of Nebraska. Mr. President, today I join Senator BROWNBACK in introducing The Rural Community Hospital Assistance Act. This legislation is intended to ensure the future of small rural hospitals by restructuring the way they are reimbursed for Medicare services by basing the reimbursements on actual costs instead of the current pre-set cost structure.

Current law allows for very small hospitals—designated Critical Access Hospitals (CAH) to receive cost-based Medicare reimbursements. To qualify as a CAH the facility must have no more than 25 acute care beds.

In rural communities, hospital facilities that are slightly larger than the 25 bed limit share with Critical Access Hospitals the same economic conditions, the same treatment challenges, the same disparity in coverage area but do not share the same reimbursement arrangement. These rural hospitals have to compete with larger urban-based hospitals that can perform the same services at drastically reduced costs. They are also discouraged from investing in technology and other methods to improve the quality of care in their communities because those investments are not supported by Medicare reimbursement procedures.

The legislation would provide enhanced cost-based Medicare reimbursement by creating a new ''rural'' designation under the Medicare reimbursement system. This new designation would benefit five Nebraska hospitals. Hospitals in McCook, Beatrice, Columbus, Holdrege and Lexington would fall under this new designation, and would have similar benefits provided to nearly sixty other Nebraska hospitals classified under the CAH system.

The legislation would also improve the hospitals with critical access status. Sixty CAH facilities in Nebraska already receive enhanced cost-based reimbursements for inpatient and outpatient services. The legislation would further assist these existing CAH facilities by extending the enhanced cost-based reimbursement to certain post-acute and ambulance services and eliminating the current 35-mile test.

Rural hospitals cannot continue to provide these services without having Medicare cover the costs. If something is not done, the larger hospitals may be forced to cut back on the number of beds they keep—and the number of people they care for, and others may be forced to close their doors. These hospitals provide jobs, good wages, health care and economic development opportunity for these communities. Without access to these hospitals, these communities would not survive. The Rural Community Hospital Assistance Act will ensure that the community has access to high quality health care that is affordable to the patient and the provider.

Mr. FEINGOLD (for himself and Mr. GRAHAM):

S. 934. A bill to establish an expedited procedure for congressional consideration of health care reform legislation; to the Committee on Rules and Administration.

Mr. FEINGOLD. Mr. President, today I am pleased to be joined by the Senator from South Carolina, Mr. GRAHAM, in introducing legislation that requires Congress to act on what may be the most pressing domestic policy issue of our time, namely health care reform.

I travel to each of Wisconsin's 72 counties every year to hold town hall meetings. Year after year, the number one issue raised at these listening sessions is the same—health care. The failure of our health care system brings people to these meetings in droves. The frustration I hear, the anger and the desperation, have convinced me that we must change the system.

So many people now come to tell me that they used to think government involvement was a terrible idea, but not anymore. Now they tell me that their businesses are being destroyed by health care costs, and they want the government to step in. These costs are crippling our economy just as the nation is struggling to rebound from the loss of millions of manufacturing jobs.

Our health care system has failed to keep costs in check. Costs are skyrocketing, and there is simply no way we can expect businesses to keep up. So in all too many cases, employers are left to offer sub-par benefits, or to wonder whether they can offer any benefits at all. Employers cannot be the sole provider of health care when these costs are rising faster than inflation.

One option that could help employers, especially small businesses, reduce their health care costs is to have them form health care cooperatives, where employers lower costs by purchasing care as a group. I have introduced a bill in the Senate to make it easier for business to create these cooperatives.

But that legislation certainly isn't the magic bullet that can address the whole problem. We need to come up with more comprehensive ways to address rising costs. In most cases, costs are still passed on to employees, who then face enormous premiums that demand more and more of their monthly income. People tell me that they don't understand how anyone can afford these astronomical premiums, and what can you say to that?

Well, we can say that it's time to move toward universal coverage. I believe we can find a way to make universal coverage work in this country. Universal coverage doesn't mean that we have to copy a system already in place in another country. We can harness our Nation's creativity and entrepreneurial spirit to design a system that is uniquely American. Universal coverage doesn't have to be defined by what's been attempted in the past. What universal coverage does mean is ending a system where approximately 45 million Americans are uninsured, and where too many of those who are insured are struggling to pay their premiums, struggling to pay for prescription drugs, and struggling to find long term care.

We can't tolerate a system that strands so many Americans without the coverage they need. This system costs us dearly: Even though an estimated 45 million Americans are uninsured, the United States devotes more of its economy to health care than other industrial countries.

Leaving this many Americans uninsured affects all of us. Those who are insured pay more because the uninsured can't afford to pay their bills. And those bills are exceptionally high, because the uninsured wait so long to see a doctor. The uninsured often live sicker, and die earlier, than other Americans, so they also need a disproportionate amount of acute care.

In 2001 alone, health care providers provided $35 billion worth of uncompensated care. While providers absorb some of those costs, inevitably some of the burden is shifted to other patients. And of course the process of cost-shifting itself generates additional costs.

We are all paying the price for our broken health care system, and it is time to bring about change.

Over the years I have heard many different proposals for how we should change the health care system in this country. Some propose using tax incentives as a way to expand access to health care. Others think the best approach is to expand public programs. Some feel a national single payer health care system is the only way to go.

I don't think we can ignore any of these proposals. We need to consider all of these as we address our broken health care system.

As a former State legislator, I come to this debate knowing that States are coming up with some very innovative solutions to the health care problem.

So in addition to the approaches already mentioned, I think we really need to look at what our States are doing, and add to the menu of possibilities an approach under which each State decides the best way to cover its residents.

I favor an American-style health care reform, where we encourage creative solutions to the health care problems facing our country, without using a one-size-fits-all approach. I believe that states have a better idea about what the health care needs of their residents are, and that they understand what types of reform will work best for their State. So I am in favor of a State-based universal health care system, where States, with the Federal Government's help, come up with a plan to make sure that all of their residents have health care coverage.

This approach would achieve universal health care, without the Federal Government dictating to all of the states exactly how to do it. The Federal Government would provide States with the financial help, technical assistance and oversight necessary to accomplish this goal. In return, a State would have to make sure that every resident has coverage at least as good as that offered in the Federal Employee Health Benefits Program (FEHBP)—in other words, at least as good as the health insurance Members of Congress have.

States would have the flexibility to expand coverage in phases, and would be offered a number of Federal ''tools'' to choose from in order to help them achieve universal coverage. States could use any number of these tools, or none of them, instead opting for a Federal contribution for a State-based ''single-payer'' system. In addition to designing and implementing a plan to achieve universal care, States would also be required to provide partial funding of these plans. The Federal Government would approve each State plan, and would conduct oversight of the implementation of these plans.

Federal tools that States could choose from to help expand health coverage could include an enhanced Medicaid and SCHIP Federal match for expanding coverage to currently uninsured individuals; refundable and advanceable tax credits for the purchase of health insurance for individuals and/or businesses; the establishment of a community-rated health pool, similar to FEHBP, to provide affordable health coverage and expanded choices for those who enroll; and assistance with catastrophic care costs.

States could be creative in the State resources they use to expand health care coverage. For example, a State could use personal and/or employer mandates for coverage, use State tax incentives, create a single-payer system or even join with neighboring States to offer a regional health care plan.

The approach I have set forth would guarantee universal health care, but still leave room for the flexibility and creativity that I believe is necessary to ensure that everyone has access to affordable, quality health care.

As I have noted, there have been a number of interesting proposals to move us to universal health care coverage. While I will be advocating the State-based approach that I have just outlined, others have proposed alternative approaches that certainly merit consideration and debate.

And this brings us to the legislation Senator GRAHAM and I are introducing today, because, the reason we haven't reformed our health care system isn't because of a lack of good ideas. The problem is that Congress and the White House refuse to take this issue up. Despite the outcry from businesses, from health care providers, and from the tens of millions who are uninsured or underinsured or struggling to pay their premiums, Washington refuses to address the problem in a comprehensive way.

That is why we are introducing this bill. Our legislation will force Congress to finally address this issue. It requires the Majority and Minority Leaders of the Senate, as well as the Chairs of the Health, Education, Labor, and Pensions Committee and the Finance Committee, to each introduce a health care reform bill in the first 30 days of the session following enactment of the bill. If a committee chair fails to introduce a bill within the first month, then the ranking minority party member of the respective committee may introduce a measure that qualifies for the expedited treatment outlined in my bill.

The measures introduced by the Majority Leader and Minority Leader will be placed directly on the Senate Calendar. The measures introduced by the two committee chairs, or ranking minority members, will be referred to their respective committees.

The committees have 60 calendar days, not including recesses of 3 days or more, to review the legislation. At the end of that time, if either committee fails to report a measure, the bills will be placed directly on the legislative calendar.

If the Majority Leader fails to move to one of the bills, any Member may move to proceed to any qualifying health care reform measure. The motion is not debatable or amendable. If the motion to proceed is adopted, the Chamber will immediately proceed to the consideration of a measure without intervening motion, order, or other business, and the measure remains the unfinished business of the Senate until the body disposes of the bill.

Similar procedures are established for House consideration.

I want to emphasize, my hill does not prejudge what particular health care reform measure should be debated. There are many worthy proposals that would qualify for consideration, and this bill does not dictate which proposal, or combination of proposals, should be considered.

But what my bill does do is to require Congress to act.

It has been over 10 years since the last serious debate over health care reform was killed by special interests and the soft money contributions they used to corrupt the legislative process. The legislative landscape is now much different. Soft money can no longer be used to set the agenda, and businesses and workers are crying out as never before for Congress to do something about the country's health care crisis.

It has been over 10 years since we've had any debate on comprehensive health care reform. We cannot afford any further delay, because I believe the cost of inaction is too great. I urge my colleagues to support the Reform Health Care Now Act of 2005.

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

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

S. 934

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 ''Reform Health Care Now Act''.

SEC. 2. SENATE CONSIDERATION OF HEALTH CARE REFORM LEGISLATION.

(a) INTRODUCTION.—

(1) IN GENERAL.—Not later than 30 calendar days after the commencement of the session of Congress that follows the date of enactment of this Act, the chair of the Senate Committee on Health, Education, Labor, and Pensions, the Chair of the Senate Committee on Finance, the Majority Leader of the Senate, and the Minority Leader of the Senate shall each introduce a bill to provide a significant increase in access to health care coverage for the people of the United States.

(2) MINORITY PARTY.—These bills may be introduced by request and only 1 qualified bill may be introduced by each individual referred to in paragraph (1) within a Congress. If either committee chair fails to introduce the bill within the 30-day period, the ranking minority party member of the respective committee may instead introduce a bill that will qualify for the expedited procedure provided in this section.

(3) QUALIFIED BILL.—

(A) IN GENERAL.—In order to qualify as a qualified bill—

(i) the title of the bill shall be ''To reform the health care system of the United States and to provide insurance coverage for Americans.'';

(ii) the bill shall reach the goal of providing health care coverage to 95 percent of Americans within 10 years; and

(iii) the bill shall be deficit neutral.

(B) DETERMINATION.—Whether or not a bill meets the criteria in subparagraph (A) shall be determined by the Chair of the Senate Budget Committee, relying on estimates of the Congressional Budget Office, subject to the final approval of the Senate.

(b) REFERRAL.—

(1) COMMITTEE BILLS.—Upon introduction, the bill authored by the Chair of the Senate Committee on Finance shall be referred to that Committee and the bill introduced by the Chair of the Senate Committee on Health, Education, Labor, and Pensions shall be referred to that committee. If either committee has not reported the bill referred to it (or another qualified bill) by the end of a 60

calendar-day period beginning on the date of referral, the committee is, as of that date, automatically discharged from further consideration of the bill, and the bill is placed directly on the chamber's legislative calendar. In calculating the 60-day period, adjournments for more than 3 days are not counted.

(2) LEADER BILLS.—The bills introduced by the Senate Majority Leader and the Senate Minority Leader shall, on introduction, be placed directly on the Senate Calendar of Business.

(c) MOTION TO PROCEED.—

(1) IN GENERAL.—On or after the third day following the committee report or discharge or upon a bill being placed on the calendar under subsection (b)(2), it shall be in order for any Member, after consultation with the Majority Leader, to move to proceed to the consideration of any qualified bill. Notice shall first be given before proceeding. This motion to proceed to the consideration of a bill can be offered by a Member only on the day after the calendar day on which the Member announces the Member's intention to offer it.

(2) CONSIDERATION.—The motion to proceed to a given qualified bill can be made even if a motion to the same effect has previously been rejected. No more than 3 such motions may be made, however, in any 1 congressional session.

(3) PRIVILEGED AND NONDEBATABLE.—The motion to proceed is privileged, and all points of order against the motion to proceed to consideration and its consideration are waived. The motion is not debatable, is not amendable, and is not subject to a motion to postpone.

(4) NO OTHER BUSINESS OR RECONSIDERATION.—The motion is not subject to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or disagreed to is not in order.

(d) CONSIDERATION OF QUALIFIED BILL.—

(1) IN GENERAL.—If the motion to proceed is adopted, the chamber shall immediately proceed to the consideration of a qualified bill without intervening motion, order, or other business, and the bill remains the unfinished business of the Senate until disposed of. A motion to limit debate is in order and is not debatable.

(2) ONLY BUSINESS.—The qualified bill is not subject to a motion to postpone or a motion to proceed to the consideration of other business before the bill is disposed of.

(3) RELEVANT AMENDMENTS.—Only relevant amendments may be offered to the bill.

SEC. 3. HOUSE CONSIDERATION OF HEALTH CARE REFORM LEGISLATION.

(a) INTRODUCTION.—

(1) IN GENERAL.—Not later than 30 calendar days after the commencement of the session of Congress that follows the date of enactment of this Act, the chair of the House Committee on Energy and Commerce, the chair of the House Committee on Ways and Means, the Majority Leader of the House, and the Minority Leader of the House shall each introduce a bill to provide a significant increase in access to health care coverage for the people of the United States.

(2) MINORITY PARTY.—These bills may be introduced by request and only 1 qualified bill may be introduced by each individual referred to in paragraph (1) within a Congress. If either committee chair fails to introduce the bill within the 30-day period, the ranking minority party member of the respective committee may, within the following 30 days, instead introduce a bill that will qualify for the expedited procedure provided in this section.

(3) QUALIFIED BILL.—

(A) IN GENERAL.—To qualify for the expedited procedure under this section as a qualified bill, the bill shall—

(i) reach the goal of providing healthcare coverage to 95 percent of Americans within 10 years; and

(ii) be deficit neutral.

(B) DETERMINATION.—Whether or not a bill meets the criteria in subparagraph (A) shall be determined by the Speaker's ruling on a point of order based on a Congressional Budget Office estimate of the bill.

(b) REFERRAL.—

(1) COMMITTEE BILLS.—Upon introduction, the bill authored by the Chair of the House Committee on Energy and Commerce shall be referred to that committee and the bill introduced by the Chair of the House Committee on Ways and Means shall be referred to that committee. If either committee has not reported the bill referred to it (or another qualified bill) by the end of 60 days of consideration beginning on the date of referral, the committee shall be automatically discharged from further consideration of the bill, and the bill shall be placed directly on the Calendar of the Whole House on the State of the Union. In calculating the 60-day period, adjournments for more than 3 days are not counted.

(2) LEADER BILLS.—The bills introduced by the House Majority Leader and House Minority Leader will, on introduction, be placed directly on the Calendar of the Whole House on the State of the Union.

(c) MOTION TO PROCEED.—

(1) IN GENERAL.—On or after the third day following the committee report or discharge or upon a bill being placed on the calendar under subsection (b)(2), it shall be in order for any Member, after consultation with the Majority Leader, to move to proceed to the consideration of any qualified bill. Notice must first be given before proceeding. This motion to proceed to the consideration of a bill can be offered by a Member only on the day after the calendar day on which the Member announces the Member's intention to offer it.

(2) CONSIDERATION.—The motion to proceed to a given qualified bill can be made even if a motion to the same effect has previously been rejected. No more than 3 such motions may be made, however, in any 1 congressional session.

(3) PRIVILEGED AND NONDEBATABLE.—The motion to proceed is privileged, and all points of order against the motion to proceed to consideration and its consideration are waived. The motion is not debatable, is not amendable, and is not subject to a motion to postpone.

(4) NO OTHER BUSINESS OR RECONSIDERATION.—The motion is not subject to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or disagreed to is not in order.

(d) CONSIDERATION OF A QUALIFIED BILL.—

(1) IN GENERAL.—If the motion to proceed is adopted, the chamber will immediately proceed to the consideration of a qualified bill without intervening motion, order, or other business, and the bill remains the unfinished business of the House until disposed of.

(2) COMMITTEE OF THE WHOLE.—The bill will be considered in the Committee of the Whole under the 5-minute rule, and the bill shall be considered as read and open for amendment at any time.

(3) LIMIT DEBATE.—A motion to further limit debate is in order and is not debatable.

(4) RELEVANT AMENDMENTS.—Only relevant amendments may be offered to the bill.

By Mrs. FEINSTEIN (for herself, Mr. CORZINE, and Mr. DURBIN):

S. 935. A bill to regulate .50 caliber sniper weapons designed for the taking of human life and the destruction of materiel, including armored vehicles and components of the Nation's critical infrastructure; to the Committee on Finance.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Fifty Caliber Sniper Weapons Regulation Act of 2005. I am joined by Senators CORZINE and DURBIN.

This bill would add the .50-caliber sniper rifle to the list of ''firearms'' governed by the National Firearms Act. This means that this weapon would be subject to the tax and registration rules imposed by the Internal Revenue Service under that Act. The practical effect would be that a transfer of such a weapon, by sale or by gift, would require registration pursuant to IRS regulations.

The bill would not ban any guns, and existing .50 caliber owners would be unaffected by this law until, and unless, they sell or give away their weapon.

I believe this is a reasonable compromise, respecting the rights of those who have followed the law, but making future changes in the law to regulate new .50-caliber guns.

.50-caliber sniper rifles, manufactured by a small handful of companies, are deadly, military weapons, designed for combat with wartime enemies. They are capable of piercing light armor at more than four miles. The guns are designed to enable a single soldier to destroy enemy aircraft, HumVees, bunkers, fuel stations, and communication centers, as well as target and kill enemy personnel. As a result, their use by military organizations worldwide has been spreading rapidly.

This is a weapon designed to kill people efficiently, or destroy machinery, at a great distance. But along with the increasing military use of the gun, we have also seen increased use of the weapon by violent criminals and terrorists around the world, and the potential for much worse.

These weapons are deadly accurate up to 6,000 feet. This means that a shooter using a .50-caliber weapon can reliably hit a target more than a mile away. To further illustrate what this means, a shooter standing on the steps of the Jefferson Memorial can kill a person standing on the White House lawn, or shoot down the President's helicopter.

And the gun is effective at more than four miles. Although it may be hard to aim at this distance, the gun will still have its desired destructive effect. That means a shooter in Arlington Cemetery can send a bullet crashing into this building.

This is, of course, is using ordinary ammunition. I had one of my staff members obtain a blank .50-caliber bullet. I was amazed to see what was brought back. Senate rules forbid me from bringing the bullet to the floor, so I will describe it for my colleagues.

The casing for this bullet is about five inches in length, and three-quarters-of-an-inch in diameter. The entire round is almost as big as my hand.

But don't just take my word for it. Each one of my colleagues should examine these bullets for themselves. Take a look at the projectile these weapons fire. This is not a recreational gun that can be used for hunting.

This gun can be used by civilians against armored limousines, bunkers, individuals, and aircraft—in fact, one advertisement for the gun promoted the weapon as able to ''wreck several million dollars'' worth of jet aircraft with one or two dollars worth of cartridges.''

A recent CNN news report powerfully illustrates this issue. In one on-camera demonstration, a .50 caliber bullet is fired through the door of a commercial jetliner—it continues to blast through a steel plate. A marksman on the steps of the Capitol could bring down a plane coming into National Airport.

This gun is so powerful that one dealer told undercover General Accountability Office investigators, ''You'd better buy one soon. It's only a matter of time before someone lets go a round on a range that travels so far, it hits a school bus full of kids. The government will definitely ban .50-calibers. This gun is just too powerful.'' In fact, many ranges used for target practice do not even have enough safety features to accommodate these guns.

A study by the GAO revealed some eye-opening facts about how and where this gun is used, and how easily it is obtained. The GAO reports that many of these guns wind up in the hands of domestic and international terrorists, religious cults, outlaw motorcycle gangs, drug traffickers, and violent criminals.

According to a special agent at ATF's Atlanta Field Division, the Barrett .50-caliber rifle is ''a tremendous threat'' for ''those most shocking and horrifying crimes, assassinations, murders, assaults on law enforcement officers.''

But these fears are not hypothetical. Recently we have learned that Al Qaeda has received .50-caliber sniper rifles—rifles that were manufactured right here in the United States. Nearly two years ago today, Essam al Ridi, an Al Qaeda associate, testified that he acquired 25 Barrett .50-caliber sniper rifles and shipped them to Al Qaeda members in Afghanistan. We have no way of knowing whether Al Qaeda has obtained more or who has supplied them with these weapons, but we can be sure that any .50-caliber weapon in the hands of Al Qaeda will likely be used against Americans.

In 1998, Federal law enforcement apprehended three men belonging to a radical Michigan militia group. The three were charged with plotting to bomb Federal office buildings, destroy highways and utilities. They were also charged with plotting to assassinate then-Governor Engler, Federal judges, and our colleague, Senator LEVIN. A .50-caliber sniper rifle was found in their possession along with a cache of weapons that included three illegal machine guns.

One doomsday cult headquartered in Montana purchased ten of these guns and stockpiled them in an underground bunker, along with thousands of rounds of ammunition and other guns.

At least one .50-caliber gun was recovered by Mexican authorities after a shoot-out with an international drug cartel in that country. The gun was originally purchased in Wyoming, so it is clear that the guns are making their way into the hands of criminals worldwide.

The U.S. Air Force has studied the scenario of a potential terrorist attack with a .50-caliber weapon. According to a November 2001 article in the Air Force's official magazine, Airman, an anti-sniper assessment claimed that planes parked on a fully protected U.S. airbase are as vulnerable as ''ducks on a pond'' because the weapons can shoot from beyond most airbase perimeters. The Air Force has addressed the issue and the effectiveness of specially-trained countersnipers to respond to a .50-caliber weapon attack on aircraft, fuel tanks, control towers, and personnel.

I am glad to know our military has given some consideration to the threats posed by .50-caliber weapons, but I have real concerns over the threats posed to civilian aviation.

Our Nation's airports in no way match the security measure at Air Force bases. These commercial facilities handle millions of passengers and tons of cargo each day and are especially vulnerable to the threats posed by .50-caliber weapons.

Experts have agreed that .50-caliber weapons aimed at a plane while stationary, or taking off or arriving, could be just as disastrous as a hit from a missile launcher. Gal Luff, Co-Director of the Institute for the Analysis of Global Security, has described .50-caliber weapons as ''lethal to slow moving planes.''

For further illustration of the potential destruction of these weapons, simply listen to the manufacturers themselves. According to a Barrett Firearms Manufacturing Model 82A1 .50-caliber sniper rifle brochure: ''The cost effectiveness of the Model 82A1 cannot be overemphasized when a round of ammunition purchased for less than ten U.S. dollars can be used to destroy or disable a modern jet aircraft. The compressor sections of jet engines or the transmissions of helicopters are likely targets for the weapon, making it capable of destroying multimillion dollar aircraft with a single hit delivered to a vital area.''

The Nordic Ammunition Company is the developer of the Raufoss multipurpose ammunition for .50-caliber weapons that combines armor-piercing, incendiary, and explosive features and was used by U.S. forces during the Gulf War. According to the company, the ammunition can ignite military jet fuel and has ''the equivalent firing power of a 20mm projectile to include such targets as helicopters, aircrafts, light armor vehicles, ships, and light fortifications.''

Ammunition for these guns is also readily available in stores and on the Internet. This is perfectly legal. Even those categories which are illegal, such as the ''armor piercing incendiary'' ammunition that explodes on impact can, according to a recent ''60 Minutes'' news report, be purchased online.

Several ammunition dealers were willing to sell armor piercing ammunition to an undercover GAO investigator even after the investigator said he wanted the ammunition to pierce an armored limousine or maybe to shoot down a helicopter.

Current law classifies .50-caliber guns as ''long guns,'' subject to the least government regulation for any firearm. In other words, the law makes no distinction between the .22-caliber target rifle, a .30–06 caliber hunter's weapon, and this large-caliber combat weapon. Simply, I believe the law is wrong and needs to be changed.

This weapon is not in the same class as other rifles. Its power and range are of an order of magnitude higher.

Sawed-off shotguns, machine guns, and even handguns are more highly-regulated than this military sniper rifle. In fact, many States allow possession of .50-caliber guns by those as young as 14-years old, and there is no regulation on second-hand sales.

Just this past year, the RAND Corporation released a report which identified eleven potential terrorist scenarios at Los Angeles International Airport. In one scenario, ''a sniper, using a .50 caliber rifle, fires at parked and taxiing aircraft.'' The report concludes: ''we were unable to identify any truly satisfactory solutions'' for such an attack.

Last June, a Department of Homeland Security representative told the Dallas Morning News that ''we remain concerned about any weapon of choice that could potentially be used by a terrorist, including a .50-caliber rifle.'' I think the Department's concerns are well founded.

The bottom line is that the .50-caliber sniper weapon represents a national security threat requiring action by Congress.

This is a weapon which should not be available to terrorists and criminals, and should be responsibly controlled through carefully crafted regulation.

I urge my colleagues to support this bill.

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

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

S. 935

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 ''Fifty Caliber Sniper Weapons Regulation Act of 2005''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Certain firearms originally designed and built for use as long-range .50 caliber military sniper weapons are increasingly being sold in the United States civilian market.

(2) The intended use of these long-range firearms, and an increasing number of models derived directly from them, is the taking of human life and the destruction of materiel, including armored vehicles and components of the national critical infrastructure, such as radar and microwave transmission devices.

(3) These firearms are neither designed nor used in any significant number for legitimate sporting or hunting purposes and are clearly distinguishable from rifles intended for sporting and hunting use.

(4) Extraordinarily destructive ammunition for these weapons, including armor-piercing and armor-piercing incendiary ammunition, is freely sold in interstate commerce.

(5) The virtually unrestricted availability of these firearms and ammunition, given the uses intended in their design and manufacture, present a serious and substantial threat to the national security.

SEC. 3. COVERAGE OF .50 CALIBER SNIPER WEAPONS UNDER THE NATIONAL FIREARMS ACT.

(a) IN GENERAL.—Section 5845(a) of the Internal Revenue Code of 1986 (defining firearm) is amended by striking ''(6) a machine gun; (7) any silencer (as defined in section 921 of title 18, United States Code); and (8) a destructive device.'' and inserting ''(6) a .50 caliber sniper weapon; (7) a machine gun; (8) any silencer (as defined in section 921 of title 18, United States Code); and (9) a destructive device.''.

(b) DEFINITIONS.—

(1) IN GENERAL.—Section 5845 the Internal Revenue Code of 1986 (defining terms relating to firearms) is amended by adding at the end the following:

''(n) FIFTY CALIBER SNIPER WEAPON.—The term '.50 caliber sniper weapon' means a rifle capable of firing a center-fire cartridge in .50 caliber, .50 BMG caliber, any other variant of .50 caliber, or any metric equivalent of such calibers.''.

(2) MODIFICATION TO DEFINITION OF RIFLE.—Section 5845(c) of the Internal Revenue Code of 1986 (defining rifle) is amended by inserting ''or from a bipod or other support'' after ''shoulder''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall only apply to a .50 caliber sniper weapon made or transferred after the date of enactment of this Act.

By Mr. LEAHY (for himself and Mr. SUNUNU):

S. 936. A bill to ensure privacy for e-mail communications; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I introduce today the Leahy-Sununu E-mail Privacy Act to ensure that last year's decision by the First Circuit Court of Appeals in a case called United States v. Councilman does not undermine the online privacy that Americans expect and cherish. Senator SUNUNU has been a leader on privacy issues, and I appreciate and welcome his support.

In a strained reading of the Electronic Communications Privacy Act (ECPA), the majority in this case effectively concluded that it was permissible for an Internet Service Provider to systematically intercept, copy and read its customers' incoming e-mails for corporate gain. This outcome is an unacceptable privacy intrusion that is inconsistent with Congressional intent and the commonly-held understanding of the protections provided by ECPA, and requires swift Congressional response. I offer the E-mail Privacy Act as a simple, straightforward way to prevent the erosion of the privacy protection Congress granted to e-mail and ensure that this outcome is not repeated.

In 1986 Congress passed ECPA to update the Wiretap Act so that Americans could enjoy the same amount of privacy in their online communications as they do in the offline world. ECPA was a careful, bipartisan and long-planned effort to protect electronic communications in two forms—from real-time monitoring or interception as they were being delivered, and from searches when they were stored in record systems. We recognized these as different functions and set rules for each based on the relevant privacy expectations and threats to privacy implicated by the different forms of surveillance.

The Councilman decision upset this careful distinction. Functionally, the ISP was intercepting e-mails as they were being delivered, yet the majority concluded that the relevant rules were those pertaining to stored communications, which exempt ISPs. Specifically, the majority rejected the argument put forth by the Justice Department that an intercept occurs—and the Wiretap Act—applies when an e-mail is acquired contemporaneously with its transmission, regardless of whether the transmission may be in electronic storage for a nanosecond at the time of acquisition. This majority's conclusion fails to consider the nature of electronic communications systems and belies the reality that such searches are functionally an interception.

The implications of this decision are broad. While many ISPs are responsible online citizens, this does not change the fact that this decision essentially licenses ISPs to snoop. Even more worrisome is that this decision creates the opportunity for the type of Big Brother invasions that understandably make Americans cringe. For practical reasons, law enforcement often installs surveillance devices at these nanosecond storage points, but before doing so, they have obtained the appropriate legal permission to intercept e-mails—a Title III order. Under the majority's interpretation in the Councilman decision, law enforcement would no longer need to obtain a Title III order to conduct such searches, but rather could follow the less rigorous procedures for stored communications. For example, under the rules for stored communication, if law enforcement were to get the consent of a university-operated ISP, such searches could be performed without the knowledge of users. This is Carnivore unleashed if you will, and is simply not the outcome that Congress intended or the American people expect. Searches that occur in nanosecond storage points during the transmission process are in their function ''interceptions'' and should be treated as such and subject to the wiretap laws.

The E-mail Privacy Act is a simple approach to prevent the erosion of privacy protections and clarifies that the wiretap laws apply to e-mail interceptions like those at issue in the Councilman case. In essence, the Act would amend ECPA to clarify that the definition of intercept is not a narrow, rigid concept, but is broad enough to include actions that are functionally equivalent to an interception. Importantly, these careful and slight changes would simply restore the status quo prior to the Councilman decision without disturbing other areas of ECPA and without raising controversial concerns that may be difficult to resolve in the few remaining days of this term.

This is an important issue to the American people, and fortunately the E-mail Privacy Act provides a straightforward approach that we can all get behind. Again, I thank Senator SUNUNU for his support on this important legislation. I am sure he would join me in urging our colleagues to make e-mail privacy a top priority and support the E-mail Privacy Act.

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. 936

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 ''E-Mail Privacy Act of 2005''.

SEC. 2. CLARIFICATION OF THE DEFINITION OF INTERCEPT.

Section 2510(4) of title 18, United States Code, is amended by striking ''through the use of any electronic, mechanical, or other device.'' and inserting ''contemporaneous with transit, or on an ongoing basis during transit, through the use of any electronic, mechanical, or other device or process, notwithstanding that the communication may simultaneously be in electronic storage;''.

By Mr. CORNYN (for himself and Mr. SPECTER):

S. 937. A bill to combat commercial sexual activities by targeting demand, to protect children from being exploited by such activities, to prohibit the operation of sex tours, to assist State and local governments to enforce laws dealing with commercial sexual activities, to reduce trafficking in persons, and for other purposes; to the Committee on the Judiciary.

Mr. CORNYN. Mr. President, I rise to introduce legislation to combat the scourge of sex trafficking within our

borders, by targeting and reducing demand. The bill is entitled the End Demand for Sex Trafficking Act of 2005.

For the last four years, the President has been a stalwart champion of strengthening efforts to combat the scourge of human trafficking and slavery, not just abroad, but within our very own borders as well. Last July, a Senate Judiciary subcommittee hearing I chaired, highlighted many of the Administration's landmark efforts in this area to date.

Most Americans would be shocked to learn that the institutions of slavery and involuntary servitude—institutions that this Nation fought a bloody war to destroy—continue to persist today—not just around the world, but hidden in communities across America. It has been nearly two centuries since the abolition of the transatlantic slave trade, and well over a century since the ratification of the Thirteenth Amendment. Yet to this day, men, women and children continue to be trafficked into the United States, and coerced into lives of forced labor and sexual slavery. The stories they tell are tragic, disturbing, and heart-rending. And the acts they endure are not just unconstitutional, not just criminal—they are profoundly evil, immoral, and wrong.

Shortly after the Senate Judiciary subcommittee hearing I chaired, the President made clear that ending the demand for trafficking is a critical component of this effort, in remarks he delivered before the first national training conference on Human Trafficking in the United States: Rescuing Women and Children from Slavery, hosted by the Justice Department in Tampa, Florida, and attended by a representative from my office. As the President stated, ''we cannot put [human traffickers] out of business until and unless we deal with the problem of demand.''

Moreover, as the State Department's 2004 Trafficking in Persons Report notes, ''[c]onsiderable academic, NGO, and scientific research confirms a direct link between prostitution and trafficking. In fact, prostitution and its related activities . . . contribute[] to trafficking in persons by serving as a front behind which traffickers for sexual exploitation operate. . . . [P]rostitution directly contributes to the modern-day slave trade and is inherently demeaning. When law enforcement tolerates . . . prostitution, organized crime groups are freer to traffic in human beings.''

So it is appropriate to expand our fight against the most coercive forms of human trafficking and slavery our society has ever witnessed, to include an effort to combat sex trafficking and prostitution as well. And it is appropriate to target the demand for sex trafficking as an essential element of our strategy to eliminating sex trafficking within our borders.

Accordingly, for the past several months, I have been working with various anti-trafficking organizations to craft legislation to focus attention on the demand for sex trafficking within our own country. Last October, Senators SCHUMER and SPECTER and I introduced an earlier version of the legislation I introduce today (S. 2916). Representatives PRYCE and MALONEY introduced a companion bill on the House side that same day. And today, I am introducing a revised version of the bill, designed to achieve precisely the same objective: ending demand for sex trafficking. I am pleased that Senator SPECTER has again agreed to co-sponsor the legislation. Moreover, Senator SCHUMER remains a close partner on this bill. Our offices are still working out some drafting issues with some of the anti-trafficking groups, and I am hopeful that Senator SCHUMER will once again be the lead Democrat co-sponsor of the bill. A parallel bill will be introduced in the House later today by Representatives DEBORAH PRYCE, CAROLYN MALONEY, and BOBBY SCOTT.

This legislation is the product of extensive discussions over the last several months between my office, Senator SCHUMER's office, and major anti-trafficking organizations, as well as the offices of Representatives PRYCE and SCOTT. I am pleased to report that, as a result of those discussions, we now have a bill that is supported by a broad coalition of anti-trafficking and human rights organizations—including the Ministerial Alliance of Midland, Texas, Faces of Children, the Coalition Against Trafficking in Women, Concerned Women for America, the Hudson Institute, the Institute on Religion and Democracy, the Institute on Religion and Public Policy, the Leadership Council for Human Rights, the National Association of Evangelicals, the Polaris Project, the Protection Project, the Religious Freedom Coalition, the Salvation Army, Shared Hope International, the Southern Baptist Convention, Standing Against Global Exploitation (SAGE), the Union of Orthodox Jewish Congregations of America, World Vision, and other organizations and advocates. I ask unanimous consent that letters of endorsement from various anti-trafficking organizations be included in the RECORD.

In conclusion, this is important legislation to protect the victims of sex trafficking and to reduce demand. I hope that the Senate will act favorably on the bill.

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

SOUTHERN BAPTIST CONVENTION,
Nashville, TN, March 11, 2005.

Mr. JAMES HO,
Chief Counsel, Subcommittee on Border Security, Immigration and Citizenship, Dirksen Senate Office Building, Washington, DC.
Mr. DEREK LINDBLOM,
Counsel, Office of Senator Chuck Schumer, Hart Senate Building, Washington, DC.
Ms. SHILOH ROEHL,
Legislative Director, Office of Congresswoman Deborah Pryce, Cannon House Office Building, Washington, DC.
Mr. BOBBY VASSSAR,
Minority Counsel, House Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR JIM, DEREK, SHILOH, AND BOBBY: I am pleased to notify you that the following members and organizations of the National Coalition for Religious Freedom and Human Rights fully support the End Demand for Sex Trafficking Act of 2005, including myself. Others have already notified you of their support through personal letters. I am also confident that additional organizations from our Coalition, and groups closely aligned with us, will join in supporting this historic legislation.

Best regards,

Barrett Duke, Chairman, National Coalition for Religious Freedom and Human Rights, Vice President for Public Policy and Research, Southern Baptist Ethics and Religious Liberty Commission; Richard Cizik, Vice President for Governmental Affairs, National Association of Evangelicals; Janice Shaw Crouse, Senior Fellow, The Beverly Lahaye Institute, Concerned Women for America; Lisa Thompson, Initiative Against Sexual Trafficking, Salvation Army; Nathan J. Diament, Director of Public Policy, Union of Orthodox Jewish Congregations of America; Faith McDonnell, Director, Religious Liberty Programs, Institute on Religion and Democracy; Donna M. Hughes, Professor & Carlson Endowed Chair, Women's Studies Program, University of Rhode Island; Kathryn Porter, President, Leadership Council for Human Rights; Peggy Birchfield, Executive Director, Religious Freedom Coalition; Michael Horowitz, Senior Fellow, Hudson Institute; Debbie Fikes, Director, Basic Ministries, International, Midland, TX; Margaret Purvis, Chairwoman, Faces of Children, Midland, Texas; Dr. Jae Joong Nam, President, AEGIS Foundation.

March 15, 2005.

Hon. JOHN CORNYN,
U.S. Senate,
Washington DC.
Hon. DEBORAH PRYCE,
U.S. House of Representatives,
Washington, DC.

DEAR SENATOR CORNYN AND REPRESENTATIVE PRYCE: I am writing to express my support for the End Demand for Sex Trafficking Act of 2005.

Though I and several of my colleagues had some serious concerns about earlier versions of the legislation, I appreciate your willingness to address our proposed changes. I believe the bill introduced is greatly improved and will have a positive effect on reducing demand for commercial sex practices in the United States. Reducing demand for commercial sex will help reduce the number of trafficking victims and help prevent the sexual exploitation of women and children.

I commend you for commitment to helping end sex trafficking and your commitment to human rights.

Thank you.

Sincerely,

LINDA SMITH,
Founder and Executive Director,
Shared Hope International.

INSTITUTE ON RELIGION
AND PUBLIC POLICY,
Washington, DC., March 15, 2005.

Hon. John Cornyn,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CORNYN: I am writing in support of the End Demand for Sex Trafficking Act of 2005. This historic legislation would bring significant attention to the true roots of sexual trafficking: the demand for illegal sexual activity. It would also combat the commercial sexual trade by focusing law enforcement effort on consumers, traffickers, and exploiters, ending the current isolation of the individuals exploited in the illegal activity.

The End Demand for Sexual Trafficking Act of 2005 is the result of many hours of work by lawmakers, religious leaders, and NGOs under your ledership and is a much-needed addition to the United States' sexual trafficking laws. This bill will hopefully focus the attention of sexual trafficking prosecution on the traffickers and the ''johns'' who pay for the illegal activities, thereby solidifying America's position as the world leader in working to end sexual trafficking and prostitution.

With warm personal regards and best wishes, I am,

Sincerely Yours,

JOSEPH K. GRIEBOSKI,
President.

FACES OF CHILDREN,
MIDLAND, TEXAS,
March 11, 2005.

Re End Demand for Sex Trafficking Act of 2005

Hon. JOHN CORNYN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CORNYN: On behalf of Faces of Children an ecumenical prayer ministry under the auspices of First Presbyterian Church, Midland, Texas, we endorse the End Demand for Sex Trafficking Act of 2005.

Faces of Children is a prayer ministry that focuses on and provides prayer support to children in crisis and in distress. We care deeply about providing assistance to victims, especially the youngest and most vulnerable ones, of sex trafficking and about prosecuting those who take advantage of them in the sex trade.

We are most grateful to you for sponsoring this important bill!

Blessings,

MARGARET PURVIS, *Chair,*
Faces of Children, Midland, TX;
CHRIS LAUFER, *Coodinator,*
Faces of Children, Midland, TX.

COALITION AGAINST TRAFFICKING
IN WOMEN,
March 9, 2005.

DEAR SENATOR CORNYN: The Coalition Against Trafficking in Women, an international organization working against sex trafficking and prostitution in many parts of the world, would like to express its support for the proposed ''End Demand for Sex Trafficking Act of 2005.''

We are confident that this bill, when passed and implemented, will go a long way in deterring purchasers of commercial sex acts, help protect children from being exploited, prohibit the operation of sex tours, and assist States and local governments in their efforts to reduce trafficking and commercial sexual activities.

We hope that this bill will soon be passed by the United States Congress and appreciate your sponsorship of this important legislation.

Sincerely,

JANICE G. RAYMOND,
Co-Executive Director.

[From World Vision, March 10, 2005]

WORLD VISION ENDORSES LEGISLATION TO COMBAT SEX TRAFFICKING AND INCREASE ASSISTANCE TO VICTIMS

WASHINGTON.—World Vision applauds Senator John Cornyn and Representatives Chris Smith and Deborah Pryce for their steadfast work to protect children from exploitation. We support H.R. 972, the Trafficking Victims Protection Reauthorization Act of 2005 and the introduction of the End Demand for Sex Trafficking Act of 2005. The combined strengths of these two bills provide for effective measures to help combat sex trafficking by increasing law enforcement efforts, reducing demand and increasing services available to victims.

An estimated two million children currently are enslaved in the global commercial sex trade, which has destroyed the lives of countless women and children throughout history. For children, the most vulnerable victims, the impact is catastrophic, including: long-lasting physical and psychological trauma, disease (including HIV/AIDS), violence/abuse, drug addiction, unwanted pregnancy, malnutrition, social ostracism, a life of poverty and, in the worst cases, death. Notably, this abhorrent abuse is found in nearly every country, including the United States.

The provisions included in the End Demand for Sex Trafficking Act of 2005 will help remedy this problem by increasing U.S. law enforcement action against the abusers, including traffickers, pimps, brothel owners and ''customers'' (a.k.a., ''Johns''), thereby curtailing demand. In addition, the Trafficking Victims Protection Reauthorization Act of 2005 reauthorizes much-needed program funds, provides for increased law enforcement programs and tools and bolsters the TIP office at the Department of State. Both bills measurably increase services available to victims.

World Vision is delighted to support both of these bills and we have full confidence in the U.S. Congress to resolve any differences between the two bills in order to arrive at the most effective legislation possible. We thank Senator Cornyn and Representatives Smith and Pryce for their leadership in addressing this global problem. We stand ready to work with Congress on this important issue.

World Vision is a Christian relief and development organization dedicated to helping children and their communities worldwide reach their full potential by tackling the causes of poverty . World Vision serves the world's poor—regardless of religion, race, ethnicity, or gender. In 2004, World Vision operated in nearly 100 countries around the world.

STANDING AGAINST
GLOBAL EXPLOITATION,
San Francisco, CA, March 8, 2005.

Senator JOHN CORNYN,
Hart Senate Office Building,
Washington, DC.

HONORABLE SENATOR JOHN CORNYN: I am writing on behalf of SAGE Project, Inc to strongly and enthusiastically endorse the End Demand for Sex Trafficking Act of 2005, a bill designed to combat commercial activities by targeting demand, to protect children from being exploited by such activities, to prohibit the operation of sex tours, to assist State and local governments to enforce laws dealing with commercial sexual activities, to reduce trafficking in persons and for other purposes.

SAGE has designed and implemented cutting-edge, model restorative justice programs for customers of prostitutes (the demand), trauma and drug recovery, and job training programs for women, young men, and girls who are victims of trafficking, prostitution, sexual exploitation and violence. The personal knowledge and experience possessed by many of the survivor, peer staff enables SAGE to effectively provide support and engender trust without re-traumatizing even the most fragile of clients. Through advocacy, educational programs, and as a direct service provider for over 14 years, SAGE has assisted in raising public awareness concerning the sexual exploitation and trafficking of women and girls. As a result of our interventions, SAGE has assisted over 1500 individuals to exit the criminal justice system, escape traffickers and actively engage in prosecutions, receive emergency housing and victim services, recover from abuse and acquire appropriate services such as medical and mental health care, substance abuse treatment, legal, immigration, case management, educational and vocational training. Because of SAGE's commitment to victims of exploitation and trafficking, a web of prevention education, early intervention and treatment services and a network of survivor, peer led programs throughout the United States has been created. SAGE is the co-founder of the first and largest program for customers of prostitutes in the world. This restorative justice program has been replicated in dozens of other cities and funds a wide range of services for women and girls.

Studies show that most commercially sexually exploited children (CSEC) are integrated into the mainstream sex industry and tend to be concentrated in the cheaper end of the prostitution market where conditions are the worse and the concentration of customers/abusers the highest. Although some children are prostituted by and/or specifically for pedophiles and preferential abusers, the majority of the several million men who annually exploit children are first and foremost prostitute users of adult women who become child sexual abusers through their prostitute use, rather than the other way around. The world of prostitution whether legal or illegal provides an arena where laws and rules which constrain sex with minors can be evaded. Laws and social conventions make it difficult and dangerous for individuals to buy children for sexual purposes in non-commercial contexts, but prostitution potentially provides instant access, often to a selection of children. Men surveyed in San Francisco through SAGE and the First Offenders Prostitution Program respond when asked how a person justifies having sex with an underage prostituted child, ''they don't even think.'' They know that law enforcement efforts are focused on the youth/child as the perpetrator and not on them. The End Demand for Sex Trafficking Act of 2005 is the most historically significant step toward ending the rape and sexual abuse of children through prostitution and holding the true perpetrators accountable.

The End Demand for Sex Trafficking Act of 2005 clearly, strongly, and unambiguously redefines ''child prostitution'' as sexual abuse on young human beings. This sexual abuse of children through prostitution is made possible by a society that has sanctioned and institutionalized numbers of children for whom routine abuse, torture, rape, trafficking and kidnapping is considered acceptable. In essence, what society is saying and enforcing through laws and inappropriate interventions is that children and

youth are consenting to their own sexual abuse and that by consenting to this abuse they are a danger to society. They are subject to arrest, they are viewed as perpetrators, not victims, and they are denied any services for their victimization. Many of these girls have been exploited for pornography or have suffered or witnessed physical and sexual violence. For these girls, the average of entry into prostitution is 13–14, an age at which these girls are entering an endless cycle of arrest, drug addiction, and violence. The result is traumatic and profound lack of self-esteem causing disempowered behaviors: dropping out of school, prostitution, addiction, selling of drugs, and violence. Their exploitation is perpetuated by continued reliance on the very people who have physically, emotionally, and sexually assaulted them. As these children age into adults they remain trapped in a system of abuse and exploitation and could not escape even if they wanted to. The legal, mental and medical health, human rights consequences of this abuse remains with the child or woman as she is arrested, prosecuted, jailed, placed on probation and forced into treatment. The End Demand for Sex Trafficking Act of 2005 will send the message that now these severely victimized and neglected children and women can depend on us for protection and care.

SAGE is committed to working with you and your office in passing this historic legislation. Just ask.

Truly,

NORMA HOTALING ,
Founder and Director, SAGE.

JOHNS HOPKINS UNIVERSITY, THE PAUL H. HITZE SCHOOL OF ADVANCED INTERNATIONAL STUDIES
Washington, DC, March 18, 2005.

Hon. JOHN CORNYN,
U.S. Senate,
Washington, D.C.
Hon. DEBORAH PRYCE,
Cannon House Office Building,
Washington, D.C.

DEAR SENATOR CORNYN AND REPRESENTATIVE PRYCE: I am writing on behalf of The Protection Project at The Johns Hopkins University School of Advanced International Studies (SAIS), to express my full support for the End Demand for Sex Trafficking Act of 2005.

The Protection Project is a legal human rights research institute committed to the eradication of trafficking in persons. The Protection Project strongly believes that reducing demand is the most effective way to successfully combat sex trafficking.

The End Demand for Sex Trafficking Act of 2005 is a significant step forward in the fight against sex trafficking, since it introduces appropriate measures to promote the prosecution of purchasers of commercial sex acts, exploiters of sexual activities and traffickers. In particular, in regard to the prosecution of purchasers, I strongly endorse Section 4(b)(1), which proposes measures such as educational programs for first time purchasers of ''unlawful commercial sex,'' publication of names and addresses, the use of female decoys, statutory rape and felony assaults prosecutions, and other programs enhancing prosecution and reducing demand. I firmly believe that these measures would significantly contribute to discouraging demand.

The Protection Project is committed to working with you and supports the passage of this important legislation.

Best Regards,

MOHAMED Y. MATTAR, S.J.D.,
Adjunct Professor of Law and Executive Director.

POLARIS PROJECT,
Tokyo, Japan, March 10, 2005.

Mr. JAMES HO,
Chief Counsel, Subcommittee on Border Security, Immigration and Citizenship, Dirksen Senate Office Building, Washington, DC.
Mr. DEREK LINDBLOM,
Counsel, Office of Senator Chuck Schumer, Hart Senate Building, Washington, DC.
Ms. SHILOH ROEHL,
Legislative Director, Office of Congresswoman Deborah Pryce, Cannon House Office Building, Washington, DC.

DEAR MR. HO, MR. LINDBLOM, AND MS. ROEHL: On behalf of Polaris Project, we write in support of the End Demand for Sex Trafficking Act of 2005.

We work everyday with women and children in the sex industry who have been beaten, raped, and controlled through threats of death and extreme violence, many of them U.S. nationals who just a few years ago would be viewed as nothing more than criminals. This historic legislation will help change that injustice forever in the United States. The End Demand for Sex Trafficking Act of 2005 generates renewed hope for our clients, for the survivors on our staff, and for the rest of us who work everyday protecting some of the most vulnerable women and children in our country.

Thank you for your work.

Sincerely,

KATHERINE CHON,
Co-Executive Director.
DEREK ELLERMAN,
Co-Executive Director.

[From the Religious Freedom Coalition]
(By Peggy Birchfield)

STATEMENT BY RELIGIOUS FREEDOM COALITION CHAIRMAN, WILLIAM J. MURRAY

Although progress has been made in many areas since the Trafficking Victims Protection Act was passed in 2000, the tragic human degradation of sexual trafficking continues to increase in magnitude. The number of those adversely affected continues to grow, especially among children, the most pathetic victims.

By focusing more on the male customers and on traffickers, this proposed legislation can reduce prostitution by redirecting law enforcement efforts which now disproportionately lead to the arrest of the women involved in prostitution, some of whom are trafficking victims.

The legislators who have wisely recognized that prostitution is not a ''victimless crime'' and who have taken steps to reduce its prevalence are to be applauded. It has long been realized that prostitution brutalizes and desensitizes men, who come to view women as objects and not as human beings. A new study has shown that prostitution also leads to more criminal behavior in women, and not just in drug related offenses. It was found that 7 out of 10 women who were convicted of felonies of all kinds, first entered the legal system because of an arrest for prostitution.

Sex tourism is a growing industry that targets children in third world countries, and the United States is the home of probably more ''sex tourists'' than any other single nation. The victims are not American children in this case, but are poor and often abandoned children in foreign countries where there is lax law enforcement. This new effort to stop the victimization of these children should be supported in all possible ways. The men who travel abroad to exploit children and the tour operators who are well aware of the nature of the trips they are providing, should be prosecuted.

This bipartisan effort by members of the Senate and the House to address this serious humanitarian issue is to be highly commended, and I hope it will gain many more supporters and cosponsors in Congress.

By Mr. LEAHY (for himself and Mr. BOND):

S. 938. A bill to amend title 37, United States Code, to require that members of the National Guard and Reserve called or ordered to active duty for a period of more than 30 days to receive a basic allowance for housing at the same rate as similarly situated members of the regular components of the uniformed services; to the Committee on Armed Services.

Mr. LEAHY. Mr. President, it is now fairly common on the Senate Floor to hear the statement that we cannot adequately defend our Nation today without our military reserves. Everybody knows that the activation of members of the National Guard and Reserve since September 11, 2001, represents the largest mobilization of our back-up military personnel since World War II. Everyone knows too that members of the National Guard and Reserve comprise over 50 percent of the forces on the ground in Iraq. And, yes, we all know that we are asking the reserves, particularly the National Guard, to help increase security within the domestic United States, whether at prominent events or along our porous national borders.

It is critical that we go beyond mere statements and take concrete steps to preserve the readiness, morale, and general effectiveness of this force. This imperative extends particularly to redressing harmful policies that give the impression to our reservists that they are not an equally important part of the wider military and the defense of the Nation.

Today Senator BOND and I are introducing legislation that will end one of the most glaring of these inequities. Our legislation, The National Guard and Reserves Housing Equity Act of 2005, effectively terminates a patently unfair low housing allowance provided to reservists when they are called up for a relatively short-term of active service.

This so-called lower allowance level, known officially as the Basic Allowance for Housing II, or B.A.H. II, puts on average almost $400 less per month—per month—in the pockets of our reservists than what they would receive if they were regular, active duty members. To any reservist who leaves his or her community, profession, and family for active service, receiving B.A.H. II says that he or she is a second-class member of the military. You might do the same job as a full-time member of the military and live in the same type of housing, but you do not deserve the same allowance. The allowance creates an unacceptable financial hardship that will decrease the willingness of any reasonable person to continue service.

This is a very real problem. Last year, Congress and the President enacted a piece of legislation—which I

sponsored along with my fellow Guard Caucus Co-Chair Senator KIT BOND—that authorized greater use of the National Guard for national homeland security missions. Using this new authority, members of the National Guard from my home State of Vermont were called to active duty late last year to help increase security along the Northern Border. Those members of the Guard worked side-by-side with their active duty counterparts. Yet the Guard personnel received over $300 less per month in housing allowances.

I cannot tell you how many soldiers and airmen who participated in that mission came up to me and made clear how slighted and insulted they felt by that housing allowance. Those comments mirror what I heard from other members of the Guard who received B.A.H. II on a similar mission. This second-tier housing allowance really burns in the saddle of every citizen-soldier, sailor, airman, and marine, and it is having a real effect on morale.

We simply cannot tolerate this inequity to continue, and it is within our power to do something about this. So we have a choice today: Either we can keep this second-tier housing allowance in place and send a signal that we need to save some dollars on the backs of those who have stepped forward to serve, or we can remedy this inequity, making the firm statement that we will take the real steps necessary to support our reservists and provide them the resources so that they can do their jobs and be treated fairly while they serve.

The National Guard and Reserves Housing Equity Act of 2005 specifically provides that any member of the reserves called up for more than 30 days will receive the exact same housing allowance as a regular active duty service-member. The legislation gives the Office of Secretary of Defense some discretion to set the allowance under the 30 days, but it should be done on a prorated basis on the higher regular allowance. The effect of this legislation will be to end the category of Basic Allowance of Housing II.

This legislation has been endorsed unanimously by the 35-military association umbrella group, The Military Coalition. So that all senators may read the specific views of the military associations, I ask that letters from the National Guard Association of the United States, the Enlisted Association of the National Guard of the United States, the Reserve Officers Associations, the Reserve Enlisted Association, the Association of the United States Army, and the Fleet Reserve Association be printed in the RECORD. The Military Officer's Association of America and the Air Force Sergeant's Association have also directly endorsed this legislation.

We often hear statements about supporting our troops, but this is a chance to actually support them. This is an issue that literally affects our troops where they live. I invite our colleagues to join Senator BOND and me in cosponsoring this legislation and in working to end this grossly unfair system. With the National Guard and Reserves Housing Equity Act of 2005, we are backing up our thanks with meaningful action. With this step we are saying that we are ready to provide a strong foundation of policies that will actually encourage our reservists to continue to serve the country superbly. This is the right thing to do, and I look forward to working with my colleagues on both sides of the aisle to enacting this legislation this year.

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

NATIONAL GUARD ASSOCIATION OF THE UNITED STATES,
Washington, DC, April 26, 2005.

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

Dear SENATOR LEAHY: I am writing on behalf of the men and women of the National Guard Association of the United States to thank you for introducing legislation which addresses the inequities in housing allowances paid to members of the National Guard.

Your bill, which reduces the threshold for receipt of full BAH from 140 days to 30 days, will have an immediate and positive impact on many of our members who are receiving housing allowances at a rate which is on average $400 less than the regular BAR rate. Because BAH II is not adjusted for location, in some places the loss of income could be as high as $1,000.00, depending on rank.

As you know, when a Guard member is on duty, the mortgage payment or rent is not reduced. Your bill will rectify this injustice and allow National Guard members to receive full BAH when on orders for more than 30 days.

At no other time in recent history have the men and women of the National Guard been asked to sacrifice so much for the good of the Nation. We thank you for recognizing their contribution and sacrifice and working to remove this inequity in their housing allowance.

Please don't hesitate to call on us if there is anything we else we can do to support this worthwhile legislation.

Sincerely,

STEPHEN M. KOPER,
Brigadier General, Retired President.

ENLISTED ASSOCIATION OF THE NATIONAL GUARD OF THE UNITED STATES,
Alexandria, VA, April 21, 2005.

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

DEAR SENATOR LEAHY: On behalf of the Enlisted men and women of the Army and Air National Guard, thank you for introducing legislation to reduce the threshold for the receipt of Basic Allowance for Housing (BAH) to 30 days. This bill will authorize National Guard and Reserve members on active duty for more than 30 days to receive full BAH instead of the lower BAH II they now receive if their orders are for less than 140 days.

Almost all National Guard members must maintain a private residence while performing periods of active duty. Their rent or mortgage payment doesn't go away when they are called to active duty.

National Guard and Reserve members who are on active duty for less than 140 days receive BAH II instead of the BAH that every other servicemembers receives. BAH II is based on the old BAQ rate and is, on average, $400 less than the average BAH rate. it is not adjusted for location. In some places, such as the Washington, DC Metro area, the difference can be $1,000, depending upon the rank of the servicemember.

A significant percentage of mobilized Guard members earn less on active duty than in their civilian careers and paying them a reduced housing allowance only makes the financial difficulty worse. Your bill would eliminate this inequity for most National Guard and Reserve members by changing the threshold from 140 days to 30 days.

Thank you so much for addressing one of the many needs of our National Guard members. EANGUS will support this legislation in any way possible. If there is anything we can do to assist, please let us know.

Working for America's Best!

MSG (Ret) MICHAEL P. CLINE AUS,
Executive Director.

RESERVE ENLISTED ASSOCIATION,
April 21, 2005.

Hon. PATRICK J. LEAHY,
Hon. CHRISTOPHER S. ''KIT'' BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY AND SENATOR BOND: The Reserve Officers Association, representing over 75,000 Reserve Component members and the Reserve Enlisted Association supporting all Reserve enlisted members, supports your bill to require that members of the National Guard and Reserve called or ordered to active duty for a period of more than 30 days receive a basic allowance for housing at the same rate as similarly situated members of the regular components of the uniformed services.

This bill tears down a barrier at a time when the services will need to rely on volunteerism as they run out of mobilization authority. The lower Reserve Component housing allowance has been reported by ROA members as a reason why they are not encouraged to volunteer for active duty.

Additionally, it will also help to offset pay differential and positively affect the financial health of our military families. The provisions of your bill meet sound business practices by targeting entitlements and we are encouraged it will receive bipartisan interest. Congressional support for our nation's military men and women in the Guard and Reserve is and always will be appreciated.

Sincerely,

ROBERT A. MCINTOSH,
Major General (Ret), USAFR, ROA Executive Director.

LANI BURNETT,
CMSgt, USAFR (Ret), REA Executive Director.

ASSOCIATION OF THE U.S. ARMY,
Arlington, VA, April 22, 2005.

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

DEAR SENATOR LEAHY: On behalf of the more than 100,000 members of the Association of the United States Army (AUSA), I thank you for introducing legislation to reduce the threshold for the receipt of Basic Allowance for Housing II (BAH II) to 30 days.

Almost all National Guard members must maintain a private residence while performing periods of active duty. Their rent or mortgage payment doesn't go away when they are called to active duty.

National Guard and Reserve members who are on active duty for less than 140 days receive BAH II instead of the Basic Allowance

for Housing (BAH) that every other servicemember receives. BAH II is based on the old BAQ rate and is, on average, $400 less than the average BAH rate. It is not adjusted for location. In some places, such as the Washington, D.C. Metro area, the difference can be $1,000, depending upon the rank of the servicemember.

A significant percentage of mobilized Guard members earn less on active duty than in their civilian careers and paying them a reduced housing allowance only makes the financial difficulty worse. Your bill would eliminate this inequity for most National Guard and Reserve members by changing the threshold from 140 days to 30 days.

AUSA will support this legislation in any way possible. If there is anything we can do to assist, please let us know.

Sincerely,

GORDON R. SULLIVAN,
General, USA Retired.

FLEET RESERVE ASSOCIATION,
Alexandria, VA, April 22, 2005.

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

DEAR SENATOR LEAHY: FRA wholeheartedly endorses your introduction of legislation authorizing National Guard and Reservists called to active duty for a period of more than 30 days to receive a basic allowance for housing (BAH) at the same rate as their active duty counterparts.

Current policy require Reservists serving less than 140 days receive ''BAH II,'' which is generally a flat-rate amount based on pay grade and marital status rather than the market-influenced, geographically-driven allowance that active duty personnel receive.

At the specific request of senior enlisted leaders of the Coast Guard, FRA addressed this inadequacy in Congressional testimony, recommending a policy change authorizing Reservists activated 30 days or more to be eligible for locally based BAH. This measure significantly helps ensure Reservists' compensation reflects the duties our Nation has asked them to perform.

The Association salutes you for your efforts and is committed to working toward enactment of this important legislation.

Sincerely,

JOSEPH L. BARNES,
National Executive Secretary.

By Ms. COLLINS (for herself and Mr. REED):

S. 941. A bill to amend the Cooperative Forestry Assistance Act of 1978 to establish a program to provide assistance to States and nonprofit organizations to preserve suburban forest land and open space and contain suburban sprawl; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. COLLINS. Mr. President, the people of Maine have always been faithful stewards of the forest because we understand its tremendous value to our economy and to our way of life. From the vast tracts of undeveloped land in the north to the small woodlots in the south, forest land helps shape the character of our entire State.

While our commitment to stewardship has preserved the forest for generations, there is a threat to Maine's working landscape that requires a fresh approach. This threat is suburban sprawl, which has already consumed tens of thousands of acres of forest land in southern Maine. Sprawl occurs because the economic value of forest or farm land cannot compete with the value of developed land.

Sprawl threatens our environment and our quality of life. It destroys ecosystems, increasing the risk of flooding and other environmental hazards. It burdens the infrastructure of the affected communities, increases traffic on neighborhood streets, and wastes taxpayer money. It leads to the fragmentation of woodlots, reducing the economic viability of the remaining working forests.

No State is immune from the dangers of sprawl. For example, the Virginia State Forester says that since 1992, Virginia has lost 54,000 acres of forest land per year to other uses.

The Southeastern Michigan Council of Government reported that southeastern Michigan saw a 17 percent increase in developed land between 1990 and 2000.

In my State of Maine alone, suburban sprawl has already consumed tens of thousands of acres of forest and farm land. The problem is particularly acute in southern Maine where an 108 percent increase in urbanized land over the past two decades has resulted in the labeling of greater Portland as the ''sprawl capital of the Northeast.''

I am particularly alarmed by the amount of working forest and farm land and open space in southern and coastal Maine that have given way to strip malls and cul-de-sacs. Once these forests, farms, and meadows are lost to development, they are lost forever.

Maine is trying to respond to this challenge. The people of Maine continue to contribute their time and money to preserve important lands and to support our State's 88 land trusts. It is time for the Federal Government to support these State and community-based efforts.

For these reasons, I am introducing the Suburban and Community Forestry and Open Space Program Act. This legislation, which was drafted with the advice of land owners and conservation groups, establishes a $50 million grant program within the U.S. Forest Service to support locally driven land conservation projects that preserve working forests. Local government and nonprofit organizations could compete for funds to purchase land or access to land to protect working landscapes threatened by development.

Projects funded under this initiative must be targeted at lands located in parts of the country that are threatened by sprawl. In addition, this legislation requires that Federal grant funds be matched dollar-for-dollar by state, local, or private resources.

This is a market-driven program that relies upon market forces rather than government regulations to achieve its objectives. Rather than preserving our working forests, farmland and open spaces by zoning or other government regulation, at the expense of the landowner, with this program we will provide the resources to allow a landowner who wishes to keep his or her land as a working woodlot to do so.

My legislation also protects the rights of property owners with the inclusion of a ''willing-seller'' provision, which requires the consent of a landowner if a parcel of land is to participate in the program.

The $50 million that would be authorized by my bill would help achieve a number of stewardship objectives: First, this bill would help prevent forest fragmentation and preserve working forests, helping to maintain the supply of timber that fuels Maine's most significant industry.

Second, these resources would be a valuable tool for communities that are struggling to manage growth and prevent sprawl.

Understanding land ownership issues in other parts of the nation, I have included a geographic limitation in this bill. This limitation would exempt any state where the Federal Government owns twenty-five percent or more of that State's land from the Suburban and Community Forestry and Open Space Program. With the twenty-five percent limitation, a figure used in previous bills, the twelve States with the highest percentage of federally owned land would not be eligible to participate in this new program. Those States, however, who are struggling most with the loss of working landscapes would be authorized to receive Federal assistance in their efforts to combat sprawl.

Currently, if the town of Gorham, ME, or another community trying to cope with the effects of sprawl turned to the Federal Government for assistance, none would be found. My bill will change that by making the Federal Government an active partner in preserving forest and farm land and managing sprawl, while leaving decision-making at the state and local level where it belongs.

In 2002, this legislation was included in the forestry title of the Senate approved version of the Farm Bill. Unfortunately, the forestry title was stripped out of the Farm Bill conference report. Again, in 2003, this legislation passed the Senate. This time, during consideration of the Healthy Forests Restoration Act.

Unfortunately, this provision was removed from the Healthy Forests Restoration Act conference report. This new Congress provides us a further opportunity to consider this legislation and ultimately have this bill enacted.

There is great working being done on the local level to protect working landscapes for the next generation. By enacting the Suburban and Community Forestry and Open Space Act, Congress can provide an additional avenue of support for these conservation initiatives, help prevent sprawl, and help sustain the vitality of natural resource-based industries.

By Mr. WARNER:

S. 942. A bill to designate additional National Forest System lands in the State of Virginia as wilderness, to establish the Seng Mountain and Bear Creek Scenic Areas, to provide for the development of trail plans for the wilderness areas and scenic areas, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. WARNER. Mr. President, I rise today to introduce an important piece of legislation for my State, the Virginia Ridge and Valley Act of 2005. This bill will add seven new wilderness areas, six additions to existing wilderness areas, and two National Scenic Areas to the Jefferson National Forest. Congressman RICK BOUCHER is introducing companion legislation in the United States House of Representatives.

Throughout my career in the United States Senate, I have strived to preserve Virginia's natural resources and heritage through the designation of wilderness areas and, today, I am proud to say that Virginia boasts approximately 100,434 acres of designated wilderness lands. However, there is still much work to be done. Within the Jefferson National Forest, designated wilderness areas currently account for only 7 percent of the total forest acreage. If enacted, the Virginia Ridge and Valley Act of 2005 will substantially increase this figure by expanding our opportunities for uninterrupted enjoyment in the forest with the addition of nearly 43,000 acres of new wilderness areas and almost 12,000 acres of national scenic areas.

Virginia is blessed with great beauty and natural diversity. From the complex ecosystem of the Chesapeake Bay, to the exquisite vistas, streams, vegetation, and wildlife of the Shenandoah Mountains, residents and visitors alike can enjoy a bountiful array of natural treasures. As demand for development in Virginia increases, it becomes incumbent upon Congress to act expeditiously to protect these wild lands. Through wilderness and national scenic area designations, we can ensure that these areas retain their primeval character and influences.

Mr. President, I consider myself an avid outdoorsman, and I enjoy opportunities for recreation like most Americans. Therefore, I want to stress the many joyful outdoor activities that will be enhanced by the wilderness designation in these areas, including: hunting, fishing, hiking, camping, canoeing, and horseback riding, to name a few. In addition, the Act is flexible and provides for reasonable local forest management and emergency services in wilderness areas, such as the use of motorized equipment and aircraft for search and rescue operations; or to combat fire, insects and disease.

I am particularly pleased to include in the legislation an authorization for the establishment of a non-motorized trail between County Route 650 and Forest Development Road 4018 outside of the new Raccoon Branch Wilderness area. This trail will follow the historic Rye Valley Railroad Grade and will be a popular route for mountain bikers, equestrians and hikers. In addition, this bill directs the Forest Service to develop trail plans for the wilderness and national scenic areas.

As a father and a grandfather, I feel a weighty obligation to ensure that our children have lasting opportunities to enjoy Virginia's immense natural beauty and diversity. This legislation is a crucial step in our quest to preserve these lovely areas for the enjoyment and use of future generations.

By Mr. FEINGOLD (for himself, Mr. CRAPO, Mr. MARTINEZ, Mr. SARBANES, and Mr. KOHL):

S. 943. A bill to assist in the conservation of cranes by supporting and providing, through projects of persons and organizations with expertise in crane conservation, financial resources for the conservation programs of countries the activities of which directly or indirectly affect cranes and the ecosystems of cranes; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, I am introducing the Crane Conservation Act of 2005. I am very pleased that the Senators from Idaho, Mr. CRAPO, Florida, Mr. MARTINEZ, Wisconsin, Mr. KOHL and Maryland, Mr. SARBANES, have joined me as cosponsors of this bill. I propose this legislation in the hope that Congress will do its part to protect the existence of these birds, whose cultural significance and popular appeal can be seen worldwide. This legislation is particularly important to the people of Wisconsin, as our State provides habitat and refuge to several crane species. But this legislation, which authorizes the United States Fish and Wildlife Service to distribute funds and grants to crane conservation efforts both domestically and in developing countries, promises to have a larger environmental and cultural impact that will go far beyond the boundaries of my home state. This bill is similar to legislation that I introduced in the 107th and 108th Congresses.

In October of 1994, Congress passed and the President signed the Rhinoceros and Tiger Conservation Act. The passage of this act provided support for multinational rhino and tiger conservation through the creation of the Rhinoceros and Tiger Conservation Fund, or RTCF. Administered by the United States Fish and Wildlife Service, the RTCF distributes up to $10 million in grants every year to conservation groups to support projects in developing countries. Since its establishment in 1994, the RTCF has been expanded by Congress to cover other species, such as elephants and great apes.

Today, with the legislation I am introducing, I am asking Congress to add cranes to this list. Cranes are the most endangered family of birds in the world, with 11 of the world's fifteen species at risk of extinction. Specifically, this legislation would authorize up to $5 million of funds per year to be distributed in the form of conservation project grants to protect cranes and their habitat. The financial resources authorized by this bill can be made available to qualifying conservation groups operating in Asia, Africa, and North America. The program is authorized from Fiscal Year 2006 through Fiscal Year 2010.

In keeping with my belief that we should balance the budget, this bill proposes that the $25 million in authorized spending over five years for the Crane Conservation Act established in this legislation should be offset through the Secretary of Interior's administrative budget.

I am offering this legislation due to the serious and significant decline that can be expected in crane populations worldwide without further conservation efforts. Those efforts have achieved some success in the case of the North American whooping crane, the rarest crane on earth. In 1941, only 21 whooping cranes existed in the entire world. This stands in contrast to the over 450 birds in existence today. The North American whooping crane's resurgence is attributed to the birds' tenacity for survival and to the efforts of conservationists in the United States and Canada. Today, the only wild flock of North American whooping cranes breeds in northwest Canada, and spends its winters in coastal Texas. Two new flocks of cranes are currently being reintroduced to the wild, one of which is a migratory flock on the Wisconsin to Florida flyway.

The movement of this flock of birds shows how any effort by Congress to regulate crane conservation needs to cross both national and international lines. As this flock of birds makes its journey from Wisconsin to Florida, the birds rely on the ecosystems of a multitude of states in this country. In its journey from the Necedah National Wildlife Refuge in Wisconsin to the Chassahowitzka National Wildlife Refuge in Florida in the fall and eventual return to my home state in the spring, this flock also faces threats from pollution of traditional watering grounds, collision with utility lines, human disturbance, disease, predation, loss of genetic diversity within the population, and vulnerability to catastrophes, both natural and man-made.

The birds also rely on private landowners, the vast majority of whom have enthusiastically welcomed the birds to their rest on their land. Through its extensive outreach and education program, the Whooping Crane Eastern Partnership has obtained the consistent support of farmers and other private landowners to make this important recovery program a success. On every front, this partnership is unique. One of the program's supporters has told me that this program is the conservation equivalent of putting a man on the moon. I think it is quite appropriate then that the Smithsonian announced that one of the

ultralight planes from Operation Migration, which leads the migration from Necedah to Chassahowitzka, will be inducted into the National Air and Space Museum. The plane will be on display in the Museum early next year. I cannot think of a better way to showcase this innovative conservation program.

Despite the remarkable conservation efforts taken since 1941, however, this species is still very much in danger of extinction. While over the course of the last half-century, North American whooping cranes have begun to make a slow recovery, many species of crane in Africa and Asia have declined, including the sarus crane of Asia and the wattled crane of Africa.

The sarus crane stands four feet tall and can be found in the wetlands of northern India and south Asia. These birds require large, open, well watered plains or marshes to breed and survive. Due to agricultural expansion, industrial development, river basin development, pollution, warfare, and heavy use of pesticides prevalent in India and southeast Asia, the sarus crane population has been in decline. Furthermore, in many areas, a high human population concentration compounds these factors. On the Mekong River, which runs through Cambodia, Vietnam, Laos, Thailand, and China, human population growth and planned development projects threaten the sarus crane. Reports from India, Cambodia, and Thailand have also cited incidences of the trading of adult birds and chicks, as well as hunting and egg stealing in the drop in population of the sarus crane.

Only three subspecies of the sarus crane exist today. One resides in northern India and Nepal, one resides in southeast Asia, and one resides in northern Australia. Their population is about 8,000 in the main Indian population, with recent numbers showing a rapid decline. In Southeast Asia, only 1,000 birds remain.

The situation of the sarus crane in Asia is mirrored by the situation of the wattled crane in Africa. In Africa, the wattled crane is found in the southern and eastern regions, with an isolated population in the mountains of Ethiopia. Current population estimates range between 6,000 to 8,000 and are declining rapidly, due to loss and degradation of wetland habitats, as well as intensified agriculture, dam construction, and industrialization. In other parts of the range, the creation of dams has changed the dynamics of the flood plains, thus further endangering these cranes and their habitats. Human disturbance at or near breeding sites also continues to be a major threat. Lack of oversight and education over the actions of people, industry, and agriculture is leading to reduced preservation for the lands on which cranes live, thereby threatening the ability of cranes to survive in these regions.

If we do not act now, not only will cranes face extinction, but the ecosystems that depend on their contributions will suffer. With the decline of the crane population, the wetlands and marshes they inhabit can potentially be thrown off balance. I urge my colleagues to join me in supporting legislation that can provide funding to the local farming, education and enforcement projects that can have the greatest positive effect on the preservation of both cranes and fragile habitats. This modest investment can secure the future of these exemplary birds and the beautiful areas in which they live. Therefore, I ask my colleagues to support the Crane Conservation Act of 2005.

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

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

S. 943

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 ''Crane Conservation Act of 2005''.

SEC. 2. FINDINGS.

Congress finds that—

(1) crane populations in many countries have experienced serious decline in recent decades, a trend that, if continued at the current rate, threatens the long-term survival of the species in the wild in Africa, Asia, and Europe;

(2) 5 species of Asian crane are listed as endangered species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) and appendix I of the Convention, which species are—

(A) the Siberian crane (Grus leucogeranus);

(B) the red-crowned crane (Grus japonensis);

(C) the white-naped crane (Grus vipio);

(D) the black-necked crane (Grus nigricollis); and

(E) the hooded crane (Grus monacha);

(3) the Crane Action Plan of the International Union for the Conservation of Nature considers 4 species of cranes from Africa and 1 additional species of crane from Asia to be seriously threatened, which species are—

(A) the wattled crane (Bugeranus carunculatus);

(B) the blue crane (Anthropoides paradisea);

(C) the grey-crowned crane (Balearica regulorum);

(D) the black-crowned crane (Balearica pavonina); and

(E) the sarus crane (Grus antigone);

(4)(A) the whooping crane (Grus americana) and the Mississippi sandhill crane (Grus canadensis pulla) are listed as endangered species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

(B) with approximately 200 whooping cranes in the only self-sustaining flock that migrates between Canada and the United States, and approximately 100 Mississippi sandhill cranes in the wild, both species remain vulnerable to extinction;

(5) conservation resources have not been sufficient to cope with the continued diminution of crane populations from causes that include hunting and the continued loss of habitat;

(6)(A) cranes are flagship species for the conservation of wetland, grassland, and agricultural landscapes that border wetland and grassland; and

(B) the establishment of crane conservation programs would result in the provision of conservation benefits to numerous other species of plants and animals, including many endangered species;

(7) other threats to cranes include—

(A) the collection of eggs and juveniles;

(B) poisoning from pesticides applied to crops;

(C) collisions with power lines;

(D) disturbance from warfare and human settlement; and

(E) the trapping of live birds for sale;

(8) to reduce, remove, and otherwise effectively address those threats to cranes in the wild, the joint commitment and effort of countries in Africa, Asia, and North America, other countries, and the private sector, are required;

(9) cranes are excellent ambassadors to promote goodwill among countries because they are well known and migrate across continents;

(10) because the threats facing cranes and the ecosystems on which cranes depend are similar on all 5 continents on which cranes occur, conservation successes and methods developed in 1 region have wide applicability in other regions; and

(11) conservationists in the United States have much to teach and much to learn from colleagues working in other countries in which, as in the United States, government and private agencies cooperate to conserve threatened cranes.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to perpetuate healthy populations of cranes;

(2) to assist in the conservation and protection of cranes by supporting—

(A) conservation programs in countries in which endangered and threatened cranes occur; and

(B) the efforts of private organizations committed to helping cranes; and

(3) to provide financial resources for those programs and efforts.

SEC. 4. DEFINITIONS.

In this Act:

(1) CONSERVATION.—

(A) IN GENERAL.—The term ''conservation'' means the use of any method or procedure to improve the viability of crane populations and the quality of the ecosystems and habitats on which the crane populations depend to help the species achieve sufficient populations in the wild to ensure the long-term viability of the species.

(B) INCLUSIONS.—The term ''conservation'' includes the carrying out of any activity associated with scientific resource management, such as—

(i) protection, restoration, acquisition, and management of habitat;

(ii) research and monitoring of known populations;

(iii) the provision of assistance in the development of management plans for managed crane ranges;

(iv) enforcement of the Convention;

(v) law enforcement and habitat protection through community participation;

(vi) reintroduction of cranes to the wild;

(vii) conflict resolution initiatives; and

(viii) community outreach and education.

(2) CONVENTION.—The term ''Convention'' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

(3) FUND.—The term ''Fund'' means the Crane Conservation Fund established by section 6(a).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 5. CRANE CONSERVATION ASSISTANCE.

(a) IN GENERAL.—Subject to the availability of appropriations and in consultation

with other appropriate Federal officials, the Secretary shall use amounts in the Fund to provide financial assistance for projects relating to the conservation of cranes for which project proposals are approved by the Secretary in accordance with this section.

(b) PROJECT PROPOSALS.—

(1) APPLICANTS.—

(A) IN GENERAL.—An applicant described in subparagraph (B) that seeks to receive assistance under this section to carry out a project relating to the conservation of cranes shall submit to the Secretary a project proposal that meets the requirements of this section.

(B) ELIGIBLE APPLICANTS.—An applicant described in this subparagraph is—

(i) any relevant wildlife management authority of a country that—

(I) is located within the African, Asian, European, or North American range of a species of crane; and

(II) carries out 1 or more activities that directly or indirectly affect crane populations;

(ii) the Secretariat of the Convention; and

(iii) any person or organization with demonstrated expertise in the conservation of cranes.

(2) REQUIRED ELEMENTS.—A project proposal submitted under paragraph (1)(A) shall include—

(A) a concise statement of the purpose of the project;

(B)(i) the name of each individual responsible for conducting the project; and

(ii) a description of the qualifications of each of those individuals;

(C) a concise description of—

(i) methods to be used to implement and assess the outcome of the project;

(ii) staff and community management for the project; and

(iii) the logistics of the project;

(D) an estimate of the funds and the period of time required to complete the project;

(E) evidence of support for the project by appropriate government entities of countries in which the project will be conducted, if the Secretary determines that such support is required to ensure the success of the project;

(F) information regarding the source and amount of matching funding available for the project; and

(G) any other information that the Secretary considers to be necessary for evaluating the eligibility of the project to receive assistance under this Act.

(c) PROJECT REVIEW AND APPROVAL.—

(1) IN GENERAL.—The Secretary shall—

(A) not later than 30 days after receiving a final project proposal, provide a copy of the proposal to other appropriate Federal officials; and

(B) review each project proposal in a timely manner to determine whether the proposal meets the criteria described in subsection (d).

(2) CONSULTATION; APPROVAL OR DISAPPROVAL.—Not later than 180 days after receiving a project proposal, and subject to the availability of appropriations, the Secretary, after consulting with other appropriate Federal officials, shall—

(A) consult on the proposal with the government of each country in which the project is to be carried out;

(B) after taking into consideration any comments resulting from the consultation, approve or disapprove the proposal; and

(C) provide written notification of the approval or disapproval to—

(i) the applicant that submitted the proposal;

(ii) other appropriate Federal officials; and

(iii) each country described in subparagraph (A).

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a project proposal under this section if the Secretary determines that the proposed project will enhance programs for conservation of cranes by assisting efforts to—

(1) implement conservation programs;

(2) address the conflicts between humans and cranes that arise from competition for the same habitat or resources;

(3) enhance compliance with the Convention and other applicable laws that—

(A) prohibit or regulate the taking or trade of cranes; or

(B) regulate the use and management of crane habitat;

(4) develop sound scientific information on, or methods for monitoring—

(A) the condition of crane habitat;

(B) crane population numbers and trends; or

(C) the current and projected threats to crane habitat and population numbers and trends;

(5) promote cooperative projects on the issues described in paragraph (4) among—

(A) governmental entities;

(B) affected local communities;

(C) nongovernmental organizations; or

(D) other persons in the private sector;

(6) carry out necessary scientific research on cranes;

(7) provide relevant training to, or support technical exchanges involving, staff responsible for managing cranes or habitats of cranes, to enhance capacity for effective conservation; or

(8) reintroduce cranes successfully back into the wild, including propagation of a sufficient number of cranes required for this purpose.

(e) PROJECT SUSTAINABILITY; MATCHING FUNDS.—To the maximum extent practicable, in determining whether to approve a project proposal under this section, the Secretary shall give preference to a proposed project—

(1) that is designed to ensure effective, long-term conservation of cranes and habitats of cranes; or

(2) for which matching funds are available.

(f) PROJECT REPORTING.—

(1) IN GENERAL.—Each person that receives assistance under this section for a project shall submit to the Secretary, at such periodic intervals as are determined by the Secretary, reports that include all information that the Secretary, after consulting with other appropriate government officials, determines to be necessary to evaluate the progress and success of the project for the purposes of—

(A) ensuring positive results;

(B) assessing problems; and

(C) fostering improvements.

(2) AVAILABILITY TO THE PUBLIC.—Each report submitted under paragraph (1), and any other documents relating to a project for which financial assistance is provided under this Act, shall be made available to the public.

SEC. 6. CRANE CONSERVATION FUND.

(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund established by the matter under the heading ''MULTINATIONAL SPECIES CONSERVATION FUND'' in title I of the Department of the Interior and Related Agencies Appropriations Act, 1999 (112 Stat. 2681–237; 16 U.S.C. 4246) a separate account to be known as the ''Crane Conservation Fund'', consisting of—

(1) amounts transferred to the Secretary of the Treasury for deposit into the Fund under subsection (e);

(2) amounts appropriated to the Fund under section 8; and

(3) any interest earned on investment of amounts in the Fund under subsection (c).

(b) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), upon request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary, without further appropriation, such amounts as the Secretary determines are necessary to provide assistance under section 5.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts in the Fund available for each fiscal year, the Secretary may expend not more than 3 percent, or $150,000, whichever is greater, to pay the administrative expenses necessary to carry out this Act.

(3) LIMITATION.—Not more than 20 percent of the amounts made available from the Fund for any fiscal year may be used for projects relating to the conservation of North American crane species.

(c) INVESTMENTS OF AMOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(4) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(d) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) ACCEPTANCE AND USE OF DONATIONS.—

(1) IN GENERAL.—The Secretary may accept and use donations to provide assistance under section 5.

(2) TRANSFER OF DONATIONS.—Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit in the Fund.

SEC. 7. ADVISORY GROUP.

(a) IN GENERAL.—To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of cranes.

(b) PUBLIC PARTICIPATION.—

(1) MEETINGS.—The advisory group shall—

(A) ensure that each meeting of the advisory group is open to the public; and

(B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(2) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(3) MINUTES.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

SEC. 8. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund $5,000,000 for each of fiscal years 2006

through 2010, to remain available until expended.

(b) OFFSET.—Of amounts appropriated to, and available at the discretion of, the Secretary for programmatic and administrative expenditures, a total of $25,000,000 shall be used to establish the Fund.

Mr. KENNEDY. Mr. President, today, on Workers' Memorial Day, we remember and honor the working men and women here at home who have died or been injured on the job in the past year. We also think of their families and the losses they have suffered. And we pledge to do more to end the unsafe and unhealthy conditions that still plague so many workplaces across America.

Thirty-five years have now passed since the enactment of the Occupational Safety and Health Act in 1970, and that basic law has made an immense difference in the safety of our Nation's workers. The rate of fatalities, injuries, and illnesses dropped year after year—a 78 percent reduction in the rate of workplace deaths and a 52 percent reduction in the rate of workplace-related injuries and illnesses since the law was passed, and the reductions have been even greater in industries that OSHA has targeted in its standards and enforcement activities.

But we still have a long way to go. There are still too many workers being hurt on the job. An average of 15 workers are killed and 12,000 more are injured every single day. That's over 5,500 worker deaths and 4.4 million worker injuries a year. In Massachusetts, 72 workers died from traumatic injuries on the job in 2004 and over 600 died from occupational disease.

These numbers represent real workers and their families. They represent fathers like Jeff Walters. His son Patrick was killed when a trench in Ohio caved in three years ago—at a company with a history of safety violations. They include people like Ron Hayes, who also lost his son in a workplace accident. Since then, he and his wife Dot have made safety their cause and done a great deal to help families whose lives have been hurt by these deaths—including deaths that in many cases could, and should have been prevented.

Ron and Jeff asked us to prevent this from happening to other families. That's why I am introducing this bill—to fight for families like the Walters and the Hayes, and to do everything we can to see that other families don't have to suffer the same grief.

Many companies are doing too little to deal with this challenge. They blatantly ignore the law, but they are rarely held accountable, even when their actions or neglect kill loyal employees who work for them. Offenders never go to jail. Criminal penalties are so low that prosecutors don't pursue these cases. Employers who violate safety laws again and again pay only minimal fines—they treat them as just another cost of doing business.

We cannot allow these shameful practices to continue. These companies are putting millions of workers at risk in factories, construction sites, nursing homes, and many other workplaces every day.

We also need to hold this Administration accountable for improving worker safety and enforcing the safety laws. We should require OSHA to do more to stop serious safety violations before they can hurt or kill workers, instead of sweeping them under the rug. We also need to protect workers with the courage to speak out against health and safety violations in the workplace.

The most glaring flaw in current law is that too many workers are left uncovered. The Protecting America's Workers Act will extend the scope of the Occupational Safety and Health Act to cover 8 million public employees and millions of transportation and other workers.

In addition, the bill imposes jail time—up to ten years, instead of only six months under current law—on those whose blatant violation of safety laws leads to a worker's death. Incredibly, under current law, it is only a misdemeanor—punishable by 6 months in jail—for an employer to cause a worker's death through willfully violating our safety and health laws. In fact, we impose sentences twice that long for acts like harassing a wild burro on federal lands. Our laws should reflect our serious commitment to protecting workers' safety, instead of letting violators off with a slap on the wrist. We also increase civil penalties, to provide additional deterrence against employers.

We require the Occupational Safety and Health Administration to investigate more cases. We give workers and their families more rights in the investigation, and provide stronger protections for workers who report health or safety violations.

I urge my colleagues to join me in fighting for safe workplaces for all of America's workers. The promise of OSHA is waiting to be fulfilled. The best way for Congress to honor the Nation's dedicated working men and women on this Worker's Memorial Day is to end our complacency and see that the full promise of OSHA becomes a genuine reality for every working family in every community in America.

By Mr. BIDEN (for himself, Mr. KOHL, Mr. BINGAMAN, Mrs. CLINTON, Ms. STABENOW, Mr. KERRY, Mr. LEAHY, Mr. LEVIN, Mr. DURBIN, Mr. LIEBERMAN, Mr. KENNEDY, Mr. NELSON of Nebraska, Ms. MIKULSKI, Mr. BAYH, Ms. CANTWELL, Mrs. FEINSTEIN, Mr. CORZINE, Mr. JEFFORDS, Mr. ROCKEFELLER, Mr. SMITH, Mr. DAYTON, Mr. AKAKA, Mr. REED, Mr. HARKIN, Mrs. BOXER, Ms. LANDRIEU, Mr. REID, Mr. SALAZAR, Mr. BAUCUS, Mr. DORGAN, Mr. NELSON of Florida, Mr. SCHUMER, Mr. DODD, Mr. SPECTER, Mr. BYRD, Mr. LAUTENBERG, and Mr. OBAMA):

S. 945. A bill to provide reliable officers, technology, education, community prosecutors, and raining in our neighborhoods; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, today, I rise to introduce legislation to reauthorize the Department of Justice's Office of Community Oriented Policing Services (COPS). This program has achieved what my colleagues and I hoped for back when we were debating the 1994 Crime Bill. Prior to the final vote, in August of 1994, I stated that ''I will vote for this bill, because, as much as anything I have ever voted on in 22 years in the U.S. Senate, I truly believe that passage of this legislation will make a difference in the lives of the American people. I believe with every fiber in my being that if this bill passes, fewer people will be murdered, fewer people will be victims, fewer women will be senselessly beaten, fewer people will continue on the drug path, and fewer children will become criminals.''

Fortunately, with the creation of the COPS program, we were able to form a partnership amongst Federal, State, and local law enforcement and create programs that helped drive down crime rates for eight consecutive years. In 1994 we had historically high rates of violent crimes, such as murders, forcible rapes, and aggravated assaults. We were able to reduce these to the lowest levels in a generation. We reduced the murder rate by 37.8 percent; we reduced forcible rapes by 19.1 percent; and we reduced aggravated assaults by 25.5 percent. Property crimes, including auto thefts also were reduced from historical highs to the lowest levels in decades.

How were we able to achieve such great results? Well, we all know it was a combination of factors, but most law enforcement officials credit the Office of Community Oriented Policing with a pivotal role. Indeed, in the words of Attorney General Ashcroft the Community Oriented Policing program (''COPS'') has been ''a miraculous success.'' Just a few months ago, Attorney General Gonzalez reached the same conclusion, stating that ''we put additional officers on the street and now we have crime at an all-time low.'' In addition, this program has been endorsed by every major law enforcement group in the Nation, including the International Association of Chiefs of Police (IACP), the National Association of Police Organizations (NAPO), the National Sheriffs Association (NSA), the International Brotherhood of Police Organizations, the National Organization of Black Law Enforcement Officials (NOBLE), the International Union of Police Associations (IUPA), the Fraternal Order of Police, and others. The bottom line is that from the Top Cop in the United States to the beat officer patrolling a local community, the impact of this program is clear.

Rather than support this program, the Bush Administration and Republican leadership is set on eliminating

it. President Bush has proposed cuts each year he has been in office, and while we have fought to maintain funding for COPS, we are fighting an uphill battle. Funding for State and local law enforcement programs run out of the Department of Justice is down 75.6 percent since fiscal year 2002. This year, funding for State and local law enforcement is at $118 million for the entire Nation, with no funding for hiring.

These cuts are coming at the worst possible time. Local law enforcement is facing what I have called a perfect storm. The FBI is reprogramming its field agents from local crime to terrorism. Undoubtedly, this is necessary given the threats facing our Nation. But, this means that there will be less Federal assistance for drug cases, bank robberies, and violent crime. Local law enforcement will be required to fill the gap left by the FBI in addition to performing more and more homeland security duties. Due to budget restraints at the local level and the unprecedented cuts in Federal assistance they will be less able to do either. Articles in the USA Today and the New York Times highlighted the fact that many cities are being forced to eliminate officers because of local budgets woes. In fact, New York City has lost over 3,000 officers in the last few years. Other cities, such as Cleveland, Minnesota, and Houston, TX, are facing similar shortages. As a result, local police chiefs are reluctantly pulling officers from the proactive policing activities that were so successful in the nineties, and they are unable to provide sufficient numbers of officers for Federal task forces. These choices are not made lightly. Police chiefs understand the value of proactive policing and the need to be involved in homeland security task forces; however, they simply don't have the manpower to do it all. Responding to emergency calls must take precedence over proactive programs and task forces, and I fear that we will see the impact in our national crime rates soon. Local chiefs and sheriffs are reporting increased gang activity. And, murder rates and auto thefts—two very accurate indicators of crime trends—have gone up for three consecutive years.

To me, cutting assistance for State and local law enforcement is inexplicable, particularly because the need for Federal assistance remains so pressing. In fact, last month I offered an amendment to restore funding for the COPS program in the sum of $1 billion. This amount would have provided enough funding to eliminate the backlog of pending officer requests of 10,000 from 3,700 jurisdictions throughout the Nation. And, it would have provided funding to support on-going needs this year. Unfortunately, this amendment was voted down on a party-line vote. The Bush Administration's response to these criticisms about its budget is that funding for the Department of Homeland Security is up. Undoubtedly, these are critical, necessary expenditures, and I believe that the Administration has not invested enough for homeland security. We have an obligation to do both. We must fund homeland security and invest in the programs that help reduce traditional crime and prevent terrorism. As terrorism and security experts have pointed out, funding additional officers through the COPS program can help do both.

The legislation that I am introducing today provides $1.5 billion per year for six years for the COPS program. This includes $600 million per year for officer hiring grants, $350 million per year for technology grants, and $200 million per year to help local district attorneys hire community prosecutors. This funding will help keep faith with our State and local law enforcement officers who put their lives on the line every day to keep our communities safe from crime and terrorism. I would ask all of my colleagues to go to their local police chief or sheriff and ask them if they should support this legislation, and I hope that they will, because if they did, it would be passed 100–0.

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

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

S. 945

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 ''Providing Reliable Officers, Technology, Education, Community Prosecutors, and Training In Our Neighborhoods Act of 2005'' or the ''PROTECTION Act''.

SEC. 2. PROVIDING RELIABLE OFFICERS, TECHNOLOGY, EDUCATION, COMMUNITY PROSECUTORS, AND TRAINING IN OUR NEIGHBORHOOD INITIATIVE.

(a) COPS PROGRAM.—Section 1701(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)) is amended by—

(1) inserting ''and prosecutor'' after ''increase police''; and

(2) inserting ''to enhance law enforcement access to new technologies,'' after ''presence,''.

(b) HIRING AND REDEPLOYMENT GRANT PROJECTS.—Section 1701(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by inserting after ''Nation'' the following: '', or pay overtime to existing career law enforcement officers to the extent that such overtime is devoted to community-oriented policing efforts''; and

(ii) by striking ''and'' at the end;

(B) in subparagraph (C), by—

(i) striking '', or pay overtime''; and

(ii) striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(D) promote higher education among in-service State and local law enforcement officers by reimbursing them for the costs associated with seeking a college or graduate school education.''; and

(2) in paragraph (2), by striking all that follows ''**SUPPORT SYSTEMS**.—'' and inserting ''Grants pursuant to—

''(A) paragraph (1)(B) for overtime may not exceed 25 percent of the funds available for grants pursuant to this subsection for any fiscal year;

''(B) paragraph (1)(C) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year; and

''(C) paragraph (1)(D) may not exceed 5 percent of the funds available for grants pursuant to this subsection for any fiscal year.''.

(c) ADDITIONAL GRANT PROJECTS.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (2)—

(A) by inserting ''integrity and ethics'' after ''specialized''; and

(B) by inserting ''and'' after ''enforcement officers'';

(2) in paragraph (7), by inserting '', school officials, religiously-affiliated organizations,'' after ''enforcement officers'';

(3) by striking paragraph (8) and inserting the following:

''(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, and to combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, the illegal use and possession of alcohol, and the illegal possession, use, and distribution of drugs;'';

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

(5) in paragraph (12), by striking the period that appears at the end and inserting ''; and''; and

(6) by adding at the end the following:

''(13) develop and implement innovative programs (such as the TRIAD program) that bring together a community's sheriff, chief of police, and elderly residents to address the public safety concerns of older citizens.''.

(d) TECHNICAL ASSISTANCE.—Section 1701(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(f)) is amended—

(1) in paragraph (1)—

(A) by inserting ''use up to 5 percent of the funds available for grants pursuant to subsection (a) in any fiscal year to'' after ''The Attorney General may'';

(B) by inserting at the end the following: ''In addition, the Attorney General may use up to 5 percent of the funds available for grants pursuant to subsections (d), (e), and (f) in any fiscal year for technical assistance and training to States, units of local government, Indian tribal governments, and to other public and private entities for those respective purposes.'';

(2) in paragraph (2), by inserting ''under subsection (a)'' after ''the Attorney General''; and

(3) in paragraph (3)—

(A) by striking ''the Attorney General may'' and inserting ''the Attorney General shall'';

(B) by striking ''operation of training centers'' and inserting ''regional community policing institutes, training centers,''; and

(C) by inserting ''representatives of police labor and management organizations, community residents,'' after ''supervisors,''.

(e) TECHNOLOGY AND PROSECUTION PROGRAMS.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended by—

(1) striking subsection (k);

(2) redesignating subsections (f) through (j) as subsections (g) through (k); and

(3) striking subsection (e) and inserting the following:

''(e) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—Grants made under subsection (a) may be used to assist police departments, in employing professional, scientific, and technological advancements that will help them—

''(1) improve police communications through the use of wireless communications, computers, software, videocameras, databases, and other hardware and software that allow law enforcement agencies to communicate more effectively across jurisdictional boundaries and effectuate interoperability;

''(2) develop and improve access to crime solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities; and

''(3) promote comprehensive crime analysis by utilizing new techniques and technologies, such as crime mapping, that allow law enforcement agencies to use real-time crime and arrest data and other related information, including non-criminal justice data, to improve their ability to analyze, predict, and respond pro-actively to local crime and disorder problems, as well as to engage in regional crime analysis.

''(f) COMMUNITY-BASED PROSECUTION PROGRAM.—

''(1) IN GENERAL.—Grants made under subsection (a) may be used to assist State, local or tribal prosecutors' offices in the implementation of community-based prosecution programs that build on local community-oriented policing efforts.

''(2) USE OF FUNDS.—Funds made available under this subsection may be used to—

''(A) hire additional prosecutors who will be assigned to community prosecution programs, including programs that assign prosecutors to handle cases from specific geographic areas, to address specific violent crime and other local crime problems (including intensive illegal gang, gun, and drug enforcement projects and quality of life initiatives), and to address localized violent and other crime problems based on needs identified by local law enforcement agencies, community organizations, and others;

''(B) redeploy existing prosecutors to community prosecution programs as described in paragraph (1) of this section by hiring victim and witness coordinators, paralegals, community outreach, and other such personnel; and

''(C) establish programs to assist local prosecutors' offices in the implementation of programs that help them identify and respond to priority crime problems in a community with specifically tailored solutions.

''(3) ALLOCATION.—At least 75 percent of the funds made available under this subsection shall be reserved for grants under subparagraphs (A) and (B) of paragraph (2) and of those amounts no more than 10 percent may be used for grants under paragraph (2)(B) and at least 25 percent of the funds shall be reserved for grants under subparagraphs (A) and (B) of paragraph (2) to units of local government with a population of less than 50,000.''.

(f) RETENTION GRANTS.—Section 1703 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–2) is amended by inserting at the end the following:

''(d) RETENTION GRANTS.—The Attorney General may use no more than 50 percent of the funds under subsection (a) to award grants targeted specifically for retention of police officers to grantees in good standing, with preference to those that demonstrate financial hardship or severe budget constraint that impacts the entire local budget and may result in the termination of employment for police officers funded under subsection (b).''.

(g) DEFINITIONS.—

(1) CAREER LAW ENFORCEMENT OFFICER.—Section 1709(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8(1)) is amended by inserting after ''criminal laws'' the following: '', including sheriffs deputies charged with supervising offenders who are released into the community but also engaged in local community-oriented policing efforts.''.

(2) SCHOOL RESOURCE OFFICER.—Section 1709(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8(4)) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearms and explosives-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;'';

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

''(E) to train students in conflict resolution, restorative justice, and crime awareness, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;'';

(C) in subparagraph (F) by striking ''and'' at the end;

(D) in subparagraph (G) by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

''(H) to work with school administrators, members of the local parent teacher associations, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

''(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a firearms trace and ballistics examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

''(J) to document the full description of all explosives or explosive devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

''(K) to assist school administrators with the preparation of the Department of Education, Annual Report on State Implementation of the Gun-Free Schools Act, which tracks the number of students expelled per year for bringing a weapon, firearm, or explosive to school.''.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)) is amended—

(1) by amending subparagraph (A) to read as follows:

''(A) There are authorized to be appropriated to carry out part Q, to remain available until expended—

''(i) $1,150,000,000 for fiscal year 2006;

''(ii) $1,150,000,000 for fiscal year 2007;

''(iii) $1,150,000,000 for fiscal year 2008;

''(iv) $1,150,000,000 for fiscal year 2009;

''(v) $1,150,000,000 for fiscal year 2010; and

''(vi) $1,150,000,000 for fiscal year 2011.''; and

(2) in subparagraph (B)—

(A) by striking ''3 percent'' and inserting ''5 percent'';

(B) by striking ''1701(f)'' and inserting ''1701(g)'';

(C) by striking the second sentence and inserting ''Of the remaining funds, if there is a demand for 50 percent of appropriated hiring funds, as determined by eligible hiring applications from law enforcement agencies having jurisdiction over areas with populations exceeding 150,000, no less than 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 150,000 or by public and private entities that serve areas with populations exceeding 150,000, and no less than 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations less than 150,000 or by public and private entities that serve areas with populations less than 150,000.'';

(D) by striking ''85 percent'' and inserting ''$600,000,000''; and

(E) by striking ''1701(b),'' and all that follows through ''of part Q.'' and inserting the following: ''1701 (b) and (c), $350,000,000 to grants for the purposes specified in section 1701(e), and $200,000,000 to grants for the purposes specified in section 1701(f).''.

Mr. ROCKEFELLER. Mr. President, I am proud today with Senator BIDEN and several of our colleagues to introduce a bill to reauthorize the Community Oriented Police Services (COPS) program, which has been so vitally important to my State of West Virginia. The bill authorizes $1.15 billion to fund operations of the U.S. Department of Justice's COPS Office and to put 50,000 new police officers on the streets of the United States through 2011. I am a cosponsor of this bill because I understood how important this program could be when we passed it originally as part of President Clinton's 1994 Crime bill, because I've seen how important it is to my State of West Virginia, and because I know that there are few government programs that have done more to make the whole country safer and more secure.

President Clinton had a goal of placing 100,000 new police officers on our streets. As hard as it is to believe, there are opponents of the COPS program. In an attempt to defend their desire to end the program, they are quick to point out that the goal has been met, and even exceeded. They would have you believe that the Federal Government should get out of the business of helping local law enforcement do their jobs. In the aftermath of the September 11 attacks, when police departments have taken on seemingly innumerable crucial responsibilities in addition to their roles in fighting crime, plans to close out this program have been included in the President's budget each year since he took office. For the Fiscal Year 2006 budget, funding for hiring new officers was zeroed out, and funds for ongoing projects were slashed by varying degrees.

There is simply no justification for not continuing the successes of this program. The COPS program has allowed State, local, and tribal law enforcement agencies in all 50 States and the District of Columbia to hire 118,000 new officers since 1994. The violent

crime rate has dropped 30 percent in the same period. Recently, Attorney General Alberto Gonzales made the connection himself, commenting that these officers were put on the street and crime is at a thirty-year low.

The COPS program has sent more than $40 million to my home State of West Virginia, allowing 166 jurisdictions to hire nearly 700 officers. There is no way that the citizens of my State could afford to hire and train this many officers in this amount of time, and no feasible way to replace the benefits the COPS program produces. Many of these towns had never had their own police officers before this, and I can tell you that the presence of those officers has changed lives for the better throughout my State.

West Virginia has also benefited from some specialized programs administered by the COPS Office. Our schools, which were once refuges from crime and danger, now have safety and security concerns best handled by trained law enforcement professionals. The COPS in Schools (CIS) program has provided $2 million to hire 20 school resource officers (SROs). In 2004 alone we received more than $457,000 to hire four SROs. Law enforcement agencies in my State have also received $4.7 million in COPS technology grants, and were making headway on a burgeoning crisis in methamphetamine production with the COPS METH grant program. This assistance has allowed police in my State to tap into crime-fighting and data-sharing technologies, and helped protect my constituents from a drug problem spreading through rural America like wildfire.

I look forward to enactment of this legislation, and the new assistance it will bring to state and local law enforcement agencies throughout West Virginia. Specifically, this legislation will provide: $600 million per year through 2011 for 50,000 more cops across the country; $350 million per year for law enforcement technologies, including interoperable communications equipment, state-of-the-art DNA analysis, and computer crime mapping; and $200 million annually to hire new prosecutors, to finish the job our new officers have started.

I commend Senator BIDEN for his tireless work on behalf of law enforcement and I pledge to do all that I can to see this bill enacted for the good of the people of West Virginia and for all Americans.

By Mr. WYDEN:

S. 946. A bill to amend the Communications Act of 1934 to require multichannel video programming distributors to provide a kid-friendly tier of programming; to the Committee on Commerce, Science, and Transportation.

Mr. WYDEN. Mr. President, I strongly believe that parents in our country should have more wholesome entertainment choices for their children. To make that possible, I am today introducing legislation to require that cable and satellite owners allow parents to purchase a child-friendly tier of television programming.

For years, the Congress and the Federal Communications Commission have labored, to little avail, to turn off offensive programming with a variety of technologies. My legislation would ensure that America's families, 24/7, could turn on programming that is reliably friendly to our children.

While the legislation ensures that parents have more choices, the entertainment industry is assured that it has choices as well. Under the bill, Congress does not direct how the law is to be implemented. The Congress does not set prices. And the Congress does not take any step that is inconsistent with the first amendment.

About the only part of the legislation that is nonnegotiable is my belief that Congress should not dawdle any longer when the volume of degrading, violent, and antisocial entertainment our children are exposed to continues to grow.

Here is what America's parents deal with now. A recent study found that the average child in America has seen 8,000 murders depicted on television by the time they graduate from elementary school. Kids see about 10,000 television rapes, assaults, and murders each year. And in 2004, Americans filed more than 1 million complaints with the Federal Communications Commission about indecent programming.

Yesterday the National Cable and Telecommunications Association launched a new public service campaign to alert subscribers to parental control features that are already available and to introduce new larger TV rating icons. I haven't studied their proposal, but it certainly sounds constructive and I look forward to hearing more about their efforts.

The legislation I am introducing today is a truly new approach that has teeth. It is going to give parents more kid-friendly entertainment choices that are easy to understand. The legislation would require that all cable and satellite operators within 1 year of enactment offer a kid-friendly tier of programming. It would require monthly billing statements to include information about how customers can use blocking technology to stop offensive programming. And it would impose big-league fines of $500,000 a day on any cable or satellite operator who doesn't comply with the requirement that they give parents the chance to purchase kid-friendly programming. In this tier parents will know that there will be no content and no advertisements of a violent or sexual nature. Parents and adults who are not concerned about the current level of violence and sex on television would, of course, have access to those options with respect to current law.

This proposal is the first to tell cable and satellite operators they must offer a kid-friendly television tier so parents have more choices. The legislation does not dictate how it must be accomplished. It only says this tier of kid-friendly programming must carry a number of channels.

The legislation leaves it up to the operator whether to offer the kids tier as part of a basic or expanded basic package or as a completely separate package.

Certainly there is going to be some opposition. But I believe good quality programming and an option for families could translate to pretty good profits for those cable and satellite providers. Parents are going to find this option very attractive. If children are watching TV 4 hours a day, you can bet mom and dad are not able to stand there the whole time. A kids tier is going to take the guesswork out of TV time for America's parents.

Now there is an awful lot of guesswork. Time magazine found last month 53 percent of respondents said they thought the Federal Communications Commission ought to place stricter controls on broadcast channel shows depicting sex and violence. Sixty-eight percent of those surveyed said the entertainment industry has lost touch with viewers' moral standards. Sixty-six percent said there is too much violence on open air TV. Fifty-eight percent said there is too much cursing. Fifty percent said there is too much sexual content.

I have worked to make sure that this legislation strikes an appropriate balance, offering choices to parents, not taking them away. A recent Pew Research survey found although 60 percent of Americans are very concerned about what kids see and hear on television, about half of those surveyed were more worried about the Government imposing undue restrictions and thought this was essentially the responsibility of the audience.

So what we are doing here shows a balanced kind of approach in line with the kinds of values Americans are expressing. Don't make choices for parents, but help parents make good choices for their children. With 8 out of 10 American households getting their television through cable or satellite programmers, it is time that parents be given the chance to sign up for programming that works for their family.

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. 946

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 ''Kid Friendly TV Programming Act of 2005''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) More than a decade ago, the American Psychological Society concluded that ''There is absolutely no doubt that higher levels of viewing violence on television are

correlated with increased acceptance of aggressive attitudes and increased aggressive behavior.''

(2) A study in 2003 found that adults who were ''high TV-violence viewers'' as children are more than three-to-four times as likely as other adults to be convicted of a crime and to use violence against their spouses and other adults.

(3) Adults who watched more violent programming as children were more likely to be arrested and convicted for spousal and child abuse, murder and aggravated assault.

(4) Ten percent of violent acts committed by youths are attributable to their exposure to violence on television.

(5) Forty percent of parents surveyed in 1999 in Rhode Island reported that at least one symptom of post-traumatic stress disorder occurred after their child viewed a scary event on television, and that this symptom lasted at least 1 month.

(6) The average child who watches 2 hours of cartoons a day will view almost 10,000 violent acts a year.

(7) Teenagers who watched television with the greatest amount of sexual content were twice as likely to initiate sexual intercourse the following year as those who watched television with the least amount of sexual content.

(8) The Kaiser Family Foundation reported in 2002 that 72 percent of teenagers think sex on television influences ''somewhat'' or ''a lot'' the sexual behavior of their peers.

(9) The Kaiser Family Foundation reported in 2003 that 64 percent of all television shows have some sexual content, and that in prime time, 71 percent of the top 4 broadcast network shows have some sexual content.

(10) The continued exposure of children to obscene, indecent, sexual, or gratuitous or excessively violent content on television is harmful to the public health and welfare of communities across the country.

(11) Efforts to limit the exposure of children to television programming that contains material with obscene, indecent, violent, or sexual content, or to impose fines and penalties for the broadcast of such content, have not been successful in protecting children from harmful content.

(12) The number of homes in the United States that receive television programming via cable or satellite providers is estimated to have grown to 85 percent of American households, and of that percentage, an estimated 95 percent of the households subscribe to basic or expanded basic programs.

(13) The efforts to limit the exposure of children to harmful television content have not been successful because Federal regulatory agencies have not had the authority to require cable and satellite providers to offer a child-friendly tier of programming.

(14) Parents need more effective ways to limit the exposure of children to television with harmful content through alternative, child-friendly tiers of programs.

SEC. 3. BASIC TIER CONTENT RESTRICTIONS.

Part IV of title VI of the Communications Act of 1934 (47 U.S.C. 631 et seq.) is amended by adding at the end the following:

''SEC. 641. KID-FRIENDLY PROGRAMMING TIER.

''(a) IN GENERAL.—Within 1 months after the date of enactment of the Kid Friendly TV Programming Act of 2005, each multichannel video programming distributor shall offer a child-friendly tier of programming consisting of no fewer than 15 channels.

''(b) BLOCKING INSTRUCTIONS.—Beginning 6 months after the date of enactment of the Kid Friendly TV Programming Act of 2005, each multichannel video programming distributor shall provide, as part of the monthly statement of charges, instructions for how to block any channel whose content a subscriber may wish to block.

''(c) PENALTIES.—In addition to any other penalty imposed under this Act or title 18, United States Code, failure to comply with the requirements of this section is punishable by a civil penalty of up to $500,000 per day. Each day of such failure shall be considered a separate offense.

''(d) CHILD-FRIENDLY DEFINED.—In this section, the term 'child-friendly tier' means a group of channels that do not carry programming, advertisements, or public service announcements that would be considered inappropriate for children due to obscene, indecent, profane, sexual, or gratuitous and excessively violent content.''.

By Mr. CORZINE (for himself, Mr. KENNEDY, Mr. LAUTENBERG, and Mr. DURBIN):

S. 947. A bill to amend the Occupational Safety and Health Act of 1970 to modify the provisions relating to citations and penalties; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today on Workers Memorial Day to reintroduce the ''Workplace Wrongful Death Accountability Act,'' legislation that would, among other things, increase the maximum criminal penalty for those who willfully violate workplace safety laws and cause the death of an employee.

Unbelievably, under existing law, that crime is a misdemeanor, and carries a maximum prison sentence of just 6 months. This legislation would increase the penalty for this most egregious workplace crime to 10 years—making it a felony. The bill also would increase the penalty associated with lying to an OSHA inspector from 6 months to 1 year, and would increase the penalty for illegally giving advance warning of an upcoming inspection from 6 months to 2 years.

In recent years, the Senators from both sides of the aisle have joined together to focus on a shocking succession of corporate scandals: Enron, Tyco, WorldCom, to name a few. These revelations of corporate abuse raised the ire and indignation of the American people. But corporate abuses can sometimes go further than squandering employee pension funds and costing shareholder value. Sometimes, corporate abuses can cost lives.

My legislation is based on the simple premise that going to work should not carry a death sentence. Annually, more than 6,000 Americans are killed on the job, and some 50,000 more die from work-related illnesses. Many of those deaths—deaths that leave wives without husbands, brothers without sisters, and children without parents—are completely preventable.

In 2003, the New York Times published an eye-opening, multi-part series that documented the failure of the Federal government to prosecute violators of workplace safety laws. The articles were deeply disturbing to anyone concerned about the health and well being of workers in America, detailing one company's pattern of recklessly disregarding basic safety rules. The authors linked at least nine employee deaths in five States—New York, New Jersey, Ohio, Alabama, and Texas—over a 7–year period with the failure of a single company, McWane Foundry, to follow established workplace safety regulations. Three of those deaths were judged to have been caused by deliberate and willful violations of Federal safety rules.

As a result of that article and a subsequent criminal investigation, McWane has begun to clean up its act.

But no one should be deluded. McWane is not the only company with a record of putting employees at risk. Others—although still the clear minority—continue to flout workplace safety rules and jeopardize the health and well being of workers.

During the last Congress, the Bush administration recognized that there was a problem and announced its ''enhanced enforcement policy,'' a small step in the right direction. But this new enforcement policy does not do enough, and my legislation would ensure that employers are deterred from placing their employees at risk by willfully violating safety law. And if they do willfully violate the law, they will pay a price.

While many factors contribute to the unsafe working environment that exists at certain jobsites, one easily remedied factor is an ineffective regime of criminal penalties. The criminal statutes associated with OSHA have been on the books since the 1970s, but—over time—the deterrence value of these important workplace safety laws has eroded substantially. With the maximum jail sentence a paltry 6 months, Federal prosecutors have only a minimal incentive to spend time and resources prosecuting renegade employers. According to a recent analysis, since the Occupational Safety and Health Act was enacted, only 11 employers who caused the death of a worker on the job were incarcerated.

The logic behind this legislation is simple. The bill will increase the incentive for prosecutors to hold renegade employers accountable for endangering the lives of their workers and, thereby, help ensure that OSHA criminal penalties cannot be safely ignored. This will provide the OSHA criminal statute with sufficient teeth to deter the small percentage of bad actors who knowingly and willfully place their employees at risk.

I am proud to be joined by Senators KENNEDY, LAUTENBERG, and DURBIN in reintroducing the Workplace Wrongful Death Accountability Act and I urge my colleagues to support this important piece of 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. 947

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 ''Workplace Wrongful Death Accountability Act''.

SEC. 2. OSHA CRIMINAL PENALTIES.

Section 17 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 666) is amended—

(1) in subsection (e)—

(A) by striking ''fine of not more than $10,000'' and inserting ''fine in accordance with section 3571 of title 18, United States Code,'';

(B) by striking ''six months'' and inserting ''10 years'';

(C) by striking ''fine of not more than $20,000'' and inserting ''fine in accordance with section 3571 of title 18, United States Code,'';

(D) by striking ''one year'' and inserting ''20 years''; and

(E) by inserting ''under this subsection or subsection (i)'' after ''first conviction of such person'';

(2) in subsection (f), by striking ''fine of not more than $1,000 or by imprisonment for not more than six months,'' and inserting ''fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 2 years,''; and

(3) in subsection (g), by striking ''fine of not more than $10,000, or by imprisonment for not more than six months,'' and inserting ''fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 1 year,''.

Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 948. A bill to amend the Health Care Quality Improvement Act of 1986 to expand the National Practitioner Data Bank; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to reintroduce a very important piece of legislation, the Safe Healthcare Reporting (SHARE) Act, which Senator LAUTENBERG and I introduced last Congress to add nurses and other licensed health care professionals to the National Practitioner Databank.

In 1986, Congress passed legislation that established a national databank, the National Practitioner Databank (NPDB), to track licensing, disciplinary, and medical malpractice actions taken against U.S. physicians. While the NPDB has served as an important source of information on physicians, it fails to incorporate critical information on millions of non-physician licensed health care professionals, including nurses.

In late 2003, it came to light that Charles Cullen, a nurse who had practiced for more than a decade in New Jersey and Pennsylvania, had murdered as many as 40 of the patients he cared for during this time. As of today, Mr. Cullen has pleaded guilty to intentionally giving lethal doses of drugs to 24 patients.

This case has highlighted the need for a national reporting system on nurses and other licensed health professionals. As the health care workforce becomes increasingly mobile, such a system would be an invaluable resource to health care employers seeking information on potential employees.

The SHARE Act will help break the chain of silence currently plaguing our health care system. This chain of silence prevented critical employment history on Cullen—including five firings and at least one suspension—from ever reaching his future employers. While Charles Cullen kept killing people, hospitals kept hiring him. They didn't know his history. They didn't understand the risk he posed to patients. This is because hospitals and other employers are reluctant to share employee information because they are afraid of being sued.

The goal of our legislation is to make sure that hospitals know—to make sure that employers have access to critical information on health care practitioners. It will ensure that adverse employment actions, licensing and disciplinary actions, and criminal background information are available to all health care employers. The SHARE Act mandates that hospitals and other health care entities report adverse employment actions taken against employees who violate professional standards of conduct. This would include things like drug diversion and falsification of documents.

Importantly, the legislation protects health care employers from suit when they, in good faith, report information that they believe is truthful. Any employer who reports false information in an effort to smear a nurse's record would receive no protection under our bill. In fact, anyone who abused the information reported to the databank would be fined by the Federal Government.

Health care employers, such as hospitals and nursing homes, would be required to report to the National Practitioner Databank, which currently provides such information on physicians. They would also be required to report to the appropriate state licensing board. In turn the state licensing board would report the results of its investigations and licensing or disciplinary actions to the databank. The legislation also encourages nurses and other health care professionals to report suspected activities to state boards by providing whistleblower protections to those individuals.

The SHARE Act also ensures that a practitioner who is subject to reporting is informed of the report, offered a hearing on the issue, and allowed to comment on the report.

I believe that this legislation is a critical first step toward improving access to important information on our health care workforce. Since 1986, the Federal Government has required hospitals to report employment information on physicians. It's time we include nurses and other health care professionals that provide direct patient care. In fact, the average nurse spends more time at a patient's bedside than the patient's physician. We simply must ensure that the person at the bedside is competent and professional.

I look forward to working with my colleagues on both sides of the aisle to move this bill through Congress and get it to the President's desk. We must and we can improve patient safety and the integrity of our health care system. This bill takes an important step toward that goal.

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

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

S. 948

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 ''Safe Health Care Reporting Act of 2005''.

SEC. 2. REPORTING OF SANCTIONS.

Section 422 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11132) is amended—

(1) in the section heading by striking ''BOARDS OF MEDICAL EXAMINERS'' and inserting ''STATE LICENSING BOARDS'';

(2) in paragraphs (1) and (2) of subsection (a)—

(A) by striking ''physician's'' each place it appears and inserting ''physician's or other health care practitioner's''; and

(B) by striking ''physician'' each place it appears and inserting ''physician or other health care practitioner''; and

(3) in subsections (a) and (b), by striking ''Board of Medical Examiners'' each place it appears and inserting ''State licensing board''.

SEC. 3. REPORTING OF CERTAIN PROFESSIONAL REVIEW ACTIONS.

Section 423 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11133) is amended—

(1) by striking ''Board of Medical Examiners'' each place it appears and inserting ''State licensing board'';

(2) in subsection (a)—

(A) by striking paragraph (2) and inserting the following:

''(2) MANDATORY REPORTING ON OTHER LICENSED HEALTH CARE PRACTITIONERS.—A health care entity shall report to the appropriate State licensing boards and to the agency designated under section 424(b), the information described in paragraph (3) in the case of a licensed health care practitioner who is not a physician, if the entity would be required to report such information under paragraph (1) with respect to the practitioner if the practitioner were a physician.'';

(B) by redesignating paragraph (3)(C) as paragraph (3)(D); and

(C) by striking paragraph (3)(B) and inserting the following:

''(B) a description of any adverse action, including dismissal and review action, taken by a hospital or other health care entity against a health care practitioner who is employed by, has privileges at, is under contract with, or otherwise works at the health care entity for conduct that may be construed to violate any Federal or State law, including laws governing licensed health care professional practice standards,

''(C) information on a health care practitioner who voluntarily resigns during, or as a result of, a pending dismissal or review action, and'';

(3) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(4) by inserting after subsection (a), the following:

''(b) STANDARD FOR REPORTING OF ADVERSE ACTIONS.—Adverse actions reported under subsection (a)(2) shall be made in accordance with the rights and procedures afforded to physicians under section 412.'';

(5) in subsection (c) (as so redesignated), in the subsection heading, by striking ''BOARD OF MEDICAL EXAMINERS'' and inserting ''STATE LICENSING BOARD'';

(6) in subsection (d)(1) (as so redesignated), by striking ''subsection (a)(1)'' and inserting ''paragraphs (1) and (2) of subsection (a) and subsection (b)'';

(7) in subsection (d)(2) (as so redesignated), in the paragraph heading, by striking ''BOARD OF MEDICAL EXAMINERS'' and inserting ''STATE LICENSING BOARD'';

(8) in subsection (e) (as so redesignated), in the subsection heading, by striking ''BOARD OF MEDICAL EXAMINERS'' and inserting ''STATE LICENSING BOARD''; and

(9) by adding at the end the following:

''(f) CIVIL PENALTIES.—

''(1) IN GENERAL.—The Secretary shall provide for the imposition of no more than $50,000 per violation for health care entities that fail to comply with this section.

''(2) REPEATED VIOLATIONS.—The Secretary shall provide for civil penalties in addition to the amount listed in paragraph (1) for health care entities that establish patterns of repeated violations of this section.''.

SEC. 4. CIVIL PENALTIES.

Section 425 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11135) is amended—

(1) in paragraphs (1) and (2) of subsection (a), and subsections (b) and (c), by striking ''hospital'' each place it appears and inserting ''health care entity or agency employing a physician or other licensed health care practitioner'';

(2) in subsection (a)—

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

(i) by striking ''each hospital'' and inserting ''each health care entity and agency employing a physician or other licensed health care practitioner''; and

(ii) by inserting ''and from the appropriate State licensing board,'' after ''(or the agency designated under section 424(b)),'';

(B) in paragraph (1), by inserting ''or employment'' after ''clinical privileges''; and

(C) in paragraph (2), by inserting ''or employed'' after ''clinical privileges'';

(3) in subsection (c), by striking ''hospital's'' and inserting ''the health care entity's or agency's'' and

(4) by adding at the end the following:

''(d) CIVIL PENALTIES.—

''(1) IN GENERAL.—The Secretary shall provide for the imposition of no more than $50,000 per violation for a health care entity or agency employing a physician or other licensed health care practitioner that fails to comply with this section.

''(2) REPEATED VIOLATIONS.—The Secretary shall provide for civil penalties in addition to the amount listed in paragraph (1) for a health care entity or agency employing a physician or other licensed health care practitioner that establishes patterns of repeated violations of this section.''.

SEC. 5. PROFESSIONAL REVIEW.

Section 411 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11111) is amended by adding at the end the following:

''(d) CIVIL LIABILITY IMMUNITY FOR HEALTH CARE ENTITIES.—

''(1) IN GENERAL.—A health care entity that discloses information about a former or current employee pursuant to section 423 is immune from civil liability for such disclosure and its consequences unless it is demonstrated that the employer—

''(A) knowingly disclosed false information; or

''(B) violated any right of the former or current employee that is protected under Federal or State laws.

''(2) APPLICATION.—This subsection applies to any employee, agent, or other representative of the current or former employer who is authorized to provide and who provides information in accordance with section 423.

''(e) PROTECTION OF HEALTH CARE PRACTITIONERS.—A health care entity shall not penalize, discriminate, or retaliate in any manner with respect to employment, including discharge, promotion, compensation, or terms, conditions, or privileges of employment, against an employee who, in good faith, reports conduct that may be construed to violate a Federal or State law, including laws governing licensed health care professional practice standards, to a State authority, licensing authority, peer review organization, or employer.''.

SEC. 6. HEALTH CARE ENTITY; SKILLED NURSING FACILITY.

Section 431 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11151) is amended—

(1) in paragraph (4)(i), by inserting ''or skilled nursing facility'' after ''hospital'';

(2) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively; and

(3) by inserting after paragraph (12) the following:

''(13) The term 'skilled nursing facility' means an entity described in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a)).''.

SEC. 7. SANCTIONS AGAINST AND BACKGROUND CHECKS OF HEALTH CARE PRACTITIONERS AND PROVIDERS.

Section 1921 of the Social Security Act (42 U.S.C. 1396r–2) is amended—

(1) in the section heading, by inserting ''AND CRIMINAL BACKGROUND CHECKS OF'' after ''AGAINST''; and

(2) in subsection (a)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

''(2) INFORMATION CONCERNING CRIMINAL BACKGROUND OF LICENSED HEALTH CARE PRACTITIONERS.—The State shall have in effect a system of reporting criminal background information on licensed health care practitioners to the agency designated under section 424(b) of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11134(b)).''.

SEC. 8. DATE OF IMPLEMENTATION.

The Secretary of Health and Human Services shall, through the promulgation of appropriate regulations, implement the provisions of this Act within 1 year after the date of enactment of this Act.

By Mr. BROWNBACK (for himself, Ms. LANDRIEU, and Mr. INHOFE):

S. 950. A bill to provide assistance to combat tuberculosis, malaria, and other infectious diseases, and for other purposes; to the Committee on Foreign Relations.

Mr. BROWNBACK. Mr. President, today I have introduced a bill with my colleagues, the senior Senators from Louisiana and Oklahoma, called the Eliminate Neglected Disease Act of 2005. Neglected diseases are diseases that don't get much attention but nonetheless account for the vast majority of all deaths in the world: malaria, tuberculosis, acute respiratory infections, infectious diarrhea. For most of these diseases, our bilateral foreign assistance agency, USAID, is not funding direct interventions in communities using known, life-saving tools. The need for our bill could not be more urgent.

Given the following, conditions have never been better for the U.S. to apply inexpensive, relatively simple interventions to save lives: 1. We know how to cure and/or prevent these diseases.

2. Interventions, prevention and/or treatment are relatively cheap. Cure for malaria = $2. For TB = $11–15. One year of non-curative treatment for AIDS: $500–1,000.

3. These diseases are responsible for the vast majority of deaths in the developing world, particularly among children and pregnant women. Malaria is the number one killer of kids and pregnant women in Africa, kills between 1–2 million people each year but makes about 500 million sick! Tuberculosis kills about 2 million people each year. Unlike with other diseases, people can not avoid infection with these killers by behavior change.

4. Low-hanging fruit—these diseases are so cheap to control, even the modest budgets we have now could make a huge difference if they were spent wisely.

Our bill focuses on the following programmatic reform: 1. Direct interventions: requires funding of activities that have a direct impact on sick people or people at risk of becoming sick. For some programs, this will require a shift of priority in budgets from indirect support and advice-giving consultants to actually funding medical treatment, commodity procurement, and disease control activities.

2. Accountability: programs must measure performance and prove that they are saving lives. The bill establishes mechanisms to revise or terminate contracts that fail to save lives.

3. Transparency: Every dollar that the agency awards to combat infectious diseases must be accounted for on a public web site, similar to the Global Fund's web site. All signed agreements are posted online, as well as progress reports documenting performance on required deliverables and indicators.

4. Scientific and Clinical Integrity: The bill provides that clinical/medical and public health programs are overseen by the agencies of the Federal Government where the core competencies in clinical medicine and public health reside. For programs where the lack of clinical and scientific expertise has been particularly acute, a group of Federal and non-government medical and academic experts will provide scientific and medical oversight.

5. Coordination and Priority-setting: Up to five Federal agencies are currently involved in international malaria and tuberculosis programs. The bill would provide for clearer lines of authority and coordination for these programs, and require a strategic planning process to ensure that programs operate according to a outcome-focused 5-year plan.

The world community conquered smallpox. We have nearly conquered polio and guinea worm. When we acted in concert, we stopped SARS in its tracks a few years ago. If these diseases were killing our own citizens at

the rates they are killing people in poorer countries, we would put an end to it using the inexpensive, known methods, in short order. African children are just as precious as American and European children. To those who have been given much, much is expected. We will be held responsible for how we responded to this crisis. I hope my colleagues will join us in supporting this legislation.

By Mr. FRIST (for himself and Mr. ALEXANDER):

S. 955. A bill to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin; to the Committee on Energy and Natural Resources.

Mr. FRIST. 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. 955

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 ''Franklin National Battlefield Study Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) STUDY AREA.—The term ''study area'' means the cities of Brentwood, Franklin, Triune, Thompson's Station, and Spring Hill, Tennessee.

SEC. 3. SPECIAL RESOURCE STUDY.

(a) IN GENERAL.—The Secretary shall conduct a special resource study of sites in the study area relating to the Battle of Franklin to determine—

(1) the national significance of the sites; and

(2) the suitability and feasibility of including the sites in the National Park System.

(b) REQUIREMENTS.—The study conducted under subsection (a) shall include the analysis and recommendations of the Secretary on—

(1) the effect on the study area of including the sites in the National Park System; and

(2) whether the sites could be included in an existing unit of the National Park System or other federally designated unit in the State of Tennessee.

(c) CONSULTATION.—In conducting the study under subsection (a), the Secretary shall consult with—

(1) appropriate Federal agencies and State and local government entities; and

(2) interested groups and organizations.

(d) APPLICABLE LAW.—The study required under subsection (a) shall be conducted in accordance with Public Law 91–383 (16 U.S.C. 1a–1 et seq.).

SEC. 4. REPORT.

Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

(1) the findings of the study; and

(2) any conclusions and recommendations of the Secretary.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

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

By Mr. GRASSLEY (for himself and Mr. KYL):

S. 956. A bill to amend title 18, United States Code, to provide assured punishment for violent crimes against children, and for other purposes; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I rise today to introduce ''The Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005''. This is a very important bill that will protect our children from the vilest forms of abuse and murder.

The urgency of passing legislation of this nature has been growing for the past few months. The murders of Jessica Lunsford, Sara Lunde, and Jetseta Gage, who was from my home State of Iowa, have been thoroughly covered in the news in recent weeks. Each of these murders was committed by a repeat sex offender. These cases should open our eyes to the necessity of passing a bill that will give sex offenders tougher penalties for the crimes they commit.

I would like to take a moment to talk about the murder of the Iowa girl this bill is named for, Jetseta Marrie Gage. On March 24 of this year, Jetseta, a beautiful 10-year-old girl from Cedar Rapids, IA, went missing from her home. Within 12 hours of her disappearance, even before a body had been found, law enforcement officials took Roger Bentley into custody, a man who had been previously convicted for committing lascivious acts with a minor. Unfortunately, this man only served a little over one year in prison for his previous sex crime conviction. Two days later, due to a tip received by a woman responding to the Amber Alert, Jetseta's body was found stuffed in a cabinet in an abandoned mobile home. She had been sexually molested and suffocated with a plastic bag. I can't help but wonder whether Jetseta would still be alive today had her killer received stricter penalties for his first offense. It breaks my heart to hear about cases like this, but it's even more disheartening when you know that it might have been prevented with adequate sentencing.

My bill will help change this by protecting children in three ways. It will establish stiff mandatory minimum sentences, increase penalties for certain crimes against children, and reform the habeas corpus system for child murderers. Let me now discuss these provisions in detail.

The first section on mandatory minimums will guarantee punishment for criminals who commit violent crimes against children. I know that some of my colleagues have concerns about mandatory minimums, especially in the context of drug sentences. I understand that concern, but in-light of the recent Supreme Court's decision in the Booker/FanFan case, something must be done to insure that sexual predators receive the types of sentences fitting for their crimes. In the Booker/FanFan case, the Court held that the Federal Sentencing Guidelines are no longer mandatory, thus federal judges have unfettered discretion in sentencing. The bill establishes the following mandatory minimums for violent crimes against children: One, where the crime of violence results in death of a child under 15 years, the offender will receive the death penalty or life in prison; two, where the crime of violence is kidnapping, sexual assault, or maiming or results in serious bodily injury the offender will receive a prison term from 30 years to life; three, where the crime of violence results in bodily injury of a child under 12 years, the offender will serve a prison term from 15 years to life; four, where a criminal uses a dangerous weapon in the commission of a crime against a child, the offender will receive a sentence of 10 years to life; and lastly, five, in any other case of a crime against a child, the offender will receive from 2 years to life.

The second section of the bill increases the penalties for sexual offenses against children. The penalties for these crimes need to be adjusted to adequately reflect the gravity of these crimes and the damage they do to children. The bill increases penalties for the following nine federal crimes: aggravated sexual abuse of children, abusive sexual contact with children, sexual abuse of children resulting in death, sexual exploitation of children, activities relating to material involving the sexual exploitation of children, activities relating to material constituting or containing child pornography, using misleading domain names to direct children to material harmful to minors on the internet, production of sexually explicit depictions of children, and conduct relating to child prostitution.

The third section of the bill will ensure fair and expeditious Federal collateral review of convictions for killing a child. It would do this by reforming the habeas corpus system for this crime. For example, in district court parties will be required to move for an evidentiary hearing within 90 days of the completion of briefing, the court must act on the motion within 30 days, and the hearing must begin 60 days later with completion within 150 days. In addition, this section will require that district-court review be completed within 15 months of the completion of briefing and that appellate review must be completed within 120 days of the completion of briefing. Finally, this provision limits Federal review on cases to those claims that present meaningful evidence that the defendant did not commit the crime.

The provisions of this bill are strictly designed to protect our children. I doubt that the members of this body, many of whom have young children of their own, will have any objections to ensuring that perpetrators of crimes against children receive tougher penalties for their acts. It is unfortunate

that it took the recent tragic murders of those 3 beautiful young girls for a law of this nature to be proposed, but I strongly believe that a vote for this bill could save the lives of children in the future. We have an obligation as legislators to protect our citizenry. We have an obligation as adults to protect our youth. We have an obligation as parents to protect our children. I urge my colleagues to join me in doing just that by voting in favor of this bill.

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

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

S. 956

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 ''Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005''.

SEC. 2. ASSURED PUNISHMENT FOR VIOLENT CRIMES AGAINST CHILDREN.

(a) SPECIAL SENTENCING RULE.—Subsection (d) of section 3559 of title 18, United States Code, is amended to read as follows:

''(d) MANDATORY MINIMUM TERMS OF IMPRISONMENT FOR VIOLENT CRIMES AGAINST CHILDREN.—A person who is convicted of a Federal crime of violence against the person of an individual who has not attained the age of 15 years shall, unless a greater mandatory minimum sentence of imprisonment is otherwise provided by law and regardless of any maximum term of imprisonment otherwise provided for the offense—

''(1) if the crime of violence results in the death of a person who has not attained the age of 15 years, be sentenced to death or life in prison;

''(2) if the crime of violence is a kidnaping, sexual assault, or maiming, (or an attempt or conspiracy to commit one of those) or results in serious bodily injury (as defined in section 1365) be imprisoned for life or for any term of years not less than 30;

''(3) if the crime of violence results in bodily injury (as defined in section 1365) to a person who has not attained the age of 12 years, be imprisoned for life or for any term of years not less than 15;

''(4) if a dangerous weapon was used during and in relation to the crime of violence, be imprisoned for life or for any term of years not less than 10; and

''(5) in any other case, be imprisoned for life or for any term of years not less than 2.''.

SEC. 3. INCREASED PENALTIES FOR SEXUAL OFFENSES AGAINST CHILDREN.

(a) SEXUAL ABUSE.—

(1) AGGRAVATED SEXUAL ABUSE OF CHILDREN.—Section 2241(c) of title 18, United States Code, is amended by striking '', imprisoned for any term of years or life, or both.'' and inserting ''and imprisoned for not less than 30 years or for life.''.

(2) ABUSIVE SEXUAL CONTACT WITH CHILDREN.—Section 2244 of chapter 109A of title 18, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1), by inserting ''(a) or (b)'' after ''section 2241'';

(ii) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(iii) by inserting after paragraph (1) the following:

''(2) subsection (c) of section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title and imprisoned for not less than 10 years and not more than 25 years;''; and

(B) in subsection (c), by inserting ''(other than subsection (a)(2))'' after ''violates this section''.

(3) SEXUAL ABUSE OF CHILDREN RESULTING IN DEATH.—Section 2245 of title 18, United States Code, is amended—

(A) by striking ''A person'' and inserting ''(a) IN GENERAL.—A person''; and

(B) by adding at the end the following:

''(b) OFFENSES INVOLVING YOUNG CHILDREN.—A person who, in the course of an offense under this chapter, engages in conduct that results in the death of a person who has not attained the age of 12 years, shall be punished by death or imprisoned for not less than 30 years or for life.''.

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—

(1) SEXUAL EXPLOITATION OF CHILDREN.—Section 2251(e) of title 18, United States Code, is amended—

(A) by striking ''15 years nor more than 30 years'' and inserting ''25 years or for life'';

(B) by striking ''not less than 25 years nor more than 50 years, but if such person has 2 or more prior convictions under this chapter, chapter 71, chapter 109A, or chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to the sexual exploitation of children, such person shall be fined under this title and imprisoned not less than 35 years nor more than life.'' and inserting ''life.''; and

(C) by striking ''any term of years or for life'' and inserting ''not less than 30 years or for life.''.

(2) ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF CHILDREN.—Section 2252(b) of title 18, United States Code, is amended—

(A) in paragraph (1)—

(i) by striking ''5 years and not more than 20 years'' and inserting ''25 years or for life''; and

(ii) by striking ''not less than 15 years nor more than 40 years.'' and inserting ''life.''; and

(B) in paragraph (2)—

(i) by striking ''or imprisoned for not more than'' and inserting ''and imprisoned for'';

(ii) by striking '', or both''; and

(iii) by striking ''10 years nor more than 20 years.'' and inserting ''30 years or for life.''.

(3) ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A(b) of title 18, United States Code, is amended—

(A) in paragraph (1)—

(i) by striking ''5 years and not more than 20 years'' and inserting ''25 years or for life''; and

(ii) by striking ''not less than 15 years nor more than 40 years'' and inserting ''life''; and

(B) in paragraph (2)—

(i) by striking ''or imprisoned not more than 10 years, or both'' and inserting ''and imprisoned for 10 years''; and

(ii) by striking ''10 years nor more than 20 years'' and inserting ''30 years or for life''.

(4) USING MISLEADING DOMAIN NAMES TO DIRECT CHILDREN TO HARMFUL MATERIAL ON THE INTERNET.—Section 2252B(b) of title 18, United States Code, is amended by striking ''or imprisoned not more than 4 years, or both'' and inserting ''imprisoned for 10 years''.

(5) PRODUCTION OF SEXUALLY EXPLICIT DEPICTIONS OF CHILDREN.—Section 2260(c) of title 18, United States Code, is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) shall be fined under this title and imprisoned for 25 years; and

''(2) if the person has a prior conviction under this chapter or chapter 109A, shall be fined under this title and imprisoned for life.''.

(c) CONDUCT RELATING TO CHILD PROSTITUTION.—Section 2423 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''5 years and not more than 30 years'' and inserting ''30 years or for life'';

(2) in subsection (b), by striking ''or imprisoned not more than 30 years, or both'' and inserting ''and imprisoned for not less than 10 years and not more than 30 years'';

(3) in subsection (c), by striking ''or imprisoned not more than 30 years, or both'' and inserting ''and imprisoned for not less than 10 years and not more than 30 years''; and

(4) in subsection (d), by striking '', imprisoned not more than 30 years, or both'' and inserting ''and imprisoned for 30 years''.

SEC. 4. ENSURING FAIR AND EXPEDITIOUS FEDERAL COLLATERAL REVIEW OF CONVICTIONS FOR KILLING A CHILD.

(a) SHORT TITLE.—This section may be cited as the ''Christy Ann Fornoff Act''.

(b) LIMITS ON CASES.—Section 2254 of title 28, United States Code, is amended by adding at the end the following:

''(j)(1) A court, justice, or judge shall not have jurisdiction to consider any claim relating to the judgment or sentence in an application described under paragraph (2), unless the applicant shows that the claim qualifies for consideration on the grounds described in subsection (e)(2). Any such application that is presented to a court, justice, or judge other than a district court shall be transferred to the appropriate district court for consideration or dismissal in conformity with this subsection, except that a court of appeals panel must authorize any second or successive application in conformity with section 2244 before any consideration by the district court.

''(2) This subsection applies to an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court for a crime that involved the killing of a individual who has not attained the age of 18 years.

''(3) For an application described in paragraph (2), the following requirements shall apply in the district court:

''(A) Any motion by either party for an evidentiary hearing shall be filed and served not later than 90 days after the State files its answer or, if no timely answer is filed, the date on which such answer is due.

''(B) Any motion for an evidentiary hearing shall be granted or denied not later than 30 days after the date on which the party opposing such motion files a pleading in opposition to such motion or, if no timely pleading in opposition is filed, the date on which such pleading in opposition is due.

''(C) Any evidentiary hearing shall be—

''(i) convened not less than 60 days after the order granting such hearing; and

''(ii) completed not more than 150 days after the order granting such hearing.

''(D) A district court shall enter a final order, granting or denying the application for a writ of habeas corpus, not later than 15 months after the date on which the State files its answer or, if no timely answer is filed, the date on which such answer is due, or not later than 60 days after the case is submitted for decision, whichever is earlier.

''(E) If the district court fails to comply with the requirements of this paragraph, the State may petition the court of appeals for a writ of mandamus to enforce the requirements. The court of appeals shall grant or deny the petition for a writ of mandamus not later than 30 days after such petition is filed with the court.

''(4) For an application described in paragraph (2), the following requirements shall apply in the court of appeals:

''(A) A timely filed notice of appeal from an order issuing a writ of habeas corpus shall operate as a stay of that order pending final disposition of the appeal.

''(B) The court of appeals shall decide the appeal from an order granting or denying a writ of habeas corpus—

''(i) not later than 120 days after the date on which the brief of the appellee is filed or, if no timely brief is filed, the date on which such brief is due; or

''(ii) if a cross-appeal is filed, not later than 120 days after the date on which the appellant files a brief in response to the issues presented by the cross-appeal or, if no timely brief is filed, the date on which such brief is due.

''(C)(i) Following a decision by a panel of the court of appeals under subparagraph (B), a petition for panel rehearing is not allowed, but rehearing by the court of appeals en banc may be requested. The court of appeals shall decide whether to grant a petition for rehearing en banc not later than 30 days after the date on which the petition is filed, unless a response is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the response is filed or, if no timely response is filed, the date on which the response is due.

''(ii) If rehearing en banc is granted, the court of appeals shall make a final determination of the appeal not later than 120 days after the date on which the order granting rehearing en banc is entered.

''(D) If the court of appeals fails to comply with the requirements of this paragraph, the State may petition the Supreme Court or a justice thereof for a writ of mandamus to enforce the requirements.

''(5)(A) The time limitations under paragraphs (3) and (4) shall apply to an initial application described in paragraph (2), any second or successive application described in paragraph (2), and any redetermination of an application described in paragraph (2) or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings.

''(B) In proceedings following remand in the district court, time limits running from the time the State files its answer under paragraph (3) shall run from the date the remand is ordered if further briefing is not required in the district court. If there is further briefing following remand in the district court, such time limits shall run from the date on which a responsive brief is filed or, if no timely responsive brief is filed, the date on which such brief is due.

''(C) In proceedings following remand in the court of appeals, the time limit specified in paragraph (4)(B) shall run from the date the remand is ordered if further briefing is not required in the court of appeals. If there is further briefing in the court of appeals, the time limit specified in paragraph (4)(B) shall run from the date on which a responsive brief is filed or, if no timely responsive brief is filed, from the date on which such brief is due.

''(6) The failure of a court to meet or comply with a time limitation under this subsection shall not be a ground for granting relief from a judgment of conviction or sentence, nor shall the time limitations under this subsection be construed to entitle a capital applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.''.

(c) RIGHTS ASSOCIATED WITH HABEAS CORPUS PROCEEDINGS.—Section 3771(b) of title 18, United States Code, is amended by adding at the end the following: ''The rights established for crime victims by this section shall also be extended in a Federal habeas corpus proceeding arising out of a State conviction to victims of the State offense at issue.''

(d) APPLICATION TO PENDING CASES.—

(1) IN GENERAL.—The amendments made by this section shall apply to cases pending on or after the date of enactment of this Act.

(2) TIME LIMITS.—In a case pending on the date of enactment of this Act, if the amendments made by this section provide that a time limit runs from an event or time that has occurred prior to such date of enactment, the time limit shall run instead from such date of enactment.

Mr. BUNNING (for himself and Ms. LANDRIEU):

S. 957. A bill to establish a clean coal power initiative, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BUNNING. Mr. President, I am introducing the Clean Coal Power Initiative Act of 2005. I am pleased that Senator LANDRIEU is joining me in introducing this legislation.

The United States needs to have a diverse array of energy sources. It is crucial to our economy and our national security.

Coal is an important resource that is a solution to keeping our economy moving forward and reducing our reliance on foreign energy.

Today, coal fuels 52 percent of the electricity used to heat our homes and schools and run our factories. Coal can play an even greater role in meeting future demand because it constitutes 90 percent of U.S. energy reserves resources, enough to last more than 200 years at current consumption rates.

The Energy Information Administration recently stated that coal is expected to remain the primary fuel for electricity generation over the next 2 decades.

Generations of Kentuckians have made a living and raised families by working in the coal fields. They are proud to do such vital work for our country's energy future.

I believe that coal must be part of our energy plans. It is plentiful and we do not have to go far to get it.

It can help meet our energy needs as the cost of natural gas continues to rise dramatically, and is forecasted to remain at historical highs and as electricity demands continue to increase.

In order for us to take full advantage of coal's benefits, I believe we must balance conservation with the need for increased production.

That is where clean coal comes in.

The bill I am introducing today will help create new clean coal technologies by authorizing the Department of Energy to establish a research and development clean coal program. This will result in a significant reduction of emissions and a sharp increase in efficiency of turning coal into electricity.

I urge my colleagues to support this legislation.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 958. A bill to amend the National Trails System Act to designate the Star-Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail; to the Committee on Energy and Natural Resources.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Ms. LANDRIEU, and Mr. LEVIN):

S. 959. A bill to establish the Star-Spangled Banner and War of 1812 Bicentennial Commission, and for other purposes; to the Committee on the Judiciary.

Mr. SARBANES. Mr. President, today I am introducing two measures to commemorate America's second war of independence—the War of 1812—and aid in the efforts to preserve sites related to this important period in our Nation's history.

Pursuant to legislation that I authored in the 106th Congress, the National Park Service recently completed a study of the feasibility and desirability of designating a Star-Spangled Banner National Historic Trail commemorating the routes used by the British and Americans during the 1814 Chesapeake Campaign of the War of 1812.

The Star-Spangled Banner National Historic Trail Feasibility Study and Environmental Impact Statement, completed in March 2004, determined that five of eight trail segments studied fully met the criteria for National Historic Trails and recommended this designation.

The legislation I am introducing today implements the recommendations of the National Park Service's study. The Star-Spangled Banner National Historic Trail Act amends the National Trails System Act to designate the Star-Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail. I am pleased that my colleague Senator MIKULSKI is joining with me as a cosponsor of this bill. A similar companion bill has also been introduced in the House by my colleagues Congressmen CARDIN and GILCHREST.

The sites along the proposed Star-Spangled Banner National Historic Trail would mark some of the most important events of the War of 1812. The trail, commemorating the only combined naval and land attack on the United States, begins with the June 1814 battles between the British Navy and the American Chesapeake Flotilla in St. Leonard's Creek in Calvert County, and ends at Fort McHenry in Baltimore, site of the composition of our national anthem, and the ultimate defeat of the British.

In my view, the designation of this route as a National Historic Trail will serve as a reminder of the importance of the concept of liberty to all who experience it. The Star-Spangled Banner National Historic Trail will also give long overdue recognition to those patriots whose determination to stand

firm against enemy invasion and bombardment preserved this liberty for future generations of Americans.

The second measure I am introducing today seeks to ensure that the upcoming bicentennial of the War of 1812 and the poem which became our national anthem will be appropriately observed. I am pleased to be joined by Senators MIKULSKI, LANDRIEU and LEVIN in offering this legislation.

The Star-Spangled Banner and War of 1812 Bicentennial Commission Act implements another recommendation included in the aforementioned National Park Service study by creating a commission, made up in part by citizens from nine states and the District of Columbia, to ensure a suitable national observance of the War of 1812. The commission is tasked with planning, encouraging, developing, executing and coordinating programs commemorating the historic events that preceded and are associated with the War of 1812. Among other things, the commission is charged with facilitating this commemoration throughout the United States and internationally.

As the bicentennial of the War of 1812 rapidly approaches, a plan to mark the lasting contributions that our forebears made during this critical period in our Nation's history is needed. In my view, both of these measures will work to ensure that these patriots' commitment to the principles of liberty and sovereignty will not be forgotten.

I urge my colleagues to join me in supporting their passage.

By Mr. ENZI (for himself, Mr. DORGAN, Mr. JOHNSON, and Mr. THOMAS):

S. 960. A bill to amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ENZI. Mr. President, whenever there is a crisis the media has always served to focus the nation's attention on the problem and who has been affected by it. Then it has been up to us, in the Congress, to review the problem and determine whether or not there was anything we could do to ease the suffering and repair the damage to someone's property and their livelihood.

Most of the time, when the media spots a crisis it is of such a magnitude that the pictures we see of the suffering are devastating and powerful. The images clearly cry out to us to take action and do what we can to restore, as much as possible, the lives of these people to normalcy.

We have all seen the pictures of the devastating tornadoes or other natural disasters that have wreaked havoc wherever they have touched. Story after story has appeared in print and on television showing property destroyed, places of business torn in pieces, jobs in jeopardy and lives forever changed by the fury of a few moments of severe weather. Tornadoes don't last a long time, but they leave a path of devastation in their wake that leaves those affected by it forever changed.

Even as we consider the devastation of tornadoes, earthquakes, or other natural disasters, there are those in my state who have seen their livelihoods drastically affected by weather and federal regulation, but they haven't been so visible to us because we haven't seen their faces on the nightly news or read their stories in the national newspapers. That is because not everyone who has seen their livelihood so drastically affected can be portrayed with quite the same kind of powerful images that depict those who have been touched by the ravages of severe weather patterns. Some problems that destroy livelihoods and weaken industries are far more subtle and more difficult to track.

Instead of being destroyed by a single blow, the industry I am referring to is being slowly put to death by the cruelest of methods—thousands of small cuts brought on by the lethal combination of several years of drought, ambiguous regulations that are too easily taken advantage of and the lax enforcement of existing law which has allowed for the manipulation of the system to one group's advantage.

Right now as I speak to you on the floor of the Senate, if you are a rancher in the West, you have two major problems affecting your ability to earn a living and provide for your family. The first is the continuing drought which has made it so difficult for ranchers to tend their cattle and provide them with good, affordable grazing.

The second is a regulatory nightmare that has held livestock producers captive by the chains of unfair and manipulative contracts. It is this regulatory nightmare that must be addressed, and which brings me to the floor today as I offer legislation to break the chains and require livestock contracts to contain a fixed base price and be traded in open, public markets.

So, what is this regulation that is destroying the health of our family ranchers? It's a practice called ''captive supply,'' a business practice not well known to those outside of the industry, but a practice that has had a tremendous impact on the ranchers of the West.

If you haven't heard about the problem, I must point out that our ranchers have tried to bring it to our attention, but we haven't fully focused on their needs. Whenever I travel to Wyoming, or hold a Town Meeting, or go over the week's mail that I receive from my constituents, I hear the cries for help from our ranchers in Wyoming, and throughout the West. One by one, and without exception, they are all clamoring for attention and relief so they can continue the work that so many in their family have done for so many years.

I could bring a stack of letters to the Floor that come from people all across my State about the problems they face. But, in the interests of time, I will read a small excerpt from one that will give you an idea of how bad things are in the ranching industry as our ranchers try to deal with captive supply.

A letter I received from a rancher in Lingle said that the issue of captive supply needed to be reviewed and addressed because it was ''slowly but surely putting small farmers/feeders out of business.'' He then added, ''until the existing laws are enforced in this area of illegal activities, all other plans or laws will be of very little consequence.''

So what is captive supply—and how is it harming our Nation's ranchers to such an extent? Simply put, captive supply refers to the ownership by meat packers of cattle or the contracts they issue to purchase livestock. It is done to ensure that packers will always have a consistent supply of livestock for their slaughterlines.

The original goal of captive supply makes good business sense. All businesses want to maintain a steady supply of animals to ensure a constant stream of production and control costs.

But captive supply allows packers to go beyond good organization and business performance—to market manipulation—and this is where the problem lies.

The packing industry is highly concentrated. Four companies control approximately 80 percent of U.S. fed cattle slaughter. Using captive supply and the market power of concentration, packers can purposefully drive down the prices by refusing to buy in the open market. This deflates all livestock prices and limits the market access of producers that haven't aligned with specific packers.

We made an attempt to address the problem of captive supply on the Senate floor during the Farm Bill debate, but the amendment to ban packer ownership of livestock more than 14 days before slaughter did not survive the conference committee on the Farm Bill. However, the problems caused by captive supplies are alive and well, just as Wyoming producers have testified to me in the phone calls, letters, faxes and emails I receive from them. Although I supported the packer ban and have cosponsored it again this Congress, I do not think that banning packer ownership of livestock will solve the entire captive supply problem. Packers are using numerous methods beyond direct ownership to control cattle and other livestock.

Currently, packers maintain captive supply through various means including direct ownership, forward contracts, and marketing agreements. The difference between the three is subtle, so let me take a moment to describe how they differ. Direct ownership refers to livestock owned by the packer. In forward contracts, producers agree to the delivery of cattle one week or

more before slaughter with the price determined before slaughter. Forward contracts are typically fixed, meaning the base price is set.

As with forward contracts, marketing agreements also call for the delivery of livestock more than one week before slaughter, but the price is determined at or after slaughter. A formula pricing method is commonly used for cattle sold under marketing agreements. In formula pricing, instead of a fixed base price, an external reference price, such as the average price paid for cattle at a certain packing plant during one week, is used to determine the base price of the cattle. I find this very disturbing because the packer has the ability to manipulate the weekly average at a packing plant by refusing to buy in the open market. Unfortunately, marketing agreements and formula pricing are much more common than forward contracts.

I realize it may be difficult to grasp the seriousness of the situation if you aren't familiar with the cattle market. Most of us haven't signed a contract to sell a load of livestock, but many of us have sold a house. To illustrate the seriousness of the problem, let's explore how you would sell a house using a formula-priced contract in a market structured like the current livestock market.

It is May, and you know you will be selling your home in September. As a wise seller, you want to find a buyer for your home before that time. It turns out that other people don't really buy homes from each other anymore. In fact, four main companies have taken over 80 percent of all real estate transactions. You really have no choice but to deal with one of these companies.

One of them offers you a contract, stating you will receive $10,000 over the average price of what other, similar homes are selling for in your area in September. To manage your risk and ensure a buyer, you have just been practically forced to sign a contract that doesn't specify how much you will receive for your house.

That tingle of fear in the pit of your stomach becomes full-fledged panic when you close the deal in September. You see, the four real estate companies have been planning ahead. They decide to pull away from the market. All the homes selling in September that aren't contracted to the companies flood the market and the price for homes in your area drops $12,000. By trying to manage your risk, you sold your home for $2,000 below average.

As a homeowner, you would be outraged, wouldn't you? You would want to know why anyone had the ability to legally take advantage of you. Livestock producers have the same questions when they lose to the market pressures applied by captive supply. Captive supply gives packers the ability to discriminate against some producers. And those producers pay for it with their bottom line. At the same time, packers use contracts and marketing agreements to give privileged access and premiums to other producers regardless of the quality of their product. These uses of captive supply should be illegal. In fact, they are.

Section 202 of the Packers and Stockyards Act states in (3) (a) and (b):

''It shall be unlawful for any packer with respect to livestock . . . to: (a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device; or (b) Make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect, or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect''

Packers that practice price discrimination toward some producers and provide undue preferences to other producers are clearly in violation of the law. But this law is not being enforced. So what we are left with are unenforced laws or no laws at all to protect the independent producer. Since the Packers and Stockyards Act is not being enforced and the cost of enforcing the law on a case-by-case basis in the courts is expensive and time-consuming, today I propose that the Senate take action.

Most laws require enforcement. They are like speed limits on a country road. No one pays the sign any attention unless the driver is sharing the road with an agent of the law who will enforce it like a police car. This section of the Packers and Stockyards Act is like a sign on the road of commerce that no one is paying attention to because the police are busy doing something else. The bill I am introducing today is not just another sign on the road. It is a speed bump. It doesn't just warn cars to go slower, it makes it much more difficult for them to speed.

My bill does two things to create the speed bump. It requires that livestock producers have a fixed base price in their contracts. It also puts these contracts up for bid in the open market where they belong.

Under this bill, forward contracts and marketing agreements must contain a fixed, base price on the day the contract is signed. This prevents packers from manipulating the base price after the point of sale. You may hear allegations that this bill ends quality-driven production, but it does not prevent adjustments to the base price after slaughter for quality, grade or other factors outside packer control. It prevents packers from changing the base price based on factors that they do control. Contracts that are based on the futures market are also exempted from the bill's requirements.

In an open market, buyers and sellers would have the opportunity to bid against each other for contracts and could witness bids that are made and accepted. Whether they take the opportunity to bid or not is their choice, the key here is that they have access to do so.

My bill also limits the size of contracts to the rough equivalent of a load of livestock, meaning 40 cattle or 30 swine. It doesn't limit the number of contracts that can be offered by an individual. This key portion prevents small and medium-sized livestock producers, like those found in Wyoming, from being shut out of deals that contain thousands of livestock per contract.

Requiring a firm base price and an open and transparent market ends the potential for price discrimination, price manipulation and undue preferences. These are not the only benefits of my bill. It also preserves the very useful risk management tool that contracts provide to livestock producers. Contracts help producers plan and prepare for the future. My bill makes contracts and marketing agreements an even better risk management tool because it solidifies the base price for the producer. Once the agreement is made, a producer can have confidence on shipping day in his ability to feed his family during the next year because he will know in advance how much he can expect to receive for his livestock.

This bill also encourages electronic trading. An open and public market would function much like the stock market, where insider trading is prohibited. The stock market provides a solid example of how electronic livestock trading can work to the benefit of everyone involved. For example, price discovery in an open and electronic market is automatic.

Captive supply is still weighing on the minds and hurting the pocketbooks of ranchers in Wyoming and across the United States. Wyoming ranchers encourage me to keep up the good fight on this issue on every trip I make to my home state. The economic soul of Wyoming is built on the foundation of small towns and small businesses. All livestock producers, even small and medium-sized ones, should have a fair chance to compete in an honest game that allows them to get the best price possible for their product. We must do everything we can to keep our small producers in business.

My bill removes one of the largest obstructions preventing livestock producers from competing formula-priced contracts. I ask my colleagues to assist me in giving their constituents and mine the chance to perform on a level playing field.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. BUNNING, Mr. BINGAMAN, Mr. CONRAD, Mr. HAGEL, Mr. COLEMAN, Mr. JOHNSON, and Mr. NELSON of Nebraska):

S. 962. A bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued to finance certain energy projects, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, the capital cost to install new renewable generation capacity is three to ten

times more expensive than the cost to install conventional gas generation. Given these costs, Federal production tax credits have been available over the past decade to investor-owned utilities and private developers for renewable generation from wind, closed loop biomass and poultry waste. I worked in the JOBs bill last year to extend these tax incentives and expand them to additional resources, such as open loop biomass, animal waste nutrients, landfill gas, municipal solid waste, solar, geothermal and small hydro irrigation systems. I also fought to extend these incentives to electric cooperatives and public power systems, and today am releasing a new proposal, ''Clean Energy Bonds,'' that provides them with an important financing tool.

Tax incentives for renewable and clean coal generation will be an important part of a balanced energy bill that the Senate will soon assemble. Such incentives enhance energy security by providing for diverse fuel choices, provide options in the face of high prices of oil and gas, and are a key component of ensuring that utilities can meet clean air requirements and climate change goals. The Administration has asserted that incentives for renewable generation are necessary for a balanced energy bill. And, all electricity generators recently agreed in a MOU with the Department of Energy on voluntary goals that address climate change and support President Bush in his efforts to reduce the greenhouse gas (GHG) emission intensity of the U.S. economy. As part of the MOU, the Department of Energy and all signatories agreed to promote policies that ''provide investment stimulus on an equitable basis to all segments of the power sector in order to accelerate use of existing GHG-reducing technologies. . . .''

As the MOU recognizes, electric cooperatives and public power systems need access to incentives in order to provide the latest clean technologies and renewable generation to their communities, just as the private sector does. Many of these utilities are ideally located to take advantage of opportunities to generate from these primarily rural resources. These utilities cannot, however, offset the high cost of these resources through the conventional tax incentives Congress has provided to the private sector. Without these incentives, such generation is simply unaffordable for the consumers they serve.

Electric cooperatives and public power systems are not-for-profit, and therefore do not pay federal income tax. Not-for-profit utilities do not pay shareholders. Cooperatives return revenues above cost of service to their members, and public power systems use their revenue to reduce rates or reinvest in utility infrastructure. Traditional tax incentives do not work for not-for-profit utilities as they have no federally taxable income to offset. In order for Congress to fully realize the benefits of tax incentives that are designed to make renewable energy economic, an incentive tailored to the unique characteristics of not-for-profit utilities is required. All three utility sectors must be able to participate in incentives in order for emerging technologies to fully realize their potential and become economic.

Clean energy bonds can provide electric cooperatives and public power systems with an incentive comparable to the production tax credits that are available for the private sector. The bill would make technologies that are eligible for the production tax credit under section 45 eligible for the bond.

Under the bill, the electric cooperative, cooperative lender or municipal utility (''issuer'') would issue the clean energy bond. With a conventional bond, the issuer must pay interest to the bondholder. But with a clean energy bond, the Federal Government pays a tax credit to the bondholder in lieu of the issuer paying interest to the bondholder. Treasury sets the rate of the credit in an amount that permits the issuance of the tax credit bond without discount and without interest cost to the issuer. The bondholder can deduct the amount of the tax credit from their total income tax liability. The bonds are taxable, so if the credit is worth $100 and the bondholder is in the 35 percent bracket, the bondholder would deduct $65 from their tax liability.

Public power systems have long used bonds to finance projects for infrastructure improvements and upgrades. By creating familiar financial instruments for public power systems and electric cooperatives to use, the bond market will have the faith and understanding to purchase these financial products because of the longstanding success of municipal bonds.

The Clean Energy Bonds Act of 2005 will become an important part of a balanced energy bill. I urge my colleagues to cosponsor this bill that is needed to push renewable generation options further than production tax credits alone.

By Mr. ALEXANDER (for himself, Ms. LANDRIEU, Mr. VITTER, and Mr. JOHNSON):

S. 964. A bill to provide a conservation royalty from Outer Continental Shelf revenues to establish the Coastal Impact Assistance Program, to provide assistance to States under the Land and Water Conservation Fund Act of 1965, to ensure adequate funding for conserving and restoring wildlife, to assist local governments in improving local park and recreation systems, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. ALEXANDER. 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. 964

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 ''Americans Outdoors Act of 2005''.

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

Sec. 1. Short title; table of contents.

TITLE I—DISPOSITION OF OUTER CONTINENTAL SHELF REVENUES

Sec. 101. Disposition.

TITLE II—COASTAL IMPACT ASSISTANCE

Sec. 201. Coastal Impact Assistance Program.

TITLE III—LAND AND WATER CONSERVATION FUND

Sec. 301. Apportionment of amounts available for State purposes.
Sec. 302. State planning.
Sec. 303. Assistance to States for other projects.
Sec. 304. Conversion of property to other use.
Sec. 305. Water rights.

TITLE IV—CONSERVATION AND RESTORATION OF WILDLIFE

Sec. 401. Purposes.
Sec. 402. Definitions.
Sec. 403. Wildlife Conservation and Restoration Account.
Sec. 404. Apportionment to Indian tribes.
Sec. 405. No effect on prior appropriations.

TITLE V—URBAN PARK AND RECREATION RECOVERY PROGRAM

Sec. 501. Expansion of purpose of Urban Park and Recreation Recovery Act of 1978 to include development of new areas and facilities.
Sec. 502. Definitions.
Sec. 503. Eligibility.
Sec. 504. Grants.
Sec. 505. Recovery action programs.
Sec. 506. State action incentives.
Sec. 507. Conversion of recreation property.
Sec. 508. Treatment of transferred amounts.
Sec. 509. Repeal.

TITLE I—DISPOSITION OF OUTER CONTINENTAL SHELF REVENUES

SEC. 101. DISPOSITION.

Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

''SEC. 9. DISPOSITION OF REVENUES.

''(a) IN GENERAL.—For each of fiscal years 2006 through 2011, the Secretary of the Treasury shall deposit in the Treasury of the United States all qualified outer continental shelf revenues (as defined in section 31(a)).

''(b) TRANSFER FOR CONSERVATION ROYALTY EXPENDITURES.—For each of fiscal years 2006 through 2011, from amounts deposited for the preceding fiscal year under subsection (a), the Secretary of the Treasury shall transfer—

''(1) to the Secretary to make payments under section 31, $450,000,000;

''(2) to the Land and Water Conservation Fund to provide financial assistance to States under section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8), $450,000,000;

''(3) to the Federal aid to wildlife restoration fund established under section 3 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b) for deposit in the Wildlife Conservation and Restoration Account, $350,000,000; and

''(4) to the Secretary to carry out the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.), $125,000,000.''.

TITLE II—COASTAL IMPACT ASSISTANCE

SEC. 201. COASTAL IMPACT ASSISTANCE PROGRAM.

Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is amended to read as follows:

"SEC. 31. COASTAL IMPACT ASSISTANCE PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a coastal State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the coastal State; and

''(B) not more than 200 miles from the geographic center of any leased tract.

''(2) COASTAL POPULATION.—The term 'coastal population' means the population, as determined by the most recent official data of the Census Bureau, of each political subdivision any part of which lies within the designated coastal boundary of a State (as defined in a State's coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)).

''(3) COASTAL STATE.—The term 'coastal State' has the meaning given the term in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

''(4) COASTLINE.—The term 'coastline' has the meaning given the term 'coast line' in section 2 of the Submerged Lands Act (43 U.S.C. 1301).

''(5) DISTANCE.—The term 'distance' means the minimum great circle distance, measured in statute miles.

''(6) LEASED TRACT.—The term 'leased tract' means a tract that is subject to a lease under section 6 or 8 for the purpose of drilling for, developing, and producing oil or natural gas resources.

''(7) LEASING MORATORIA.—The term 'leasing moratoria' means the prohibitions on preleasing, leasing, and related activities on any geographic area of the outer Continental Shelf as contained in—

''(A) the moratorium statement of the President on June 12, 1998; or

''(B) section 110 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (Public Law 107–63; 115 Stat. 438).

''(8) POLITICAL SUBDIVISION.—The term 'political subdivision' means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs.

''(9) PRODUCING STATE.—

''(A) IN GENERAL.—The term 'producing State' means a coastal State that has a coastal seaward boundary within 200 miles of the geographic center of a leased tract within any area of the outer Continental Shelf.

''(B) EXCLUSION.—The term 'producing State' does not include a producing State, a majority of the coastline of which is subject to leasing moratoria.

''(10) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified Outer Continental Shelf revenues' means all amounts received by the United States from each leased tract or portion of a leased tract—

''(i) lying—

''(I) seaward of the zone covered by section 8(g); or

''(II) within that zone, but to which section 8(g) does not apply; and

''(ii) the geographic center of which lies within a distance of 200 miles from any part of the coastline of any coastal State.

''(B) INCLUSIONS.—The term 'qualified Outer Continental Shelf revenues' includes bonus bids, rents, royalties (including payments for royalty taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued under this Act.

''(C) EXCLUSION.—The term 'qualified Outer Continental Shelf revenues' does not include any revenues from a leased tract or portion of a leased tract that is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on that date.

''(11) TRANSFERRED AMOUNT.—The term 'transferred amount' means the amount transferred to the Secretary under section 9 to make payments to producing States and coastal political subdivisions under this section for a fiscal year.

''(b) PAYMENTS TO PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(1) IN GENERAL.—For each of fiscal years 2006 through 2011, the transferred amount shall be allocated by the Secretary among producing States and coastal political subdivisions in accordance with this section.

''(2) DISBURSEMENT.—In each fiscal year, the Secretary shall, without further appropriation, disburse to each producing State for which the Secretary has approved a plan under subsection (c), and to coastal political subdivisions under paragraph (4), such funds as are allocated to the producing State or coastal political subdivision, respectively, under this section for the fiscal year.

''(3) ALLOCATION AMONG PRODUCING STATES.—

''(A) IN GENERAL.—Except as provided in subparagraph (C) and subject to subparagraph (D), the transferred amount shall be allocated to each producing State based on the ratio that—

''(i) the amount of qualified outer Continental Shelf revenues generated off the coastline of the producing State; bears to

''(ii) the amount of qualified outer Continental Shelf revenues generated off the coastline of all producing States.

''(B) AMOUNT OF OUTER CONTINENTAL SHELF REVENUES.—For purposes of subparagraph (A)—

''(i) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2006 through 2008 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2005; and

''(ii) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2009 through 2011 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2008.

''(C) MULTIPLE PRODUCING STATES.—In a case in which more than 1 producing State is located within 200 miles of any portion of a leased tract, the amount allocated to each producing State for the leased tract shall be inversely proportional to the distance between—

''(i) the nearest point on the coastline of the producing State; and

''(ii) the geographic center of the leased tract.

''(D) MINIMUM ALLOCATION.—The amount allocated to a producing State under subparagraph (A) shall be at least 1 percent of the transferred amount.

''(4) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(A) IN GENERAL.—The Secretary shall pay 35 percent of the amount allocated under paragraph (3) to the coastal political subdivisions in the producing State.

''(B) FORMULA.—Of the amount paid by the Secretary to coastal political subdivisions under subparagraph (A)—

''(i) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

''(I) the coastal population of the coastal political subdivision; bears to

''(II) the coastal population of all coastal political subdivisions in the producing State;

''(ii) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

''(I) the number of miles of coastline of the coastal political subdivision; bears to

''(II) the number of miles of coastline of all coastal political subdivisions in the producing State; and

''(iii) 50 percent shall be allocated in amounts that are inversely proportional to the respective distances between the points in each coastal political subdivision that are closest to the geographic center of each leased tract, as determined by the Secretary.

''(C) EXCEPTION FOR THE STATE OF LOUISIANA.—For the purposes of subparagraph (B)(ii), the coastline for coastal political subdivisions in the State of Louisiana without a coastline shall be the average length of the coastline of all other coastal political subdivisions in the State of Louisiana.

''(D) EXCEPTION FOR THE STATE OF ALASKA.—For the purposes of carrying out subparagraph (B)(iii) in the State of Alaska, the amounts allocated shall be divided equally among the 2 coastal political subdivisions that are closest to the geographic center of a leased tract.

''(E) EXCLUSION OF CERTAIN LEASED TRACTS.—For purposes of subparagraph (B)(iii), a leased tract or portion of a leased tract shall be excluded if the tract or portion of a leased tract is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on that date.

''(5) NO APPROVED PLAN.—

''(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in subparagraph (C), in a case in which any amount allocated to a producing State or coastal political subdivision under paragraph (3) or (4) is not disbursed because the producing State does not have in effect a plan that has been approved by the Secretary under subsection (c), the Secretary shall allocate the undisbursed amount equally among all other producing States.

''(B) RETENTION OF ALLOCATION.—The Secretary shall hold in escrow an undisbursed amount described in subparagraph (A) until such date as the final appeal regarding the disapproval of a plan submitted under subsection (c) is decided.

''(C) WAIVER.—The Secretary may waive subparagraph (A) with respect to an allocated share of a producing State and hold the allocable share in escrow if the Secretary determines that the producing State is making a good faith effort to develop and submit, or update, a plan in accordance with subsection (c).

''(c) COASTAL IMPACT ASSISTANCE PLAN.—

''(1) SUBMISSION OF STATE PLANS.—

''(A) IN GENERAL.—Not later than July 1, 2008, the Governor of a producing State shall submit to the Secretary a coastal impact assistance plan.

''(B) PUBLIC PARTICIPATION.—In carrying out subparagraph (A), the Governor shall solicit local input and provide for public participation in the development of the plan.

''(2) APPROVAL.—

''(A) IN GENERAL.—The Secretary shall approve a plan of a producing State submitted under paragraph (1) before disbursing any amount to the producing State, or to a coastal political subdivision located in the producing State, under this section.

''(B) COMPONENTS.—The Secretary shall approve a plan submitted under paragraph (1) if—

''(i) the Secretary determines that the plan is consistent with the uses described in subsection (d); and

''(ii) the plan contains—

''(I) the name of the State agency that will have the authority to represent and act on behalf of the producing State in dealing with the Secretary for purposes of this section;

''(II) a program for the implementation of the plan that describes how the amounts provided under this section to the producing State will be used;

''(III) for each coastal political subdivision that receives an amount under this section—

''(aa) the name of a contact person; and

''(bb) a description of how the coastal political subdivision will use amounts provided under this section;

''(IV) a certification by the Governor that ample opportunity has been provided for public participation in the development and revision of the plan; and

''(V) a description of measures that will be taken to determine the availability of assistance from other relevant Federal resources and programs.

''(3) AMENDMENT.—Any amendment to a plan submitted under paragraph (1) shall be—

''(A) developed in accordance with this subsection; and

''(B) submitted to the Secretary for approval or disapproval under paragraph (4).

''(4) PROCEDURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 90 days after the date on which a plan or amendment to a plan is submitted under paragraph (1) or (3), the Secretary shall approve or disapprove the plan or amendment.

''(B) EXCEPTION.—For fiscal year 2006, the Secretary shall approve or disapprove a plan submitted under paragraph (1) not later than December 31, 2006.

''(d) AUTHORIZED USES.—

''(1) IN GENERAL.—A producing State or coastal political subdivision shall use all amounts received under this section, including any amount deposited in a trust fund that is administered by the State or coastal political subdivision and dedicated to uses consistent with this section, in accordance with all applicable Federal and State law, only for 1 or more of the following purposes:

''(A) Projects and activities for the conservation, protection, or restoration of coastal areas, including wetland.

''(B) Mitigation of damage to fish, wildlife, or natural resources.

''(C) Planning assistance and the administrative costs of complying with this section.

''(D) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

''(E) Mitigation of the impact of outer Continental Shelf activities through funding of onshore infrastructure projects and public service needs.

''(2) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by a producing State or coastal political subdivision is not consistent with this subsection, the Secretary shall not disburse any additional amount under this section to the producing State or the coastal political subdivision until such time as all amounts obligated for unauthorized uses have been repaid or reobligated for authorized uses.''.

TITLE III—LAND AND WATER CONSERVATION FUND

SEC. 301. APPORTIONMENT OF AMOUNTS AVAILABLE FOR STATE PURPOSES.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8) is amended—

(1) in the second sentence of subsection (a), by inserting ''(including facility rehabilitation, but excluding facility maintenance)'' after ''(3) development''; and

(2) by striking subsection (b) and inserting the following:

''(b) APPORTIONMENT AMONG THE STATES.—

''(1) DEFINITION OF STATE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in this subsection, the term 'State' means—

''(i) each of the States of the United States;

''(ii) the District of Columbia;

''(iii) the Commonwealth of Puerto Rico;

''(iv) the Commonwealth of the Northern Mariana Islands;

''(v) the United States Virgin Islands;

''(vi) Guam; and

''(vii) American Samoa.

''(B) LIMITATION.—For the purposes of paragraph (3), the States referred to in clauses (iii) through (vii) of subparagraph (A)—

''(i) shall be treated collectively as 1 State; and

''(ii) shall each receive an apportionment under that paragraph based on the ratio that—

''(I) the population of the State; bears to

''(II) the population of all the States referred to in clauses (iii) through (vii) of subparagraph (A).

''(2) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—For each fiscal year, the Secretary may deduct, for payment of administrative expenses incurred by the Secretary in carrying out this section, not more than 1 percent of the amounts made available for financial assistance to States for the fiscal year under this Act.

''(3) APPORTIONMENT.—

''(A) IN GENERAL.—Not later than 60 days after the end of the fiscal year, the Secretary shall apportion among the States the amounts remaining after making the deduction under paragraph (2).

''(B) FORMULA.—Subject to paragraph (5), of the amounts described in subparagraph (A) for each fiscal year—

''(i) 60 percent shall be apportioned equally among the States; and

''(ii) 40 percent shall be apportioned among the States based on the ratio that—

''(I) the population of each State (as reported in the most recent decennial census); bears to

''(II) the population of all of the States (as reported in the most recent decennial census).

''(4) LIMITATION.—For any fiscal year, the total apportionment to any 1 State under paragraph (3) shall not exceed 10 percent of the total amount apportioned to all States for the fiscal year.

''(5) STATE NOTIFICATION.—The Secretary shall notify each State of the amount apportioned to the State under paragraph (3).

''(6) USE OF FUNDS.—

''(A) IN GENERAL.—Amounts apportioned to a State under paragraph (3) may be used for planning, acquisition, or development projects in accordance with this Act.

''(B) LIMITATION.—Amounts apportioned to a State under paragraph (3) shall not be used for condemnation of land.

''(7) REAPPORTIONMENT.—

''(A) IN GENERAL.—Any portion of an apportionment to a State under this subsection that has not been paid or obligated by the Secretary by the end of the second fiscal year that begins after the date on which notification is provided to the State under paragraph (5) shall be reapportioned by the Secretary in accordance with paragraph (3).

''(B) LIMITATION.—A reapportionment under this paragraph shall be made without regard to the limitation described in paragraph (4).

''(8) APPORTIONMENT TO INDIAN TRIBES.—

''(A) DEFINITION.—In this paragraph, the term 'Indian tribe'—

''(i) in the case of the State of Alaska, means a Native corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)); and

''(ii) in the case of any other State, has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(B) APPORTIONMENT.—For the purposes of paragraph (3), each Indian tribe shall be eligible to receive a share of the amount available under paragraph (3) in accordance with a competitive grant program established by the Secretary.

''(C) TOTAL APPORTIONMENT.—The total apportionment available to Indian tribes under subparagraph (B) shall be equal to the amount available to a single State under paragraph (3).

''(D) AMOUNT OF GRANT.—For any fiscal year, the grant to any 1 Indian tribe under this paragraph shall not exceed 10 percent of the total amount made available to Indian tribes under paragraph (3).

''(E) USE OF FUNDS.—Funds received by an Indian tribe under this paragraph may be used for the purposes specified in paragraphs (1) and (3) of subsection (a).

''(9) LOCAL ALLOCATION.—Unless the State demonstrates on an annual basis to the satisfaction of the Secretary that there is a compelling reason not to provide grants under this paragraph, each State (other than the District of Columbia) shall make available, as grants to political subdivisions of the State, not less than 25 percent of the annual State apportionment under this subsection, or an equivalent amount made available from other sources.''.

SEC. 302. STATE PLANNING.

(a) IN GENERAL.—Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8) is amended by striking subsection (d) and inserting the following:

''(d) SELECTION CRITERIA; STATE ACTION AGENDA.—

''(1) SELECTION CRITERIA.—Each State may develop priorities and criteria for selection of outdoor conservation and recreation acquisition and development projects eligible for grants under this Act, if—

''(A) the priorities and criteria developed by the State are consistent with this Act;

''(B) the State provides for public participation in the development of the priorities and criteria; and

''(C) the State develops a State action agenda (referred to in this section as a 'State action agenda') that includes the priorities and criteria established under this paragraph.

''(2) STATE ACTION AGENDA.—

''(A) IN GENERAL.—Not later than 5 years after the date of enactment of this subparagraph, the State, in partnership with political subdivisions of the State and Federal agencies and in consultation with the public, shall develop a State action agenda.

''(B) REQUIRED ELEMENTS.—A State action agenda shall—

''(i) include strategies to address broad-based and long-term needs while focusing on actions that can be funded during the 5-year period covered by the State action agenda;

''(ii) take into account all providers of conservation and recreation land in each State, including Federal, regional, and local government resources;

''(iii) include the name of the State agency that will have authority to represent and act for the State in dealing with the Secretary for the purposes of this Act;

''(iv) describe the priorities and criteria for selection of outdoor recreation and conservation acquisition and development projects; and

''(v) include a certification by the Governor of the State that ample opportunity for public participation has been provided in the development of the State action agenda.

''(C) UPDATE.—Each State action agenda shall be updated at least once every 5 years.

''(D) CERTIFICATION.—The Governor shall certify that the public has participated in the development of the State action agenda.

''(E) COORDINATION WITH OTHER PLANS.—

''(i) IN GENERAL.—The State action agenda shall be coordinated, to the maximum extent practicable, with other State, regional, and local plans for parks, recreation, open space, fish and wildlife, and wetland and other habitat conservation.

''(ii) RECOVERY ACTION PROGRAMS.—

''(I) IN GENERAL.—The State shall use recovery action programs developed by urban local governments under section 1007 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2506) as a guide to the conclusions, priorities, and action schedules contained in the State action agenda.

''(II) REQUIREMENTS FOR LOCAL PLANNING.—To minimize the redundancy of local outdoor conservation and recreation efforts, each State shall provide that, to the maximum extent practicable, the findings, priorities, and implementation schedules of recovery action programs may be used to meet requirements for local outdoor conservation and recreation planning that are conditions for grants under the State action agenda.

''(F) COMPREHENSIVE STATEWIDE OUTDOOR RECREATION PLAN.—A comprehensive statewide outdoor recreation plan developed by a State before the date that is 5 years after the date of enactment of this subparagraph shall remain in effect in the State until a State action agenda is adopted under this paragraph, but not later than 5 years after the date of enactment of that Act.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8(e)) is amended—

(A) in the matter preceding paragraph (1), by inserting ''or State action agenda'' after ''State comprehensive plan''; and

(B) in paragraph (1), by inserting ''or State action agenda'' after ''comprehensive plan''.

(2) Section 32(e) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(e)) is amended in the last proviso of the first paragraph by striking ''existing comprehensive statewide outdoor recreation plan found adequate for purposes of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897)'' and inserting ''comprehensive statewide outdoor recreation plan or State action agenda required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8)''.

(3) Section 102(a)(2) of the National Historic Preservation Act (16 U.S.C. 470b(a)(2)) is amended by striking ''comprehensive statewide outdoor recreation plan prepared pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897)'' and inserting ''comprehensive statewide outdoor recreation plan or State action agenda required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8)''.

(4) Section 6(a) of the Federal Water Project Recreation Act (16 U.S.C. 4601–17(a)) is amended by striking ''State comprehensive plan developed pursuant to subsection 5(d) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897)'' and inserting ''comprehensive statewide outdoor recreation plan or State action agenda required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8)''.

(5) Section 8(a) of the National Trails System Act (16 U.S.C. 1247(a)) is amended in the first sentence—

(A) by inserting ''or State action agendas'' after ''comprehensive statewide outdoor recreation plans''; and

(B) by inserting ''of 1965 (16 U.S.C. 4601–4 et seq.)'' after ''Fund Act''.

(6) Section 11(a)(2) of the National Trails System Act (16 U.S.C. 1250(a)(2)) is amended by striking ''(relating to the development of Statewide Comprehensive Outdoor Recreation Plans)'' and inserting ''(16 U.S.C. 4601–8)''.

(7) Section 11 of the Wild and Scenic Rivers Act (16 U.S.C. 1282) is amended—

(A) in subsection (a)—

(i) by inserting ''or State action agendas'' after ''comprehensive statewide outdoor recreation plans''; and

(ii) by striking ''(78 Stat. 897)'' and inserting ''(16 U.S.C. 4601–4 et seq.)''; and

(B) in subsection (b)(2)(B), by striking ''(relating to the development of statewide comprehensive outdoor recreation plans)'' and inserting ''(16 U.S.C. 4601–8)''.

(8) Section 206(d) of title 23, United States Code, is amended—

(A) in paragraph (1)(B), by striking ''statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.)'' and inserting ''comprehensive statewide outdoor recreation plan or State action agenda required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8)''; and

(B) in paragraph (2)(D)(ii), by striking ''statewide comprehensive outdoor recreation plan that is required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.)'' and inserting ''comprehensive statewide outdoor recreation plan or State action agenda that is required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8)''.

(9) Section 202(c)(9) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(c)(9)) is amended by striking ''statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended'' and inserting ''comprehensive statewide outdoor recreation plans or State action agendas required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8)''.

SEC. 303. ASSISTANCE TO STATES FOR OTHER PROJECTS.

Section 6(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8(e)) is amended—

(1) in paragraph (1), by striking '', but not including incidental costs relating to acquisition''; and

(2) in paragraph (2), by inserting before the colon the following: ''or to enhance public safety in a designated park or recreation area''.

SEC. 304. CONVERSION OF PROPERTY TO OTHER USE.

Section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8(f)(3)) is amended—

(1) by striking ''(3) No property'' and inserting the following:

''(3) CONVERSION OF PROPERTY TO OTHER USE.—

''(A) IN GENERAL.—No property''; and

(2) by striking the second sentence and inserting the following:

''(B) REQUIREMENTS FOR APPROVAL.—The Secretary shall approve a conversion under subparagraph (A) if—

''(i) the State demonstrates that there is no other prudent or feasible alternative;

''(ii) the property no longer meets the criteria in the comprehensive statewide outdoor recreation plan or State action agenda for an outdoor conservation and recreation facility because of changes in demographics; or

''(iii) the property must be abandoned because of environmental contamination that endangers public health or safety.

''(C) CONDITIONS.—A conversion under subparagraph (A) shall satisfy any conditions that the Secretary determines to be necessary to ensure the substitution of other conservation or recreation property that is—

''(i) of at least equal fair market value;

''(ii) of reasonably equivalent usefulness and location; and

''(iii) consistent with the comprehensive statewide outdoor recreation plan or State action agenda.''.

SEC. 305. WATER RIGHTS.

Title I of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.) is amended by adding at the end the following:

''SEC. 14. WATER RIGHTS.

''Nothing in this title—

''(1) invalidates, preempts, or modifies any Federal or State water law or an interstate compact relating to water, including water quality and disposal;

''(2) alters the rights of any State to an appropriated share of the water of any body of surface water or groundwater, as established by interstate compacts entered into, legislation enacted, or final judicial allocations adjudicated before, on, or after the date of enactment of this Act; or

''(3) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.''.

TITLE IV—CONSERVATION AND RESTORATION OF WILDLIFE

SEC. 401. PURPOSES.

The purposes of this title are—

(1) to ensure adequate funding of the program established under the amendments to the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.) enacted by title IX of H.R. 5548 of the 106th Congress, as enacted by section 1(a)(2) of Public Law 106–553 (114 Stat. 2762, 2762A–118); and

(2) to ensure the conservation and sustainability of fish and wildlife to provide and promote greater hunting, angling, and wildlife viewing opportunities.

SEC. 402. DEFINITIONS.

Section 2 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669a) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (2), (4), (5), (6), (7), (8), (9), and (10), respectively;

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

''(1) ACCOUNT.—The term 'Account' means the Wildlife Conservation and Restoration Account established by section 3(a)(2).'';

(3) by inserting after paragraph (2) (as redesignated by paragraph (1)) the following:

''(3) INDIAN TRIBE.—The term 'Indian tribe'—

''(A) in the case of the State of Alaska, means a Native corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)); and

''(B) in the case of any other State, has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).'';

(4) in paragraph (6) (as redesignated by paragraph (1)), by striking ''including fish'' and inserting ''(including, for purposes of section 4(d), fish)''; and

(5) in paragraph (10) (as redesignated by paragraph (1)), by striking ''includes the wildlife conservation and restoration program and''.

SEC. 403. WILDLIFE CONSERVATION AND RESTORATION ACCOUNT.

Section 3 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b) is amended—

(1) by striking ''**SEC.** 3. (a)(1) An'' and inserting the following:

''SEC. 3. FEDERAL AID TO WILDLIFE RESTORATION FUND.

''(a) IN GENERAL.—

''(1) FEDERAL AID TO WILDLIFE RESTORATION FUND.—An''; and

(2) in subsection (a)—

(A) in paragraph (1), by striking ''Federal aid to wildlife restoration fund'' and inserting ''Federal Aid to Wildlife Restoration Fund''; and

(B) by striking paragraph (2) and inserting the following:

''(2) WILDLIFE CONSERVATION AND RESTORATION ACCOUNT.—

''(A) ESTABLISHMENT.—There is established in the fund a subaccount to be known as the 'Wildlife Conservation and Restoration Account'.

''(B) FUNDING.—Amounts transferred to the fund for a fiscal year under section 9(b)(3) of the Outer Continental Shelf Lands Act—

''(i) shall be deposited in the Account; and

''(ii) shall be available, without further appropriation, to carry out State wildlife conservation and restoration programs under section 4(d).''.

SEC. 404. APPORTIONMENT TO INDIAN TRIBES.

(a) IN GENERAL.—Section 4 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c) is amended—

(1) by redesignating the first subsection (c) as subsection (e); and

(2) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) APPORTIONMENT TO DISTRICT OF COLUMBIA, PUERTO RICO, TERRITORIES, AND INDIAN TRIBES.—

''(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year, the Secretary shall apportion from amounts available in the Account for the fiscal year—

''(i) to each of the District of Columbia and the Commonwealth of Puerto Rico, an amount equal to not more than ½ of 1 percent of amounts available in the Account;

''(ii) to each of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands, a sum equal to not more than ¼ of 1 percent of amounts available in the Account; and

''(iii) to Indian tribes, an amount equal to not more than 2¼ percent of amounts available in the Account, of which—

''(I) ⅓ shall be apportioned based on the ratio that the trust land area of each Indian tribe bears to the total trust land area of all Indian tribes; and

''(II) ⅔ shall be apportioned based on the ratio that the population of each Indian tribe bears to the total population of all Indian tribes.

''(B) MAXIMUM APPORTIONMENT TO INDIAN TRIBES.—For each fiscal year, the amounts apportioned under subparagraph (A)(iii) shall be adjusted proportionately so that no Indian tribe is apportioned a sum that is more than 5 percent of the amount available for apportionment under subparagraph (A)(iii) for the fiscal year.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(c)(2) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b(c)(2)) is amended by striking ''sections 4(d) and (e) of this Act'' and inserting ''subsection (c) and (d) of section 4''.

(2) Section 4(b) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c(b)) is amended by striking ''subsection (c)'' and inserting ''subsection (e)''.

(3) Section 4(d) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c(d)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by redesignating clauses (i), (ii), and (iii) as subclauses (I), (II), and (III), respectively, and indenting the subclauses appropriately;

(ii) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and indenting the clauses appropriately; and

(iii) by striking ''(1) Any State'' and inserting the following:

''(1) REQUIREMENTS.—

''(A) IN GENERAL.—Any State'';

(iv) by striking ''To apply'' and inserting the following:

''(B) PLAN.—To apply'';

(v) in subparagraph (A) (as designated by clause (iii))—

(I) by inserting ''or Indian tribe'' before ''may apply''; and

(II) by striking ''develop a program'' and inserting the following: ''develop a program for the conservation and restoration of species of wildlife identified by the State'';

(vi) in subparagraph (B) (as designated by clause (iv))—

(I) in the matter preceding clause (i) (as redesignated by clause (ii)), by inserting ''or Indian tribe'' before ''shall submit''; and

(II) in clause (i) (as redesignated by clause (ii)), by inserting ''or Indian tribe'' after ''State'';

(vii) by redesignating subparagraph (D) as subparagraph (C); and

(viii) in subparagraph (C) (as redesignated by clause (vii))—

(I) in the matter preceding clause (i), by inserting ''a State or Indian tribe shall'' before ''develop and begin'';

(II) in clause (i), by inserting ''or Indian tribe'' before ''deems appropriate'';

(III) in clauses (ii), (iii), (iv), and (vii), by striking ''paragraph (1)'' and inserting ''subparagraph (A)'';

(IV) in clause (vi)—

(aa) by striking ''State wildlife conservation strategy'' and inserting ''wildlife conservation strategy of the State or Indian tribe''; and

(bb) by striking the semicolon at the end and inserting ''; and''; and

(V) in clause (vii), by inserting ''by'' after ''feasible'';

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

(C) in paragraph (3), by inserting ''or Indian tribe'' after ''State'' each place it appears; and

(D) in paragraph (4)—

(i) in subparagraph (A), by striking ''State's wildlife conservation and restoration program'' each place it appears and inserting ''wildlife conservation and restoration program of a State or Indian tribe''; and

(ii) in subparagraph (B)—

(I) by inserting ''or Indian tribe'' after ''each State''; and

(II) by striking ''State's wildlife conservation and restoration program'' and inserting ''wildlife conservation and restoration program of a State or Indian tribe''.

(4) Section 8(b) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669g(b)) is amended by striking ''section 4(c)'' and inserting ''section 4(e)''.

(5) Section 10 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h–1) is amended—

(A) in subsection (a)(1)—

(i) in subparagraph (A), by inserting ''or obligated'' after ''used''; and

(ii) in subparagraph (B), by inserting ''or obligated'' after ''used''; and

(B) by striking ''section 4(c)'' each place it appears and inserting ''section 4(e)''.

SEC. 405. NO EFFECT ON PRIOR APPROPRIATIONS.

Nothing in this title or any amendment made by this title applies to or otherwise affects the availability or use of any amounts appropriated before the date of enactment of this Act.

TITLE V—URBAN PARK AND RECREATION RECOVERY PROGRAM

SEC. 501. EXPANSION OF PURPOSE OF URBAN PARK AND RECREATION RECOVERY ACT OF 1978 TO INCLUDE DEVELOPMENT OF NEW AREAS AND FACILITIES.

Section 1003 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2502) is amended in the first sentence by striking ''recreation areas, facilities,'' and inserting ''recreation areas and facilities, the development of new recreation areas and facilities (including acquisition of land for that development),''.

SEC. 502. DEFINITIONS.

Section 1004 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2503) is amended—

(1) by striking ''When used in this title the term—'' and inserting ''In this title:'';

(2) by redesignating paragraphs (1), (2), and (3) of subsection (d) as subparagraphs (A), (B), and (C), respectively, and indenting appropriately;

(3) by redesignating subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k) as paragraphs (9), (10), (4), (1), (8), (6), (3), (12), (7), (13), and (5), respectively, and moving the paragraphs to appear in numerical order;

(4) in each of paragraphs (1), (3), (4), (5), (6), (7), (8), (9), (10), (12), and (13) (as redesignated by paragraph (3))—

(A)(i) by inserting ''_____.—The term'' before the first quotation mark; and

(ii) by inserting in the blank the term that is in quotations in each paragraph, respectively; and

(B) by capitalizing the first letter of the term as inserted in the blank under subparagraph (A)(ii);

(5) in each of paragraphs (1), (3), (4), (6), (7), (8), (9), (10), and (12) (as redesignated by paragraph (3)), by striking the semicolon at the end and inserting a period;

(6) in paragraph (13) (as redesignated by paragraph (3)), by striking ''; and'' at the end and inserting a period;

(7) by inserting after paragraph (1) (as redesignated by paragraph (3)) the following:

''(2) DEVELOPMENT GRANT.—

''(A) IN GENERAL.—The term 'development grant' means a matching capital grant made to a unit of local government to cover costs of development, land acquisition, and construction at 1 or more existing or new neighborhood recreation sites (including indoor and outdoor recreational areas and facilities, support facilities, and landscaping).

''(B) EXCLUSIONS.—The term 'development grant' does not include a grant made to pay the costs of routine maintenance or upkeep activities.'';

(8) in paragraph (5) (as redesignated by paragraph (3)), by inserting ''the Commonwealth of'' before ''Northern Mariana Islands''; and

(9) by inserting after paragraph (10) (as redesignated by paragraph (3)) the following:

''(11) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.''.

SEC. 503. ELIGIBILITY.

Section 1005 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2504) is amended by striking subsection (a) and inserting the following:

''(a) ELIGIBILITY FOR ASSISTANCE.—

''(1) DEFINITION OF GENERAL PURPOSE LOCAL GOVERNMENT.—For the purpose of determining eligibility for assistance under this title, the term 'general purpose local government' includes—

''(A) any political subdivision of a metropolitan, primary, or consolidated statistical area, as determined by the most recent decennial census;

''(B) any other city, town, or group of 1 or more cities or towns within a metropolitan

statistical area described in subparagraph (A) that has a total population of at least 50,000, as determined by the most recent decennial census; and

''(C) any other county, parish, or township with a total population of at least 250,000, as determined by the most recent decennial census.

''(2) SELECTION.—The Secretary shall award assistance to general purpose local governments under this title on the basis of need, as determined by the Secretary.''.

SEC. 504. GRANTS.

Section 1006(a) of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2505(a)) is amended—

(1) in the first sentence, by striking ''rehabilitation and innovative'';

(2) in paragraph (1), by striking ''rehabilitation and innovation''; and

(3) in paragraph (2), by striking ''rehabilitation or innovative''.

SEC. 505. RECOVERY ACTION PROGRAMS.

Section 1007(a) of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2506(a)) is amended—

(1) in the first sentence, by inserting ''development,'' after ''commitments to ongoing planning,''; and

(2) in paragraph (2), by inserting ''development and'' after ''adequate planning for''.

SEC. 506. STATE ACTION INCENTIVES.

Section 1008 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2507) is amended—

(1) in the first sentence, by inserting ''(a) **IN GENERAL**.—'' before ''The Secretary is authorized''; and

(2) by striking the last sentence of subsection (a) (as designated by paragraph (1)) and inserting the following:

''(b) COORDINATION WITH LAND AND WATER CONSERVATION FUND ACTIVITIES.—

''(1) IN GENERAL.—The Secretary and general purpose local governments are encouraged to coordinate the preparation of recovery action programs required by this title with comprehensive statewide outdoor recreation plans or State action agendas required by section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8) (including by allowing flexibility in preparation of recovery action programs so that those programs may be used to meet State and local qualifications for local receipt of grants under that Act or State grants for similar purposes or for other conservation or recreation purposes).

''(2) CONSIDERATIONS.—The Secretary shall encourage States to consider the findings, priorities, strategies, and schedules included in the recovery action programs of the urban localities of the States in preparation and updating of comprehensive statewide outdoor recreation plans or State action agendas in accordance with the public participation and citizen consultation requirements of section 6(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8(d)).''.

SEC. 507. CONVERSION OF RECREATION PROPERTY.

Section 1010 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2509) is amended to read as follows:

''SEC. 1010. CONVERSION OF RECREATION PROPERTY.

''(a) IN GENERAL.—Except as provided in subsection (b), no property developed, acquired, improved, or rehabilitated using funds from a grant under this title shall, without the approval of the Secretary, be converted to any purpose other than a public recreation purpose.

''(b) APPROVAL.—

''(1) IN GENERAL.—The Secretary shall approve the conversion of property under subsection (a) to a purpose other than a public recreation purpose only if the grant recipient demonstrates that no prudent or feasible alternative exists.

''(2) APPLICABILITY.—Paragraph (1) applies to property that—

''(A) is no longer viable for use as a recreation facility because of changes in demographics; or

''(B) must be abandoned because of environmental contamination or any other condition that endangers public health or safety.

''(c) CONDITIONS.—Any conversion of property under this section shall satisfy such conditions as the Secretary considers necessary to ensure the substitution for the property of other recreation property that is—

''(1) at a minimum, equivalent in fair market value, usefulness, and location; and

''(2) subject to the recreation recovery action program of the grant recipient that is in effect as of the date of the conversion of the property.''.

SEC. 508. TREATMENT OF TRANSFERRED AMOUNTS.

Section 1013 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2512) is amended to read as follows:

''SEC. 1013. FUNDING.

''(a) TREATMENT OF AMOUNTS TRANSFERRED FROM GET OUTDOORS ACT FUND.—

''(1) IN GENERAL.—Amounts transferred to the Secretary under section 9(b)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1338(b)(4)) for a fiscal year shall be available to the Secretary, without further appropriation, to carry out this title.

''(2) UNPAID AND UNOBLIGATED AMOUNTS.—Any amount described in paragraph (1) that is not paid or obligated by the Secretary before the end of the second fiscal year beginning after the first fiscal year in which the amount is made available under paragraph (1) shall be reapportioned by the Secretary among grant recipients under this title.

''(b) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—For each fiscal year, the Secretary may deduct, for payment of administrative expenses incurred by the Secretary in carrying out this section, not more than 4 percent of the amounts made available to the Secretary for the fiscal year under subsection (a).

''(c) LIMITATIONS ON ANNUAL GRANTS.—After making the deduction under subsection (b), of the amounts made available for a fiscal year under subsection (a)—

''(1) not more than 10 percent may be used for innovation grants under section 1006;

''(2) not more than 3 percent may be used for grants for the development of local park and recreation recovery action programs under subsections (a) and (c) of section 1007; and

''(3) not more than 15 percent, in the aggregate, may be provided in the form of grants for projects in any 1 State.

''(d) LIMITATION ON USE FOR GRANT ADMINISTRATION.—The Secretary shall establish a limit on the percentage, not to exceed 25 percent, of any grant under this title that may be used for grant and program administration.''.

SEC. 509. REPEAL.

Sections 1014 and 1015 of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2513, 2514) are repealed.

Ms. LANDRIEU. Mr. President, today I rise with the Senator from Tennessee, Mr. ALEXANDER, my colleague from Louisiana, Mr. VITTER, and the senior Senator from South Dakota, Mr. JOHNSON, to introduce legislation which we believe is a new and enhanced version of one of the most significant conservation efforts ever considered by Congress.

The Americans Outdoors Act is a landmark multi-year commitment to conservation programs directly benefitting all 50 States and hundreds of local communities. It creates a conservation royalty earned from the production of oil and gas found on the Outer Continental Shelf, OCS, and directs it towards the restoration of coastal wetlands, preservation of wildlife habitat, and to help build and maintain local and state parks for our children and grandchildren.

By enacting this legislation, we will be making the most significant commitment of resources to conservation ever. It will ensure a positive legacy of protecting, preserving and enhancing critical wildlife habitat, open green spaces and the opportunity for Americans to enjoy their outdoors today and for generations to come. Our legislation builds on an effort made during the 106th Congress that was supported by governors, mayors and a coalition of more than 5,000 organizations from throughout the country.

Unfortunately, despite widespread support, our efforts were cut short before a bill could be signed into law. Instead a commitment was made by those who opposed the legislation to guarantee funding for these programs each year through the appropriation process.

However, as we have painfully witnessed since then, that commitment has not been met. What has happened is exactly what those of us who initiated the effort always anticipated. Each of these significant programs continues to be shortchanged and a number of them have been left out altogether or forced to compete with each other for Federal resources.

The legislation we are introducing today provides reliable, significant and steady funding for the urgent and worthy conservation and outdoor recreation needs of our states and rapidly expanding urban and suburban areas. What makes more sense than to take a portion of revenues from a great but depleting capital asset of the Nation—offshore Federal oil and gas resources—and reinvest them into sustaining our Nation's natural resources: wetlands; parks and recreation areas and wildlife?

The Americans Outdoors Act dedicates assured funding for four distinct programs and honors promises made long ago to the American people. They include:

Coastal Impact Assistance—$450 million to oil and gas producing coastal States to mitigate the various impacts of states that serve as the ''platform'' for the crucial development of Federal offshore energy resources from the OCS as well as provide for wetland restoration. This program merely acknowledges the impacts to and contribution of States that are providing the energy to run our country's economy.

Since the 1.76 billion acre energy frontier of the OCS was officially opened to significant oil and gas exploration in 1953, no single region has contributed as much to our Nation's energy production. In fact, the OCS supplies more oil to our Nation than any other country including Saudi Arabia. Today, the OCS represents more than 25 percent of our Nation's natural gas production and more than 30 percent of our domestic oil production—with the promise of reaching 40 percent by 2008. It is estimated that 60 percent of the oil and natural gas still to be discovered in the U.S. will come from the OCS.

An average of more than $5 billion in revenues from oil and gas production are returned to the Federal treasury each year from the OCS—$145 billion since Production began. That is the second biggest contributor of revenue to the Federal treasury after income taxes.

Our legislation seeks to address a historical inequity. The Mineral Lands Leasing Act of 1920 shares automatically with States 50 percent of revenues from mineral production on Federal lands within that State's boundaries. These funds are distributed to States automatically, outside the budget process and not subject to appropriations. In fiscal year 2004, the State of Wyoming received $564 million as a result of this law and the State of New Mexico received $365 million. But, there is no similar provision in law for coastal producing States to share Federal oil and gas revenues generated on the OCS.

For both onshore and offshore production, the justification for sharing with the State is the same: The State serves as the platform which enables the Federal Government to support a basic element of our daily lives—turning on our lights, heating our homes and running our commuter trains.

In light of the OCS's vital contribution to our Nation's energy needs, economy and national security, it see only fair and logical that we should return a share of these revenues to the few States that are providing this crucial supply of energy. The revenues should be distributed automatically based on what is produced off a State's coastline and a portion of each State's allocation should be shared with coastal counties and parishes. They battle every day with the forces of nature that are steadily undermining our energy security by washing away the barrier islands and marshes that protect critical infrastructure necessary to deliver it.

When Hurricane Ivan struck back in September, it should have been a wake up call to us all. Although the storm did not hit Louisiana directly, its impact on the price and supply of oil and gas in this country could still be felt 4 months later. One can only imagine what the impact would have been had Ivan cut a more Western path in the Gulf. How many more hurricane seasons are we going to spend playing Russian roulette with our oil and gas supply? Returning a portion of OCS revenues to Louisiana and other coastal producing States is crucial to restoring and preserving these vital wetlands and the billions in energy investments they protect.

This bill will provide $450 million for the State side of the Land and Water Conservation Fund, LWCF, to provide stable funding to States for the planning and development of State and local parks and recreation facilities. The allocation to States would be 60 percent equally among all 50 States and 40 percent based on relative population. This program provides greater revenue certainty for State and local governments to help them meet their recreational needs through recreational facility development and resource protection—all under the discretion of State and local authorities while protecting the rights of private property owners.

This bill would provide for Wildlife Conservation, Education and Restoration. A total of $350 million is allocated to all 50 States through the successful program of Pittman-Robertson for the conservation of non-game and game species, with the principal goal of preventing species from becoming endangered or listed under the Endangered Species Act. By taking steps now to prevent species from becoming endangered we are able to not only conserve the significant cultural heritage of wildlife enjoyment for the people of this country, but also avoid the substantial costs associated with recovery for endangered species.

Allocations to States would be based on a formula of two-thirds relative population and one-third relative land area and the Urban Parks and Recreation Recovery Program, UPARR—$125 million in the form of matching grants, 70 percent, to provide direct assistance to our cities and towns so that they can focus on the needs of their populations within the more densely inhabited areas around the country where there are fewer green-spaces, playgrounds and soccer fields for our youth.

I would also like to acknowledge our interest in several programs that are not part of this initial package but will be considered as the bill moves through the process. For example, the Federal side of the Land and Water Conservation Fund, which focuses primarily on Federal land acquisition. The goal of the Federal side of the LWCF was to share a significant portion of revenues from offshore development with States to provide for protection and public use of the natural environment. It is our intention to discuss this program with our colleagues on the Senate Energy and Natural Resources Committee with the goal of developing a compromise that will garner broad support. In addition, other worthy programs that are not part of the legislation we are introducing today but ideally would be part of a larger more comprehensive effort include Historic Preservation, Payment in Lieu of Taxes, PILT, and the Forest Legacy program.

While we confront a time of war, budget deficits and a struggling economy, setting aside a portion of oil and gas royalties to our States and localities for initiatives such as outdoor spaces or recreation facilities for our children to play could not be more crucial. Programs such as the State side of the Land and Water Conservation Fund are in fact the economic stimulus that our States and cities need in these times. It is time we take some of the proceeds we extract from our earth and reinvest them into conserving our great outdoors for generations to come. To continue to do otherwise, as we have done for the last 50 years, is not only environmentally and fiscally irresponsible. It ignores our American duty of stewardship to our Nation, our planet and our children.

By Mr. SMITH (for himself and Mrs. LINCOLN):

S. 965. A bill to amend the Internal Revenue Code of 1986 to reduce the recognition period for built-in gains for subchapter S corporations; to the Committee on Finance.

Mr. SMITH. Mr. President, I am pleased today to introduce the Small Business Growth and Opportunity Act of 2004 along with my Finance Committee colleague, Senator BLANCHE LINCOLN.

This legislation will allow S corporations to liquidate unproductive assets freeing up capital to be used to grow the business and create new jobs.

There are about 2.9 million of these small and family-owned businesses in all 50 States. Over the past few years, many of these small businesses have been forced to lay off workers and delay capital investment. At the same time, the tax code forces them to hold on to unproductive and inefficient assets or face the double tax period of the corporate ''built-in gains'' tax.

Under current law, businesses that convert from a C corporation to S corporation status are penalized by a double tax burden for a period of 10 years if they sell assets they owned as a C corporation. This tax penalty is imposed at the corporate level on top of normal shareholder-level taxes, making the sale and reinvestment of these assets prohibitively expensive. In some States, this double-tax burden can exceed 70 percent of the built-in gain.

Clearly this tax penalty is neither justifiable nor sustainable as a reasonable business matter. The built-in gains tax 1. limits cash flow and availability, 2. encourages excess borrowing because the S corporation cannot access the locked-in value of its own assets, and 3. prevents these small businesses from growing and creating jobs.

While I would like to see even more generous relaxation of these rules, for revenue considerations this legislation will reduce the built-in gains recognition period (the holding period) from 10

years to 7 years. And, this three-year reduction would be a significant start in easing this unproductive tax burden on these small and family-owned businesses.

I look forward to working with my colleagues on the Senate Finance Committee and hope the Committee will consider this proposal this year.

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. 965

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

SECTION 1. REDUCED RECOGNITION PERIOD FOR BUILT-IN GAINS.

(a) IN GENERAL.—Paragraph (7) of section 1374(d) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended to read as follows:

''(7) RECOGNITION PERIOD.—The term 'recognition period' means the 7-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation. For purposes of applying this section to any amount includible in income by reason of distributions to shareholders pursuant to section 593(e), the preceding sentence shall be applied without regard to the duration of the recognition period in effect on the date such distribution.''.

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendment made by this section shall apply to any recognition period in effect on or after the date of the enactment of this Act.

(2) SPECIAL APPLICATION TO EXISTING PERIODS EXCEEDING 7 YEARS.—Any recognition period in effect on the date of the enactment of this Act, the length of which is greater than 7 years, shall end on such date.

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

S. 966. A bill to designate a United States courthouse located in Fresno, California, as the ''Robert E. Coyle United States Courthouse''; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, I am pleased to introduce legislation to name the Federal courthouse building now being completed at Tulare and ''O'' Streets in downtown Fresno, CA the ''Robert E. Coyle United States Courthouse.''

It is fitting that the Federal courthouse in Fresno be named for Senior U.S. District Judge Robert E. Coyle, who is greatly respected and admired for his work as a judge and for his foresight and persistence that contributed so much to the Fresno Courthouse project. Judge Coyle has been a leader in the effort to build a new courthouse in Fresno for more than a decade. Indeed, he personally supervises this project. He is often seen with his hard hat in hand, walking from his chambers to the new building to meet project staff.

Judge Coyle, working with the Clerk of the United States District Court for the Eastern District, conceived and founded a program called ''Managing a Capitol Construction Program'' to help others understand the process of having a courthouse built. This Eastern District program was so well received by national court administrators that it is now a nationwide program run by Judge Coyle.

In addition to meeting the needs of the court for additional space, the courthouse project has become a key element in the downtown revitalization of Fresno. Judge Coyle's efforts, and those in the community with whom he has worked, produced a major milestone when the groundbreaking for the new courthouse took place.

Judge Coyle has had a distinguished career as an attorney and on the bench. Appointed to California's Eastern District bench by President Ronald Reagan in 1982, Judge Coyle has served as a judge for the Eastern District for 20 years, including 6 years as senior judge. Judge Coyle earned his law degree from the University of California, Hastings College of the Law in 1956. He then worked for Fresno County as a Deputy District Attorney before going into private practice in 1958 with McCormick, Barstow, Sheppard, Coyle & Wayte, where he remained until his appointment by President Reagan.

Judge Coyle is very active in the community and has served in many judicial leadership positions, including: Chair of the Space and Security Committee; Chair of the Conference of the Chief District Judges of the Ninth Circuit; President of the Ninth Circuit District Judges Association; Member of the Board of Governors of the State Bar of California; and President of the Fresno County Bar.

My hope is that, in addition to serving the people of the Eastern District as a courthouse, this building will stand as a reminder to the community and people of California of the dedicated work of Judge Robert E. Coyle.

By Mr. OBAMA:

S. 969. A bill to amend the Public Health Service Act with respect to preparation for an influenza pandemic, including an avian influenza pandemic, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. OBAMA. Mr. President, today I am introducing the Attacking Viral Influenza Across Nations Act of 2005, or the AVIAN Act.

The Nation is becoming increasingly aware of the very serious threat we face from avian flu. This virus is found primarily in chickens, ducks, and other birds. Despite major efforts to eradicate this virus, the virus has become endemic in poultry and birds in some countries and is spreading rapidly in others. Humans can contract the virus when they come into contact with infected birds, and when this happens, the consequences are often deadly. Of the 88 humans infected with avian influenza in Vietnam, Thailand, and Cambodia, only 37 have survived.

Right now, avian flu is thought to only pass from birds to humans. However, doctors and scientists have expressed the very real concern that this virus will mutate into a form that can spread easily from human to human. If this happens, the world could face its next pandemic, which could cause more illness and death than virtually any other natural health threat.

The Nation experienced 3 pandemics in the 20th Century—the Spanish flu pandemic in 1918, the Asian flu pandemic in 1957, and the Hong Kong flu pandemic in 1968. The Spanish flu pandemic was the most severe, causing over 500,000 deaths in the United States and more than 20 million deaths worldwide.

The Centers for Disease Control and Prevention (CDC) has estimated that up to 207,000 Americans could die, and up to 734,000 could be hospitalized during the next pandemic. The costs of the pandemic, including the medical costs and the costs associated with infected Americans being unable to work and dying early, are estimated at between $71 billion and $166.5 billion. These costs do not include the impact of a pandemic on commerce and society. On February 21, 2005, Dr. Julie Gerberding, Director of the CDC, discussed the possibility of a pandemic and stated that ''this is a very ominous situation for the globe . . . the most important threat that we are facing right now.''

We are in a race against time. The Nation's health officials have made some progress in preparing for pandemic influenza. Yet, we have much work to do. The Department of Health and Human Services has not released its final pandemic preparedness plan nor have about half of the states. A survey by the Association of State and Public Health Laboratory Directors found that 20 percent of States had no State public health laboratory capacity to isolate viruses, and 25 percent reported no ability to subtype influenza isolates.

We know antivirals can prevent flu infection and treat those already infected, but we have not stockpiled enough doses to cover even the high-risk populations. We need more research to improve the effectiveness and the safety of vaccines against avian flu and other strains. Many of our hospital emergency rooms and clinics are already bursting at the seams, and it is unclear how they would care for a dramatically increased influx of patients during a pandemic.

The AVIAN Act is a comprehensive measure to deal with an influenza pandemic by emphasizing domestic and international cooperation and collaboration. It creates a high-level interagency policy coordinating committee tasked with creating an integrated plan for the nation, with attention to health, agriculture, commerce, transportation, and international relations. Similarly, states are required to finalize pandemic preparedness plans that address surveillance, medical care, workforce, communication, and maintenance of core public functions. Private health providers and hospitals will

play a critical role in diagnosing and treating their patients for flu, and this bill provides grants to make sure their efforts and information networks are coordinated with those by the state. Health and veterinary officials are encouraged to work with our international partners on all of these initiatives.

This bill provides for a public education and awareness campaign and health professional training for a pandemic. The CDC is tasked with researching communication strategies, and developing and implementing a public, non-commercial, and non-competitive broadcast system. The NIH is required to expand and intensify its research on vaccines, antivirals, and other protective measures. An economics advisory committee is established to assess and make recommendations on how to finance pandemic preparedness, while minimizing its economic impact.

Finally, the AVIAN Act provides for an Institute of Medicine study to study the legal, ethical, and social implications of pandemic influenza. Americans may be asked to isolate themselves, to stay home from work, to share their medical diagnoses, and to take certain medications. All of these actions may be critical in preventing millions of Americans from getting sick, spreading disease, and dying. Yet, we must make sure that we are fully cognizant of how these decisions will affect the rights of every American.

We face a terrible threat from pandemic avian influenza, and we must not squander the opportunity before us to plan and prepare. In endorsing the AVIAN Act, the Trust for America's Health states: ''The avian flu is a real and dangerous threat to the health to our nation and the world. If the virus mutates slightly, we could have a million Americans hit by the first wave of a pandemic.''

The time to act is now, and I urge my colleagues to join me and pass the AVIAN Act of 2005.

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

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

S. 969

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 ''Attacking Viral Influenza Across Nations Act of 2005''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Department of Health and Human Services reports that an influenza pandemic has a greater potential to cause rapid increases in death and illness than virtually any other natural health threat.

(2) Three pandemics occurred during the 20th century: the Spanish flu pandemic in 1918, the Asian flu pandemic in 1957, and the Hong Kong flu pandemic in 1968. The Spanish flu pandemic was the most severe, causing over 500,000 deaths in the United States and more than 20,000,000 deaths worldwide.

(3) The Centers for Disease Control and Prevention has estimated conservatively that up to 207,000 Americans would die, and up to 734,000 would be hospitalized, during the next pandemic. The costs of the pandemic, including the total direct costs associated with medical care and indirect costs of lost productivity and death, are estimated at between $71,000,000,000 and $166,500,000,000. These costs do not include the economic effects of pandemic on commerce and society.

(4) Recent studies suggest that avian influenza strains, which are endemic in wild birds and poultry populations in some countries, are becoming increasingly capable of causing severe disease in humans and are likely to cause the next pandemic flu.

(5) In 2004, 8 nations—Thailand, Vietnam, Indonesia, Japan, Laos, China, Cambodia, and the Republic of Korea—experienced outbreaks of avian flu (H5N1) among poultry flocks. Cases of human infections were confirmed in Thailand and Vietnam (including a possible human-to-human infection in Thailand).

(6) As of April 15, 2005, 88 confirmed human cases of avian influenza (H5N1) have been reported, 51 of which resulted in death. Of these cases, 68 were in Vietnam, 17 in Thailand, and 3 in Cambodia.

(7) On February 21, 2005, Dr. Julie Gerberding, Director of the Centers for Disease Control and Prevention, stated that ''this is a very ominous situation for the globe...the most important threat we are facing right now.''.

(8) On February 23, 2005, Dr. Shigeru Omi, Asia regional director of the World Health Organization (WHO), stated with respect to the avian flu, ''We at WHO believe that the world is now in the gravest possible danger of a pandemic.''.

(9) The best defense against influenza pandemics is a heightened global surveillance system. In many of the nations where avian flu (H5N1) has become endemic the early detection capabilities are severely lacking, as is the transparency in the health systems.

(10) In addition to surveillance, pandemic preparedness requires domestic and international coordination and cooperation to ensure an adequate medical response, including communication and information networks, public health measures to prevent spread, use of vaccination and antivirals, provision of health outpatient and inpatient services, and maintenance of core public functions.

SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

Title XXI of the Public Health Service Act (42 U.S.C. 300aa–1 et seq.) is amended by adding at the end the following:

"Subtitle 3—Pandemic Influenza Preparedness

"SEC. 2141. DEFINITION.

''For purposes of this subtitle, the term 'State' shall have the meaning given such term in section 2(f) and shall include Indian tribes and tribal organizations (as defined in section 4(b) and 4(c) of the Indian Self-Determination and Education Assistance Act).

"SEC. 2142. PROPOSAL FOR INTERNATIONAL FUND TO SUPPORT PANDEMIC INFLUENZA CONTROL.

''(a) IN GENERAL.—The Secretary should submit to the Director of the World Health Organization a proposal to study the feasibility of establishing a fund, (referred to in this section as the 'Pandemic Fund') to support pandemic influenza control and relief activities conducted in countries affected by pandemic influenza, including pandemic avian influenza.

''(b) CONTENT OF PROPOSAL.—The proposal submitted under subsection (a) shall describe, with respect to the Pandemic Fund—

''(1) funding sources;

''(2) administration;

''(3) application process by which a country may apply to receive assistance from such Fund;

''(4) factors used to make a determination regarding a submitted application, which may include—

''(A) the gross domestic product of the applicant country;

''(B) the burden of need, as determined by human morbidity and mortality and economic impact related to pandemic influenza and the existing capacity and resources of the applicant country to control the spread of the disease; and

''(C) the willingness of the country to cooperate with other countries with respect to preventing and controlling the spread of the pandemic influenza; and

''(5) any other information the Secretary determines necessary.

''(c) USE OF FUNDS.—Funds from any Pandemic Fund established as provided for in this section shall be used to complement and augment ongoing bilateral programs and activities from the United States and other donor nations.

"SEC. 2143. POLICY COORDINATING COMMITTEE ON PANDEMIC INFLUENZA PREPAREDNESS.

''(a) IN GENERAL.—There is established the Pandemic Influenza Preparedness Policy Coordinating Committee (referred to in this section as the 'Committee').

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Committee shall be composed of—

''(A) the Secretary;

''(B) the Secretary of Agriculture;

''(C) the Secretary of State;

''(D) the Secretary of Defense;

''(E) the Secretary of Commerce;

''(F) the Administrator of the Environmental Protection Agency;

''(G) the Secretary of Transportation;

''(H) the Secretary of Homeland Security;

''(I) the Secretary of Veterans Affairs; and

''(J) other representatives as determined appropriate by the Co-Chairs of the Committee.

''(2) CO-CHAIRS.—The Secretary and the Secretary of Agriculture shall serve as the Co-Chairs of the Committee.

''(3) TERM.—The members of the Committee shall serve for the life of the Committee.

''(c) MEETINGS.—

''(1) IN GENERAL.—The Committee shall meet not less often than 2 times per year at the call of the Co-Chairs or as determined necessary by the President.

''(2) REPRESENTATION.—A member of the Committee under subsection (b) may designate a representative to participate in Committee meetings, but such representative shall hold the position of at least an assistant secretary or equivalent position.

''(d) DUTIES OF THE COMMITTEE.—

''(1) PREPAREDNESS PLANS.—Each member of the Committee shall submit to the Committee a pandemic influenza preparedness plan for the agency involved that describes—

''(A) initiatives and proposals by such member to address pandemic influenza (including avian influenza) preparedness; and

''(B) any activities and coordination with international entities related to such initiatives and proposals.

''(2) INTERAGENCY PLAN AND RECOMMENDATIONS.—

''(A) IN GENERAL.—

''(i) PREPAREDNESS PLAN.—Based on the preparedness plans described under paragraph (1), and not later than 90 days after the date of enactment of the Pandemic Influenza Preparedness Act of 2005, the Committee shall develop an Interagency Preparedness

Plan that integrates and coordinates such preparedness plans.

''(ii) CONTENT OF PLAN.—The Interagency Preparedness Plan under clause (i) shall include a description of—

''(I) departmental or agency responsibility and accountability for each component of such plan;

''(II) funding requirements and sources;

''(III) international collaboration and coordination efforts; and

''(IV) recommendations and a timeline for implementation of such plan.

''(B) REPORT.—

''(i) IN GENERAL.—The Committee shall submit to the President and Congress, and make available to the public, a report that includes the Interagency Preparedness Plan.

''(ii) UPDATED REPORT.—The Committee shall submit to the President and Congress, and make available to the public, on a biannual basis, an update of the report that includes a description of—

''(I) progress made toward plan implementation, as described under clause (i); and

''(II) progress of the domestic preparedness programs under section 2144 and of the international assistance programs under section 2145.

''(C) CONSULTATION WITH INTERNATIONAL ENTITIES.—In developing the preparedness plans described under subparagraph (A) and the report under subparagraph (B), the Committee may consult with representatives from the World Health Organization, the World Organization for Animal Health, and other international bodies, as appropriate.

''SEC. 2144. DOMESTIC PANDEMIC INFLUENZA PREPAREDNESS ACTIVITIES.

''(a) PANDEMIC PREPAREDNESS ACTIVITIES.—The Secretary shall strengthen, expand, and coordinate domestic pandemic influenza preparedness activities.

''(b) STATE PREPAREDNESS PLAN.—

''(1) IN GENERAL.—As a condition of receiving funds from the Centers for Disease Control and Prevention or the Health Resources and Services Administration related to bioterrorism, a State shall—

''(A) designate an official or office as responsible for pandemic influenza preparedness;

''(B) submit to the Director of the Centers for Disease Control and Prevention a Pandemic Influenza Preparedness Plan described under paragraph (2); and

''(C) have such Preparedness Plan approved in accordance with this subsection.

''(2) PREPAREDNESS PLAN.—

''(A) IN GENERAL.—The Pandemic Influenza Preparedness Plan required under paragraph (1) shall address—

''(i) human and animal surveillance activities, including capacity for epidemiological analysis, isolation and subtyping of influenza viruses year-round, including for avian influenza among domestic poultry, and reporting of information across human and veterinary sectors;

''(ii) methods to ensure surge capacity in hospitals, laboratories, outpatient healthcare provider offices, medical suppliers, and communication networks;

''(iii) assisting the recruitment and coordination of national and State volunteer banks of healthcare professionals;

''(iv) distribution of vaccines, antivirals, and other treatments to priority groups, and monitor effectiveness and adverse events;

''(v) networks that provide alerts and other information for healthcare providers and organizations at the National, State, and regional level;

''(vi) communication with the public with respect to prevention and obtaining care during pandemic influenza;

''(vii) maintenance of core public functions, including public utilities, refuse disposal, mortuary services, transportation, police and firefighter services, and other critical services;

''(viii) provision of security for—

''(I) first responders and other medical personnel and volunteers;

''(II) hospitals, treatment centers, and isolation and quarantine areas;

''(III) transport and delivery of resources, including vaccines, medications and other supplies; and

''(IV) other persons or functions as determined appropriate by the Secretary;

''(ix) the acquisition of necessary legal authority for pandemic activities;

''(x) integration with existing national, State, and regional bioterrorism preparedness activities or infrastructure;

''(xi) coordination among public and private health sectors with respect to healthcare delivery, including mass vaccination and treatment systems, during pandemic influenza; and

''(xii) coordination with Federal pandemic influenza preparedness activities.

''(B) UNDERSERVED POPULATIONS.—The Pandemic Influenza Preparedness Plan required under paragraph (1) shall include a specific focus on surveillance, prevention, and medical care for traditionally underserved populations, including low-income, racial and ethnic minority, immigrant, and uninsured populations.

''(3) APPROVAL OF STATE PLAN.—

''(A) IN GENERAL.—The Director of the Centers for Disease Control and Prevention, in collaboration with the Secretary of Agriculture and the Administrator of the Health Resources and Services Administration, shall develop criteria to rate State Pandemic Influenza Preparedness Plans required under paragraph (1) and determine the minimum rating needed for approval.

''(B) TIMING OF APPROVAL.—Not later than 180 days after a State submits a State Pandemic Influenza Preparedness Plan as required under paragraph (1), the Director of the Centers for Disease Control and Prevention shall make a determination regarding approval of such Plan.

''(4) REPORTING OF STATE PLAN.—All Pandemic Influenza Preparedness Plans submitted and approved under this section shall be made available to the public.

''(5) ASSISTANCE TO STATES.—The Centers for Disease Control and Prevention and the Health Resources and Services Administration may provide assistance to States in carrying out this subsection, or implementing an approved State Pandemic Influenza Preparedness Plan, which may include the detail of an officer to approved domestic pandemic sites or the purchase of equipment and supplies.

''(6) WAIVER.—The Secretary may grant a temporary waiver of 1 or more of the requirements under this subsection.

''(c) DOMESTIC SURVEILLANCE.—

''(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Agriculture, shall establish minimum thresholds for States with respect to adequate surveillance for pandemic influenza, including possible pandemic avian influenza.

''(2) ASSISTANCE TO STATES.—

''(A) IN GENERAL.—The Secretary, in coordination with the Secretary of Agriculture, shall provide assistance to States and regions to meet the minimum thresholds established under paragraph (1).

''(B) TYPES OF ASSISTANCE.—Assistance provided to States under subparagraph (A) may include—

''(i) the establishment or expansion of State surveillance and alert systems, including the Sentinel Physician Surveillance System and 122 Cities Mortalities Report System;

''(ii) the provision of equipment and supplies;

''(iii) support for epidemiological analysis and investigation of novel strains;

''(iv) the sharing of biological specimens and epidemiological and clinical data within and across States; and

''(v) other activities determined appropriate by the Secretary.

''(3) DETAIL OF OFFICERS.—The Secretary may detail officers to States for technical assistance as needed to carry out this subsection.

''(d) PRIVATE SECTOR INVOLVEMENT.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and the Administrator of the Health Resources and Services Administration, and in coordination with private sector entities, shall integrate and coordinate public and private influenza surveillance activities, as appropriate.

''(2) GRANT PROGRAM.—

''(A) IN GENERAL.—In carrying out the activities under paragraph (1), the Secretary may establish a grant program to provide grants to eligible entities to coordinate pandemic preparedness surveillance activities between States and private health sector entities, including health plans and other health systems.

''(B) ELIGIBILITY.—To be eligible to receive a grant under subparagraph (A), an entity shall—

''(i) submit an application at such time, in such manner, and containing such information as the Secretary may require; and

''(ii) be a State with a collaborative relationship with a private health system organization or institution.

''(C) USE OF FUNDS.—Funds under a grant under subparagraph (A) may be used to—

''(i) develop and implement surveillance protocols for patients in outpatient and hospital settings;

''(ii) establish a communication alert plan for patients for reportable signs and symptoms that may suggest influenza;

''(iii) purchase necessary equipment and supplies;

''(iv) increase laboratory testing and networking capacity;

''(v) conduct epidemiological and other analyses; or

''(vi) report and disseminate data.

''(D) DETAIL OF OFFICERS.—The Secretary may detail officers to grantees under subparagraph (A) for technical assistance.

''(E) REQUIREMENT.—As a condition of receiving a grant under subparagraph (A), a State shall have a plan to meet minimum thresholds for State influenza surveillance established by the Director of the Centers for Disease Control and Prevention in coordination with the Secretary of Agriculture under subsection (b).

''(e) TEMPORARY FACILITY.—The Secretary may establish a temporary Federal facility or body to coordinate Federal support and assistance to States and localities, activities across Federal agencies or departments, or direct implementation of Federal authorities and responsibilities when appropriate under Federal law or when State and local actions to address the pandemic or threat of pandemic are deemed insufficient by the Secretary or Director of the Centers for Disease Control and Prevention.

''(f) PROCUREMENT OF ANTIVIRALS FOR THE STRATEGIC NATIONAL STOCKPILE.—The Secretary shall determine the minimum number of doses of antivirals needed to prevent infection or treat infection during pandemic influenza, including possible pandemic avian influenza, for health professionals (including doctors, nurses, mental health professionals,

pharmacists, veterinarians, laboratory personnel, epidemiologists, virologists and public health practitioners), core public utility employees, and those persons expected to be at high risk for serious morbidity and mortality from pandemic influenza, and take immediate steps to procure this minimum number of doses for the Strategic National Stockpile described under section 319F–2.

''(g) PROCUREMENT OF VACCINES FOR THE STRATEGIC NATIONAL STOCKPILE.—Subject to development and testing of potential vaccines for pandemic influenza, including possible pandemic avian influenza, the Secretary shall determine the minimum number of doses of vaccines needed to prevent infection during at least the first wave of pandemic influenza for health professionals (including doctors, nurses, mental health professionals, pharmacists, veterinarians, laboratory personnel, epidemiologists, virologists and public health practitioners), core public utility employees, and those persons expected to be at high risk for serious morbidity and mortality from pandemic influenza, and take immediate steps to procure this minimum number of doses for the Strategic National Stockpile described under section 319F–2.

''SEC. 2145. INTERNATIONAL PANDEMIC INFLUENZA ASSISTANCE.

''(a) IN GENERAL.—The Secretary shall assist other countries in preparation for, and response to, pandemic influenza, including possible pandemic avian influenza.

''(b) INTERNATIONAL SURVEILLANCE.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, and in collaboration with the Secretary of Agriculture, in consultation with the World Health Organization and the World Organization for Animal Health, shall establish minimum standards for surveillance capacity for all countries with respect to pandemic influenza, including possible pandemic avian influenza.

''(2) ASSISTANCE.—The Secretary and the Secretary of Agriculture shall assist other countries to meet the standards established in paragraph (1) through—

''(A) the detail of officers to foreign countries for the provision of technical assistance or training;

''(B) laboratory testing, including testing of specimens for viral isolation or subtype analysis;

''(C) epidemiological analysis and investigation of novel strains;

''(D) provision of equipment or supplies;

''(E) coordination of surveillance activities within and among countries;

''(F) the establishment and maintenance of an Internet database that is accessible to health officials domestically and internationally, for the purpose of reporting new cases or clusters of influenza and under information that may help avert the pandemic spread of influenza; and

''(G) other activities as determined necessary by the Secretary.

''(c) INCREASED INTERNATIONAL MEDICAL CAPACITY DURING PANDEMIC INFLUENZA.—The Secretary, in consultation with the Secretary of State, may provide vaccines, antiviral medications, and supplies to foreign countries from the Strategic National Stockpile described under section 319F–2.

''(d) ASSISTANCE TO FOREIGN COUNTRIES.—The Centers for Disease Control and Prevention and the Health Resources and Services Administration may provide assistance to foreign countries in carrying out this section, which may include the detail of an officer to approved international pandemic sites or the purchase of equipment and supplies.

''SEC. 2146. PUBLIC EDUCATION AND AWARENESS CAMPAIGN.

''(a) IN GENERAL.—The Director of the Centers for Disease Control and Prevention, in consultation with the United States Agency for International Development, the World Health Organization, the World Organization for Animal Health, and foreign countries, shall develop an outreach campaign with respect to public education and awareness of influenza and influenza preparedness.

''(b) DETAILS OF CAMPAIGN.—The campaign established under subsection (a) shall—

''(1) be culturally and linguistically appropriate for domestic populations;

''(2) be adaptable for use in foreign countries;

''(3) target high-risk populations (those most likely to contract, transmit, and die from influenza);

''(4) promote personal influenza precautionary measures and knowledge, and the need for general vaccination, as appropriate; and

''(5) describe precautions at the State and local level that could be implemented during pandemic influenza, including quarantine and other measures.

''SEC. 2147. HEALTH PROFESSIONAL TRAINING.

''The Secretary, directly or through contract, and in consultation with professional health and medical societies, shall develop and disseminate pandemic influenza training curricula—

''(1) to educate and train health professionals, including physicians, nurses, public health practitioners, virologists and epidemiologists, veterinarians, mental health providers, allied health professionals, and paramedics and other first responders;

''(2) to educate and train volunteer, nonmedical personnel whose assistance may be required during a pandemic influenza outbreak; and

''(3) that address prevention, including use of quarantine and other isolation precautions, pandemic influenza diagnosis, medical guidelines for use of antivirals and vaccines, and professional requirements and responsibilities, as appropriate.

''SEC. 2148. RESEARCH AT THE NATIONAL INSTITUTES OF HEALTH.

''The Director of the National Institutes of Health (referred to in this section as the 'Director of NIH'), in collaboration with the Director of the Centers for Disease Control and Prevention, and other relevant agencies, shall expand and intensify—

''(1) human and animal research, with respect to influenza, on—

''(A) vaccine development and manufacture, including strategies to increase immunological response;

''(B) effectiveness of inducing heterosubtypic immunity;

''(C) antivirals, including minimal dose or course of treatment and timing to achieve prophylactic or therapeutic effect;

''(D) side effects and drug safety of vaccines and antivirals in subpopulations;

''(E) alternative routes of delivery;

''(F) more efficient methods for testing and determining virus subtype;

''(G) protective measures; and

''(H) other areas determined appropriate by the Director of NIH; and

''(2) historical research on prior pandemics to better understand pandemic epidemiology, transmission, protective measures, high-risk groups, and other lessons that may be applicable to future pandemics.

''SEC. 2149. RESEARCH AT THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

''The Director of the Centers for Disease Control and Prevention, in collaboration with other relevant agencies, shall expand and intensify research, with respect to influenza, on—

''(1) communication strategies for the public during pandemic influenza, taking into consideration age, racial and ethnic background, health literacy, and risk status;

''(2) changing and influencing human behavior as it relates to vaccination; and

''(3) development and implementation of a public, non-commercial and non-competitive broadcast system and person-to-person networks.

''SEC. 2150. INSTITUTE OF MEDICINE STUDY ON THE LEGAL, ETHICAL, AND SOCIAL IMPLICATIONS OF PANDEMIC INFLUENZA.

''(a) IN GENERAL.—The Secretary shall contract with the Institute of Medicine to—

''(1) study the legal, ethical, and social implications of, with respect to pandemic influenza—

''(A) animal/human interchange;

''(B) global surveillance;

''(C) case contact investigations;

''(D) vaccination and medical treatment;

''(E) community hygiene;

''(F) travel and border controls;

''(G) decreased social mixing and increased social distance;

''(H) civil confinement; and

''(I) other topics as determined appropriate by the Secretary.

''(2) not later than 1 year after the date of enactment of the Attacking Viral Influenza Across Nations Act of 2005, submit to the Secretary a report that describes recommendations based on the study conducted under paragraph (1).

''(b) IMPLEMENTATION OF RECOMMENDATIONS.—Not later than 180 days after the submission of the report of under subsection (a)(2), the Secretary shall address the recommendations of the Institute of Medicine regarding the domestic and international allocation and distribution of pandemic influenza vaccine and antivirals.

''SEC. 2151. NATIONAL PANDEMIC INFLUENZA ECONOMICS ADVISORY COMMITTEE.

''(a) IN GENERAL.—There is established the National Pandemic Influenza Economics Advisory Committee (referred to in this section as the 'Committee').

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The members of the Committee shall be appointed by the Comptroller General of the United States and shall include domestic and international experts on pandemic influenza, public health, veterinary science, commerce, economics, finance, and international diplomacy.

''(2) CHAIR.—The Comptroller General of the United States shall select a Chair from among the members of the Committee.

''(c) DUTIES.—The Committee shall study and make recommendations to Congress and the Secretary on the financial and economic impact of pandemic influenza and possible financial structures for domestic and international pandemic response, relating to—

''(1) the development, storage and distribution of vaccines;

''(2) the storage and distribution of antiviral and other medications and supplies;

''(3) increased surveillance activities;

''(4) provision of preventive and medical care during pandemic;

''(5) reimbursement for health providers and other core public function employees;

''(6) reasonable compensation for farmers and other workers that bear direct or disproportionate loss of revenue; and

''(7) other issues determined appropriate by the Chair.

''(d) COMPENSATION.—

''(1) IN GENERAL.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged

in the performance of the duties of the Committee. All members who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

''(2) TRAVEL EXPENSES.—A member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Committee.

''(e) STAFF.—

''(1) IN GENERAL.—The Chair of the Committee shall provide the Committee with such professional and clerical staff, such information, and the services of such consultants as may be necessary to assist the Committee in carrying out the functions under this section.

''(2) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

''(A) IN GENERAL.—An employee of the Federal Government may be detailed to the Committee without reimbursement.

''(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

''(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chair of the Committee may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.''.

SEC. 4. PANDEMIC INFLUENZA AND ANIMAL HEALTH.

(a) IN GENERAL.—The Secretary of Agriculture shall expand and intensify efforts to prevent pandemic influenza, including possible pandemic avian influenza.

(b) REPORT.—Not later than 180 days after the date of enactment this Act, the Secretary of Agriculture shall submit to Congress a report that describes the anticipated impact of pandemic influenza on the United States.

(c) ASSISTANCE.—The Secretary of Agriculture, in consultation with the Secretary of Health and Human Services, the World Health Organization, and the World Organization for Animal Health, shall provide domestic and international assistance with respect to pandemic influenza preparedness to—

(1) support the eradication of infectious animal diseases and zoonosis;

(2) increase transparency in animal disease states;

(3) collect, analyze, and disseminate veterinary data;

(4) strengthen international coordination and cooperation in the control of animal diseases; and

(5) promote the safety of world trade in animals and animal products.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act (and the amendments made by this Act) for each of the fiscal years 2006 through 2010.

Mr. ROCKEFELLER. Mr. President, it is my pleasure today to join the Senator from Utah, Mr. HATCH, and several of our colleagues in sponsoring the CLEAR ACT, a package of initiatives intended simultaneously to lessen this Nation's dependence on foreign oil and to promote a cleaner environment.

Throughout my time in the Senate, and indeed going back to my time as Governor of West Virginia, I have believed that the United States needed to have a comprehensive and responsible national energy policy, and that a vital part of that policy should be promoting technologies and domestic resources to loosen the grip foreign suppliers of energy have on our economy. Alternative fuels and alternative fuel vehicles (AFVs) that use them must be part of our energy policy. As a Senator, I have been very interested in expanding the availability of alternative fuels and have worked with a number of my colleagues and experts in industry, academia, and in the environmental movement on several initiatives to accelerate their use and availability.

The current high price of gasoline drives home the point that we must diversity our fuel supply. This issue is particularly important in West Virginia. Like many rural States, West Virginia has little public transportation, and most people must drive, often considerable distances, to work, to school, and to seek medical care. With every trip to the gas station and nearly every evening news report, West Virginians are reminded that our country is in the midst of an energy crisis. According to the American Automobile Association, the average price of gasoline has risen 23 percent in the past year. These increases have a serious impact on family budgets and on the economy in general.

Today, more than 60 percent of the petroleum we consume is imported. This adds to our economic problems and raises additional concerns about national security. We must work to reduce the consumption, or at least the growth in consumption, of petroleum-based fuels in the United States. Emissions from gasoline-powered automobiles are a major source of air pollution and of carbon dioxide, which is the major contributor to global climate change. While I believe our energy policy should work in concert with a transportation policy that encourages the use of mass transit, it is unlikely in the short-term that many West Virginians, or a significant number of other Americans, will be able to greatly reduce the amount they drive. The CLEAR ACT will help our Nation lessen its dependence on foreign oil and, because the amount Americans drive is likely to increase, contribute to an overall cleaner environment by substituting cleaner-burning alternatives to gasoline and diesel.

In the development of alternative fuels and AFVs, our Nation has been caught in what I've always thought of as the classic ''chicken and egg'' problem. Both alternative fuels and AFVs must be commercially available if the potential impact is to be achieved. Without the fueling infrastructure, wide commercial appeal of non-gasoline vehicles will top out before the market has reached its potential. The popularity of gasoline-electric hybrids demonstrates the public's hunger for alternatives to the rapidly rising price of gasoline and increasingly hazardous automobile emission. Appropriate tax incentives can address the equally important challenges of vehicle availability and infrastructure deployment. If consumers routinely see alternative fuels at reasonable prices at their local service stations, while also seeing reasonably-priced vehicles at dealerships, we know they will respond.

The CLEAR ACT provides the tax incentives that we need, and which I believe must be included in the comprehensive energy policy the Senate will soon consider. In closing, let me thank my friends Senator HATCH and Senator JEFFORDS, with whom I've worked on this for many years. I am pleased as well to see that a growing number of my colleagues on both sides of the aisle are joining us in this effort to improve our Nation's energy, transportation, and environmental policy. I commend this bill to the remainder of the Senate, and look forward to its inclusion in the Energy bill we will take up later in the year.

By Mr. HATCH (for himself, Mr. ROCKEFELLER, Mr. ENSIGN, Mr. CHAFEE, Ms. COLLINS, Ms. SNOWE, Mr. JEFFORDS, Mr. LIEBERMAN, and Mr. SMITH):

S. 971. A bill to amend the Internal Revenue Code of 1986 to encourage and accelerate the nationwide production, retail sale, and consumer use of new motor vehicles that are powered by fuel cell technology, hybrid technology, battery electric technology, alternative fuels, or other advanced motor vehicle technologies, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce the CLEAR ACT, the Clean Efficient Automobiles Resulting from Advanced Car Technologies Act of 2005. This bill passed the Senate as part of the omnibus energy bill last year, but unfortunately was not enacted.

Let me begin by thanking those who are cosponsoring this bill, namely Senators ROCKEFELLER, ENSIGN, CHAFEE, COLLINS, SNOWE, JEFFORDS, LIEBERMAN AND SMITH. And I know that a number of other senators will add their names to this legislation in the near future. I appreciate their previous support and look forward to working with them to promote the CLEAR ACT in this Congress.

The CLEAR ACT addresses two issues of critical national importance: our dependence on foreign oil; and air pollution. Ultimately, two-thirds of our oil use is consumed by the transportation sector, and transportation in the United States is 97 percent dependent on oil. If we are going to address our energy crisis, we have to address our transportation fuels and vehicle use in a serious way.

I was very pleased that President Bush, yesterday, highlighted the need to direct the automotive marketplace toward the widespread use of hybrid

and alternative fuel vehicles. The CLEAR ACT provides powerful market incentives to achieve that goal. It promotes the combination of advances we must have in technology, infrastructure, and alternative fuels in order to bring fuel cell vehicles to a future mass market reality. Even if, in the end, hydrogen fuel cell vehicles prove infeasible, the battery electric and alternative fuel technologies promoted by this bill will play a major role in improving our energy security and our air quality. And we do so without any new federal mandates.

Currently, consumers face three basic obstacles to accepting the use of these alternative fueled and advanced technology vehicles. They are the cost of the alternative fuel, the lack of an adequate infrastructure of alternative fueling stations, and the incremental cost of alternative fuel vehicles. The CLEAR ACT attacks each of these obstacles head on, and it is crafted in a way to encourage the greatest social benefit possible for every tax dollar spent.

We need to find a way to lower those barriers to widespread consumer acceptance, which will in turn put the power of mass production to work to lower the incremental cost of these alternative technologies.

In short, our legislation would bring the benefits of cleaner air and energy independence to our citizens sooner.

I have heard one or two senators ask why we need incentives to purchase hybrid vehicles when people are lining up to buy them today. It is true that demand for these vehicles is high in a few areas. However, these high-demand areas tend to have local or state incentives in place for the purchase of the vehicles. Where incentives are not in place, hybrid sales are minimal. This demonstrates that incentives can indeed provide a market breakthrough to consumer acceptance of alternatives vehicles. With the CLEAR ACT we are trying to provide that breakthrough on a national scale.

In 2004, hybrid vehicles made up only 0.48 percent of light weight vehicle sales. That's far short of where we need to be as a nation to make a dent in our energy crisis, but at least it's a start.

Air pollution is an issue of critical concern in my home State of Utah. While Utah has made important strides in improving air quality, it is a fact that each year we increase the number of vehicular miles driven in our State and mobile sources are the main cause of air pollution in Utah.

It is clear that if we are to have cleaner air, we must encourage the use of alternative fuels and technologies to reduce vehicle emissions.

The CLEAR ACT will help us do just that.

I am very proud to offer this groundbreaking and bipartisan legislation.

It represents the input and hard work of a very powerful and effective coalition—the CLEAR ACT Coalition. This coalition includes the Union of Concerned Scientists, the Natural Resource Defense Council, Environmental Defense, the Alliance to save Energy, Ford Motor Company, Toyota, Honda, the Natural Gas Vehicle Coalition, the Propane Vehicle Council, the Methanol Institute, the Electric Drive Transportation Association, and others. The CLEAR ACT reflects the untiring effort and expertise of the members of this coalition, and for this we owe them our gratitude.

I urge my colleagues in the Senate to join us in this forward-looking approach to cleaner air and increased energy independence.

By Mr. BINGAMAN:

S. 972. A bill to designate the Albuquerque Indian Health Center as a critical access facility and to provide funds for that Center; to the Committee on Indian Affairs.

Mr. BINGAMAN. Mr. President. I am introducing important legislation to address a crisis in the delivery of health care at the Albuquerque Indian Health Center, or AIHC, which provides critical primary, urgent, and oral health care services to more than 30,000 urban Indians living in the Albuquerque area.

The Albuquerque Indian Health Center serves a large urban population with an inadequate funding base and provides contract health care funding for a significant portion of the urban Indian population. About 50 percent of the base appropriation to the Albuquerque Service Unit goes to Tribes who are delivering their own health care services. However, for AIHC, the demand has not decreased due to the constant underfunding of IHS, and AIHC now receives more than $5 million less than it did just a few years ago.

As a result, AIHC is running a severe deficit and the Indian Health Service, or IHS, has directed AIHC to begin the process of a reduction in force, or RIF, that will result in a significant downsizing of clinical personnel and the closure of the urgent care unit which sees an estimated 120 patients a day.

After the RIF is completed, only two physicians will remain available to provide services for more than 30,000 Native Americans who utilize AIHC as their primary care provider.

To address this problem, I am introducing legislation today that is called the ''Albuquerque Indian Health Center Act of 2005'' and would designate AIHC as a ''critical access facility'' for the region with additional funding of $8 million to address the shortfall and allow AIHC to be restored as a comprehensive ambulatory care center for urban Indians in the region.

Prior to the introduction of this legislation, I have individually and jointly with the entire New Mexico congressional delegation made appeals to the Indian Health Service and to Department of Health and Human Services Secretary Mike Leavitt to use any authority they have to transfer funding to AIHC to alleviate this critical problem. Congressman UDALL and I also sent a letter to Governor Bill Richardson on ways that we can work together with the State to improve the situation at AIHC.

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

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

U.S. SENATE,
Washington, DC, December 15, 2004.

Dr. CHARLES GRIM,
Director, Indian Health Services, U.S. Department of Health and Human Services, Rockville, MD.

DEAR DR. GRIM: I recently had the opportunity to meet with the CEO of the Albuquerque Indian clinic and other IHS staff. It was alarming to hear that the roughly 23,000–25,000 urban Native Americans that currently access their health care at the Albuquerque Indian Health Center (AIHC) are at risk of losing this access because the AIHC is experiencing significant budget shortfalls. Since 1998, the AIHC has had to significantly reduce services from a 24 hour–7 day a week operation down to Monday through Friday 8:00 am–4:30 pm. Access to services that concentrated on diabetic care, behavior health and eye care has been severely restricted.

The AIHC is projecting a $5 million deficit for fiscal year 2005. The current FY 2005 operations budget (hospital and clinic funds) is about $5.4 million, yet current FY 2005 expenses are estimated at $10 million. Moreover, approximately $4 million of the $5.4 million is still subject to tribal transfer through Public Law 93–638. Indian Self-Determination Act. In an attempt to avoid a large deficit and prepare for future transfers of funds from IHS to tribes, AIHC officials have been forced to make a decision to immediately reduce current services and downsize clinical personnel.

It is my understanding that beginning on January 1, 2005 the AIHC will be closing its urgent care services unit. It is estimated that 100–120 Native American patients are seen on a daily basis through urgent care. With nearly 70% of the 25,000 Native American users of the AIHC uninsured, IHS estimates that this closure will put 17,000 urban Native Americans at risk of losing access to healthcare services. Furthermore, I have been informed that a second phase has been proposed which will be to downsize the number of physicians, nurses, pharmacists, and other allied personnel. The annual 90,000 visits will be cut to 30,000, thus decreasing third party billing by more than two thirds. The AIHC anticipates that once the downsizing is complete, at best, there will be two physicians onsite, Monday through Friday, 8:00 am to 4:30 pm, who absolutely will not have the capacity to provide services to 25,000 urban Native Americans.

I am asking that you consider reprogramming FY 2005 funding increases in the amount of $13 million to the AIHC. $5 million will be needed to first stabilize services and the remaining $8 million will then be used to increase services. The $13 million is based on ''Level of Need Funding'' criteria established by the IHS in 2002 to address 60% of the needs of Native American population.

I appreciate your time and consideration of this matter. Should you have any questions or require further information please feel free to contact Bruce Lesley in my Washington DC office at 202–224–5527 or Danny Milo in my Albuquerque office at 505–346–

6601. I look forward to working on a positive solution to this with you.

Sincerely,

JEFF BINGAMAN,
U.S. Senator.

CONGRESS OF THE UNITED STATES,
Washington, DC, December 22, 2004.

Dr. CHARLES W. GRIM, D.D.S., M.H.S.A.,
Director, Indian Health Service, Rockville, MD.

DEAR DR. GRIM: We are writing in support of the request by the Albuquerque Service Unit to shift funding within IHS to the Albuquerque Indian Health Center (AIHC) and to seek funding from other sources within HHS.

The AIHC provides health care services to about 25,000 of the 47,000 urban Indians living in Albuquerque, including primary, urgent, and dental care. Because of a projected deficit of $5 million in Fiscal Year 2005 and substantial deficits in years thereafter, the urgent care center is set to close on February 1, 2005. Without additional funding, urban Indians in the Albuquerque metro area will lose access to the AIHC for urgent care forcing them to visit non-IHS facilities in the community or not seek urgent care when needed. It is estimated that at least 17,000 urban Indians in Albuquerque utilize urgent care services at the AIHC each year.

The current FY 2005 AIHC operations budget is about $5.4 million, yet FY 2005 expenses are estimated at $10 million with the current level of services. About $4 million of the $5.4 million budget is still subject to tribal share transfer through Public Law 93–638, the Indian Self-Determination Act. In an attempt to avoid a large deficit and to prepare for future transfers of funds from IHS to tribes, AIHC officials made the decision to close the urgent care center and downsize clinical personnel beginning February 1.

Since 1998, the AIHC has had to significantly reduce services from a 24–7 operation down to Monday through Friday 8:00 AM to 4:30 PM. Access to services that concentrated on diabetic care, behavioral health, and eye care has been severely restricted. With the recent announcement of the impending closure of the urgent care unit, walk in/same day appointments will no longer be accepted and patients will be required to have an appointment to access outpatient services. Since the positions of 40 physicians, nurses, pharmacists, and staff will be eliminated, the availability of appointments will be restricted due to the limited number of physicians remaining. This will cause delays in treatment and compromise the health of individuals. While we are asking for a short-term influx of available dollars to keep the urgent care center open, the gradual dwindling of services provided at the AIHC is a systemic problem that must be addressed.

The 2000 census showed that about 60% of all Indians live off of tribal land. Urban Indian health, however, only comprises about 1% of the IHS budget. The deficit of the AIHC is indicative of a much larger problem, a general deficiency in funding for urban Indian health. We look forward to working with you to address this larger problem. Our long-term goal is to secure a stable, reliable, and adequate funding stream to the AIHC to fully meet the health care needs of the urban Indian population in Albuquerque. Any suggestions you have to help us meet this goal would be appreciated.

The financial stability of the Albuquerque Indian Health Center and affiliated health clinics are vitally important to providing access to health care for Indians, particularly urban Indians in Albuquerque, and for the broader health care system in our community. We look forward to your response in this urgent matter.

Sincerely,

PETE V. DOMENICI,
U.S. Senator.

JEFF BINGAMAN,
U.S. Senator.

HEATHER WILSON,
Member of Congress.

TOM UDALL,
Member of Congress.

STEVEN PEARCE,
Member of Congress.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Rockville, MD, January 21, 2005.

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

DEAR SENATOR BINGAMAN: I am responding to your December 15. 2004, letter regarding the Albuquerque Indian Health Center. The Albuquerque Service Unit is in a unique situation. It serves a large urban population with a minimal funding base and provides contract health care funds for approximately 30 percent of the urban population, including eligible Navajo patients. This is compounded by the transfer of approximately 50 percent of the base appropriation to Tribes in the service unit who are administering their own health care delivery programs. To meet these fiscal constraints, the service unit and the Albuquerque Area Indian Health Service (IHS) must deliver care based on the funds available; unfortunately, this requires the downsizing of the health services program and a reduction-in-force.

Reprogramming IHS funds is not viable for two reasons. First, there arc no contingent funds available in our Agency. Second, reprogramming appropriations for Tribal health to a largely urban population requires a mechanism to transfer these funds to Title V of Public Law 94–437 for urban Indians. This would necessitate extensive Tribal consultation, which would be very time-consuming and not meet the immediate need.

I have directed the Albuquerque Area Office and Service Unit to: (1) downsize and implement the reduction-in-force; (2) maximize their efforts to increase third-party revenue at the service unit, including developing alternate billable services; (3) work with the State of New Mexico and other agencies and Tribes to develop alternatives to care for the large metropolitan population in Albuquerque; and (4) discuss fiscal support from the Navajo Area IHS. I am confident that the Area Office and the service unit will explore all opportunities to provide the highest quality health care to this population.

Thank you for your concern and your continued support of our efforts to provide quality health care to our Indian people.

Sincerely yours,

CHARLES W. GRIMM,
D.D.S.,
Assistant Surgeon General, Director.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Rockville, MD, January 21, 2005.

Hon. HEATHER WILSON,
House of Representatives,
Washington, DC.

DEAR MS. WILSON: I am responding to your December 22, 2004; letter supporting the need for funds to continue services at the Albuquerque Service Unit. I agree that short-term support is needed, but more importantly, a long-term solution to meet the health needs of a rapidly growing ''urban'' population in the Albuquerque metropolitan area is a more complex issue.

The Albuquerque Indian Hospital has undergone several changes in the scope of services. The number of inpatient beds was reduced. Inpatient services were suspended and evening and weekend clinics were eliminated. We are also planning to limit services to appointments only with a minimal number of hours for non-appointed services (''walk ins'') and to initiate a substantial reduction-in-force (RlF). These changes have been the result of the transfer of over 60 percent of the hospital's Federal funds to Tribal programs under Public Law (P.L.) 93–638 and an increase in the number of uninsured patients residing in the Albuquerque metropolitan community.

The hospital needs a minimum of $5 million to maintain services through this fiscal year. Permanently reprogramming the IHS appropriation is not a viable option because of limited funds throughout our system to deliver health care services. The transfer of funds that may be available for Tribal shares under P.L. 93–638 to support services to a largely urban population would require extensive, time-consuming Tribal consultation. The Albuquerque Area Office has presented to the members of the University of New Mexico (NM) Clinical Operations Board, the possibility of a partnership among the University of NM Health Sciences Center, the State of NM, the Tribes, and the IHS Area. This concept is currently being discussed with Tribal and State officials and leaders in the Albuquerque metropolitan Indian community.

Mr. James L. Toya, Director, Albuquerque Area IRS, will continue to explore all opportunities for resource development, plan downsizing services at the Albuquerque Hospital, and implement the RIF. In addition, local partnership agreements are currently being developed.

Thank you for your concern and continued support to our efforts to provide quality health care to our Indian people.

Sincerely yours,

CHARLES W. GRIMM,
D.D.S., Assistant Surgeon General, Director.

U.S. SENATE,
Washington, DC, February 2, 2005.

Mr. MICHAEL O. LEAVITT,
Secretary, U.S. Department of Health and Human Services, Washington, DC.

DEAR SECRETARY LEAVITT: During our recent meeting in December, I had the opportunity to talk to you about the crisis that the Albuquerque Indian Heath Center (AIHC) is currently facing. The AIHC provides healthcare services to roughly 23,000–25,000 urban Native Americans. Unfortunately, there is a projected $5 million deficit for FY05. I have recently been informed by Dr. Charles Grim that he has directed the Albuquerque Area office and service unit to downsize and implement a reduction in force. (RIF).

Since 1998, the AIHC has had to significantly reduce services from a 24 hour 7-day a week operation to Monday through Friday 8:00 am–4:30 pm. Because of the administration's under funding of IHS, once again, the AIHC is being forced to ''downsize'' its operations which will have significant effect on the urban Indian population. This downsizing will force the AIHC to close its urgent care unit, which sees an estimated 100–120 Native American patients a day. With nearly 70% of the 25,000 Native American users of the AIHC uninsured, this closure will cause 17,000 urban Indians to lose access to their healthcare services. Furthermore, last week the Indian Health Service took its first steps toward their reduction in force which will result in the elimination of 40 position at the AIHC. There are currently 140 employees at the center of whom only 14 are physicians. It is my understanding that 5 of these 14 physicians will be ''RIFed'' which will leave the AIHC with only 9 physicians (4 family practice, 2 pediatricians, and 4 specialists) to treat an estimated population of 23,000–25,000 patients.

On December 15, 2004 I sent a letter to Dr. Grim asking him to consider reprogramming

FY05 funding in the amount of $13 million. Of this $5 million would be used to stabilize services and the remaining $8 million would be used to increase services. Dr. Grim responded to my letter saying that ''reprogramming IHS funding is not viable'' due to the fact that ''there are no contingent funds available to our Agency.'' I am now requesting that you consider reprogramming Department of Health and Human Services (HHS) funds to Indian Health Service in the same amount for the specific purpose of treating the urban Indian population through the Albuquerque Indian Health Center.

It is important for Department of Health and Human Services to understand and acknowledge that urban Indians throughout the country are falling through the cracks and that urban Indian clinics are being grossly underfunded. For many years there has been a quiet migration of Indians from reservations to cities. In fact more Native Americans live in cities now, making it important that IHS programs cater to Indian Country which extends beyond borders of the reservations and into urban settings. According to a study done by the Kaiser Family Foundation ''about 46% of IHS resources are allocated to IHS facilities, 53% to tribally operated facilities, and only 1% to urban Indian programs''. These numbers clearly indicate that urban IHS facilities lack the financial resources necessary to carry out their services.

Nationwide there are an estimated 1.6 million federally-recognized Native Americans through IHS, as well as Tribal and urban Indian health programs. Of this number, the 2000 census data reveals that a little over half this population identify the themselves as living in metropolitan/urban areas, in which Albuquerque has the 7th highest urban Indian population. A recent U.S. Commission on Civil Rights (USCCR) report estimates that the Department of Health and Human Services (HHS) per capita health spending for all Americans is at $4,065, while IHS spent about $1,914 per person and average spending on Navajo patients is $1,187. The United States Government has historical and legal responsibility to provide adequate healthcare for the Native American population and ensure that access to these services are not lost; with these cuts and drastic under funding the government is shirking its responsibility.

Thank you for your prompt consideration of this matter. Should you have any questions or require further information please feel free to contact Bruce Lesley in my Washington, DC office at 202–224–5527 or Danny Milo in my Albuquerque office at 505–346–6601. I look forward to working with you on finding a solution to this matter. Best wishes.

Sincerely,

JEFF BINGAMAN,
U.S. Senator.

SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, March 24, 2005.

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

DEAR SENATOR BINGAMAN: I enjoyed our discussion a few months ago, and am pleased to respond to your letter regarding the reduction in available funding for the Albuquerque Indian Health Center (AIHC) in Albuquerque, New Mexico.

I share your concerns regarding the impact of reducing staff and services at the AIHC. The AIHC has experienced funding decreases in recent years due to Tribes exercising their rights under the Indian Self-Determination and Education Assistance Act (ISDEAA) to operate their own health programs. Under the ISDEAA, the IHS is required to transfer dollars from services it provides directly to eligible American Indians and Alaska Natives (AI/ANs) to Tribes which apply, and are approved, to compact or contract for services they provide to their members. The Department of Health and Human Services does not have authority to reprogram funds from other appropriation accounts to the Indian Health Services account where the AIHC is funded.

I assure you the IHS continues to partner with other community providers in the Albuquerque area to maximize all resource opportunities for AI/ANs who may still use the center's services. Options being explored include: continued provision of same day appointments, increased collaboration with the University of New Mexico and the Salud managed care organization to enroll more patients in the ''University of New Mexico Cares'' program, maximizing third party collections by increasing access to individuals who may be eligible for Medicaid or Medicare, and improving transportation options to other IHS funded facilities. Additional options for the Albuquerque Indian community include applying for other HHS grant programs including the Health Resources and Services Administration's (HRSA) Sec. 330 Community Health Center Program grants, and exploring the Substance Abuse and Mental Health Administration's (SAMHSA) grant opportunities. I want to assure you that HHS staff will provide technical assistance in the grant application process to potential grantees.

I am hopeful that these options will result in significant assistance to AI/ANs in the Albuquerque area. Thank you for your concern and continued support of HHS efforts to provide quality care to American Indians and Alaska Natives. Please call me if you have any further thoughts or questions.

Sincerely,

MICHAEL O. LEAVITT.

MARCH 15, 2005.

Hon. BILL RICHARDSON,
Governor of New Mexico,
State Capitol, Santa Fe, NM.

DEAR GOVERNOR RICHARDSON: As you are aware, the Albuquerque Indian Health Center (AIHC) is facing a crisis that threatens the health and well-being of 23,000 urban Indians in Bernalillo County and surrounding areas. Although there have been a number of efforts that we have supported to increase the Indian Health Service (IHS) budget, those efforts have been defeated in the Congress during the past few years. Consequently, funding for the AIHC has dropped from $13 million to just $5 million in recent years.

Although New Mexico's congressional delegation is working together to secure a solution at the federal level, we wanted to encourage you to have your Administration help AIHC in the interim to improve third-party collections.

For example, as an IHS facility, care delivered to Medicaid beneficiaries at AIHC is reimbursed with 100% federal financing. Thus, we would ask that the Human Services Department (HSD) work closely with Maria Rickert, Chief Executive Officer of AIHC, to determine if: (1) Medicaid reimbursement for services delivered by AIHC could be improved; (2) the State Medicaid program can do more with respect to providing for eligibility workers at AIHC; and, (3) there are other options to help AIHC address its funding problem and protect critical health services for the urban Indians in the Albuquerque area.

Sincerely,

JEFF BINGAMAN,
U.S. Senator

TOM UDALL,
U.S. Representative.

STATE OF NEW MEXICO,
OFFICE OF THE GOVERNOR,
April 25, 2005.

Hon. PETE V. DOMENICI,
U.S. Senator, Hart Senate Office Building, Washington, DC.

Hon. HEATHER WILSON,
Member of Congress, Cannon House Office Building, Washington, DC.

Hon. STEVE PEARCE,
Member of Congress, Longworth House Office Building, Washington, DC.

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

Hon. TOM UDALL,
Member of Congress, Longworth House Office Building, Washington, DC.

DEAR SENATORS DOMENICI AND BINGAMAN AND REPRESENTATIVES WILSON, UDALL AND PEARCE: Thank you for your recent letters expressing your concerns regarding the Albuquerque Indian Healthcare Center (AIHC). Clearly, we all share the same commitment to improve the delivery of health care services to our Native American constituencies. Therefore, I hope that you will strongly advocate for increased funding for the Indian Health Service (IHS) during the appropriations process.

Providing adequate healthcare services to our Native American citizens is a federal responsibility yet the Indian Health Service (IHS) has only received minimal increases in funding, such as a mere 2 percent increase this year. Properly funding the IHS ensures that the Native American population in New Mexico as well as across the country receives the vital healthcare services to which they are duly entitled.

On the State level, my administration has committed resources to address the healthcare needs of Native Americans. Unfortunately, the New Mexico Legislature did not pass House Bill 521 this past session, letting it sit idle after passage in its first committee. However, I signed into law nearly $2 million in funding for Native American healthcare projects in New Mexico, including the construction of healthcare facilities in Indian Country, the provision of ambulatory services in Albuquerque, and healthcare services at UNM Hospital for Native American patients.

In addition my administration has provided the following support, which includes but is not limited to:

The New Mexico Human Services Department (NMHSD) through the Medical Assistance Division is providing outreach to eligible Native American children to get them enrolled with Medicaid.

NMHSD is providing valuable technical assistance to the AIHC through training and billing resources in order to maximize Medicaid reimbursement. After working with AIHC and reviewing the Medicaid claims, it was determined that there are no outstanding claims and AIHC is receiving reimbursement at the maximum level possible as an outpatient facility.

The State Coverage Initiative has been funded in New Mexico and will be implemented effective July 1, 2006. It may be possible for AIHC to receive payments for services provided to this population.

During the State fiscal year 2004, there were 4,549 American Indian Medicaid recipients in the fee-for-service program who received outpatient services at AHIC for a total reimbursement of about $2 million dollars. Sixty-five percent of those recipients were under 21 years of age.

The Presumptive Eligibility/Medicaid On-Site Application Assistance (PE/MOSAA)

program has worked well for Indian communities. PE/MOSAA certified workers are located at IHS and tribal health care facilities, tribal schools, and other tribal health and social services departments and with NMHSD's Income Support Division offices.

As a pilot project, NMHSD recently stationed an eligibility worker at the Gallup Indian Medical Center. As a regional referral center, the Gallup Service Unit (including Tohatchi Health Center, and Ft. Wingate Health Center) provides services to about 800 patients per day.

New Mexico cannot nor should not bear sole responsibility for funding healthcare services that fall within the ambit of the federal trust relationship with Indian tribes and pueblos. To this end, I appreciate your collective efforts to garner support on the federal level to keep AIHC afloat.

I also appreciate Senator Bingaman's efforts to address these issues in his legislation that would fulfill the funding needs for AIHC as well as clarify the 100 percent match in Medicaid for urban Indians. I suggest that you direct your staff to review the Bingaman legislation and strongly consider supporting his efforts to assist the AIHC and urban Indians.

If I can assist the Congressional Delegation in its efforts to advocate for increased federal funding for IHS and specific assistance for AIHC please do not hesitate to call upon me. Again, thank you for your letters and I look forward to working with all of you to improve and expand health care services to our Native American residents in New Mexico.

Sincerely,

BILL RICHARDSON,
Governor.

Mr. BINGAMAN. Included in that is a statement by Governor Richardson expressing his strong support for the legislation I am introducing today.

Unfortunately, the options that Secretary Leavitt outlined in his response will only provide limited help in alleviating this crisis. It is for that reason that I introduce this emergency funding legislation today.

Fundamentally, while AIHC does face a unique situation because the Albuquerque metro area has experienced a significant increase in its urban Indian population from surrounding tribes and individuals from tribes across the Nation, the most significant underlying problem is that the entire Indian Health Service is horribly underfunded.

In fact, funding for Native American health care is a national travesty. Over the years, funding for IHS has not kept pace with medical inflation and population growth As a result, IHS services are seriously underfunded, and patients are routinely denied care. For many critical services, patients are subjected to a literal ''life or limb'' test; their care is denied unless their life is threatened or they risk immediate loss of a limb. Care is denied or delayed until their condition worsens and treatment is costlier or, all too often, comes too late to be effective. Federal per capita funding for Indian health is only $1,914, about half the allotment of Federal per capita funding for health care for Federal prisoners.

Former HHS Secretary Tommy Thompson traveled to the Navajo Reservation last year and saw this problem first-hand and vowed to fight for increased funding for tribal health care. Unfortunately, the administration has proposed a rather modest increase of less than 2 percent for IHS in fiscal year 2006. Yet again, IHS funding will not come close to keeping pace with medical inflation which is growing at double-digit levels in the private sector.

On a per capita basis, it is even worse because HHS's own budget documents indicate that IHS will have to serve over 29,000 new people. Furthermore, although urban Indians represent around half of all Native Americans in the country, urban Indian health programs receive less than 1 percent of all IHS funding and those funds are literally frozen at $33 million nationwide.

This is both unacceptable and unsustainable.

In addition to supporting budget and appropriations amendments time-and-time again over the years that unfortunately have failed in Senate votes, including an amendment by Senator CONRAD to the budget resolution this year, I successfully offered amendments last session of Congress to the Medicare prescription drug bill to provide Indian Health Service units to get better prices through the contract health services program and to allow IHS to bill for the full array of services in the Medicare program.

In the coming weeks, I will also be introducing two pieces of legislation to both improve health services generally for urban Indians and to also improve the delivery of health care for Native Americans in the Medicaid and State Children's Health Insurance Program, or SCHIP.

In the short-term, however, we need passage of this critical and urgent legislation to save the health services provided by the Albuquerque Indian Health Center that are being threatened. I urge its immediate passage.

I ask for unanimous consent to print a copy of the legislation in the RECORD.

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

S. 972

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 ''Albuquerque Indian Health Center Act of 2005''.

SEC. 2. CRITICAL ACCESS FACILITY FUNDING.

(a) DEFINITION OF CRITICAL ACCESS FACILITY.—In this section, the term ''critical access facility'' means a comprehensive ambulatory care center that provides services on a regional basis to Native Americans in Albuquerque, New Mexico, and surrounding areas.

(b) DESIGNATION.—The Albuquerque Indian Health Center (also known as the ''Albuquerque Indian Hospital'') is designated as a critical access facility.

(c) OPERATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Indian Health Service, shall provide funds made available under subsection (d) to the Albuquerque Indian Health Center to carry out the operations of that Health Center.

(2) SELF-DETERMINATION CONTRACTS.—The funds transferred under paragraph (1) shall not be distributed to any Indian tribe under section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f).

(d) FUNDING.—

(1) IN GENERAL.—On October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Health and Human Services to carry out this section $8,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 973. A bill to establish the Abraham Lincoln National Heritage Area, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DURBIN. Mr. President, I rise today to submit legislation along with my colleague, Senator BARACK OBAMA, to establish the Abraham Lincoln National Heritage Area in Illinois.

Illinois has long been known as the ''Land of Lincoln.'' Reminders of the 16th President's legacy can be found throughout the State.

Last week, Senator OBAMA and I attended the dedication of the Abraham Lincoln Presidential Library and Museum in Springfield, IL. This wonderful new facility brings together the entire story of President Lincoln's life in a rich, unified experience.

In the same spirit, our legislation would establish an Abraham Lincoln National Heritage Area, formally tying together the many Illinois natural, historic, cultural and recreational resources that have been touched by the life and influence of the Nation's greatest President. Establishing a Lincoln National Heritage Area will connect these scattered elements to provide a more cohesive experience of Lincoln's legacy for Illinoisans and visitors alike.

The impact of the life and works of Illinois's favorite son extends far beyond the prairies of the Midwest.

Not long ago, I sat in the United States House of Representatives and listened as the new president of Ukraine, the leader of his nation's peaceful Orange Revolution, spoke of his countrymen and women's dreams to live under a ''government of the people, for the people.''

Just weeks before that, I was in the Green Zone in Baghdad and heard an official of the new Iraqi Government quote President Lincoln on the need for national unity.

In a sense, the Land of Lincoln is anywhere that people dream of freedom and equality and opportunity for all.

So the whole world would benefit, as the people of Illinois work to preserve Lincoln's history. And we invite the world to come to Illinois and learn not just about the history of this great

man, but also about what he can teach us today.

The Abraham Lincoln National Heritage Area will help spread that message for generations to come, to Americans, and to students of Abraham Lincoln everywhere on Earth.

This bill is the Senate companion to legislation introduced by Representative RAY LAHOOD and endorsed by every member of the Illinois congressional delegation in the House of Representatives, as well as representatives from every part of the country.

Senator OBAMA and I ask our colleagues to join with us in recognizing the richness of the Lincoln legacy by supporting the passage of this legislation.

By Mr. LIEBERMAN (for himself, Mr. HATCH, and Mr. BROWNBACK):

S. 975. A bill to provide incentives to increase research by private sector entities to develop medical countermeasures to prevent, detect, identify, contain, and treat illnesses, including those associated with biological, chemical, nuclear, or radiological weapons attack or an infectious disease outbreak, and for other purposes; read the first time.

Mr. LIEBERMAN. Mr. President, Senator HATCH, Senator BROWNBACK and I are pleased to introduce today the Project BioShield II Act of 2005.

This is the fourth bill I have introduced on this subject, and the third with Senator HATCH as my lead cosponsor. We are delighted today to be joined by Senator BROWNBACK, a leading advocate for research to cure deadly tropical diseases.

None of us on the Hill—especially those of us with offices in the Hart Building—will forget October 15, the date of the anthrax attack on Senator Daschle's office. This date is the bioterrorism equivalent of September 11. We also need to remember October 5, the third anniversary of the 2001 anthrax death of Bob Stevens, a photo editor at American Media in Boca Raton, Florida, and November 17, the third anniversary of the discovery of a similar anthrax laced letter mailed to Senator LEAHY. Similar anthrax attacks during these weeks were directed at NBC, ABC, CBS and other news organizations. All told five people died and thousands who might have been exposed were put on Cipro, including many of us and many of our staff.

This attack on civilians with weapons grade anthrax was unprovoked. And unlike the case with the 9/11 attacks, we still don't know who mailed the anthrax letters. As with the 9/11 attacks, we were totally unprepared for the anthrax-laced letters. We are responding forcefully to the 9/11 attacks—the commission that Senator MCCAIN and I proposed has issued a superb report and the Government Affairs Committee, where I serve as the Ranking Democrat, is hard at work translating its recommendations into legislation. Unfortunately our response to the 10/15 anthrax attack has not been as forceful.

Unlike our response to 9/11, we have not seemed to consider the 10/15 attack to be the equivalent of a declaration of war. While we have taken a few constructive steps to strengthen our Bioterror defenses, we remain painfully vulnerable to another Bioterror attack, or a chemical or radiological attack.

Many of us believe that enactment of BioShield I, last July, is a step in the right direction, but we don't believe that BioShield is sufficient. If we listen carefully, we will hear that the biopharma industry—which is hiding on this issue—is saying that BioShield is not enough. So we already have strong warning signs that more needs to be done.

There is no terror threat greater than that of Bioterror. With an attack with a plane, a chemical attack or a radiological dispersion device, dirty bomb, the loss of life can be catastrophic, but the perimeter of the attack is fixed. With an infectious disease, the perimeter of an attack might grow exponentially as the infection spreads. It is possible to kill thousands with a bomb, chemical or radiation, but it is possible to kill millions with a bioterror pathogen.

In the 2001 anthrax attack, the terrorist wrote a note in the letter to Senator Daschle that said, ''09–11–01. You can not stop us. We have this anthrax. You die now. Are you afraid? Death to America. Death to Israel. Allah is great.'' If this note had not been included in the letter, and if the intern who opened the letter hadn't been suspicious, it is possible that some Senators and many Capitol Hill staff from our offices—perhaps hundreds—might have died. We would only have discovered the attack in hospital emergency rooms, where Cipro might have proven to be ineffective. Cipro works as a prophylaxis only when it catches anthrax early, before the toxins are released into the bloodstream, which can happen within 24 hours of an infection. Our current anthrax vaccine is administered in six shots over 18 montns.

The 9/11 Commission report states that al-Qaida ''was making advances in its ability to produce anthrax prior to Sept. 11'' and cited former CIA Director George Tenet as warning that an anthrax attack is ''one of the most immediate threats the U.S. is likely to face.'' Russia developed dozens of strains of anthrax and the security at these former bioweapons laboratories is suspect. It is estimated that a mason jar of anthrax spores sprayed over an urban area could infect 400,000 residents, and if undetected until they started showing up in emergency rooms, kill half of them. It is also estimated that one hundred anthrax laced letters could cross contaminate thirty million letters and infect 10,000 people with anthrax. Imagine what would happen if our mail system—which processed over 200 billion pieces of mail last year—were closed for a few months. What we need, and don't yet have, is a therapeutic that disarms the anthrax toxins at a late stage of the disease—which is the aim of a pending RFP at the Department of Health and Human Services.

We saw the potential for morbidity and mortality, and massive economic disruption, with SARS. When SARS was rampant, Beijing, Hong Kong and Shanghai closed down. Quarantines were imposed and China authorized the death penalty on anyone who willfully spread the disease. During the epidemic, there were reports that the SARS virus was mutating to become more virulent. In China's countryside, fear of SARS has led to some villages setting up roadblocks to keep away people from Beijing and at least four riots against quarantine centers have been reported in recent days. Thousands were quarantined in China. In the end SARS spread to thirty countries on five continents, sickening nearly 9,000 and killing 850. SARS is a zoonotic disease that apparently can jump back and forth between animals and man, which makes it much more difficult to eradicate it. We may not have seen the last of it.

We can also remember the devastating impact of the 1918 Spanish flu pandemic that killed more than died in the first World War, about 30–40 million people equivalent to 100 million today. In the month of October, 1918, 200,000 Americans died of the disease, 43,000 soldiers died, and 28 percent of our population was infected. The flu's lethality rate was only 2.5 percent the lethality rate of the most common form of smallpox, variola major, is 30 percent and for hemorrhagic smallpox it approaches 100 percent. The lethality rate for SARS was about 15 percent. If the 1918 flu pandemic killed the equivalent of 100 million people, think of how many smallpox or SARS—both of which could be weaponized by terrorists—could kill.

Public health authorities are concerned about the incidence of avian influenza in humans. There is now concrete evidence that this virus can be transmitted human-to-human. When humans contract the pathogen from birds, the death rates are very high; a majority die. Since January 2004, a total of 23 confirmed human cases of avian influenza virus infections have been reported in Vietnam with 19 deaths and 12 cases in Thailand with 9 deaths. These cases were associated with widespread H5Nl poultry outbreaks that occurred at commercial and small backyard poultry farms. Since December 2003, nine countries have reported H5Nl outbreaks among poultry. More than 100 million chickens have been culled in an effort to stop the outbreak. The virus now appears to be able to infect mammalian hosts, including pigs and cats, an unusual prowess for an avian virus. This raises concern as pigs are also hosts of human flu viruses and this could yield

a hybrid avian flu strain that can be passed human-to-human. The avian flu virus apparently is now carried by migratory birds so it may be very difficult to eradicate the virus. We have no vaccine for the disease and the one therapeutic Tamiflu—is only effective if given very early after the onset of symptoms. It is feared that the virus might evolve resistance to Tamiflu. Public health officials believe that in theory the avian flu could cause a ''pandemic killing millions of people worldwide, and possibly hundreds of millions.'' Whether H5N1 could be used as a Bioterror weapon against agriculture or humans is not known.

In 1947 there was an outbreak of smallpox in New York City. Eventually two of the twelve who were infected died. But the smallpox vaccination campaign was massive 500,000 New Yorkers received smallpox vaccinations the first day and eventually 6.35 million were vaccinated in less than a month, 85 percent of the city's population. President Truman was vaccinated prior to a trip to New York City.

If we suffered another smallpox outbreak, it is not likely that a vaccination campaign would go so smoothly. It is now estimated that if the current smallpox vaccine were deployed in the United States 350 to 500 individuals might die from complications. The current vaccine is not recommended for patients who have eczema or are immunosuppressed, HIV-positive or are pregnant. Even worse, based on a 1971 accidental release of smallpox from a Soviet bioweapons laboratory, some speculate that the Soviets successfully weaponized a rare and especially lethal form of smallpox, hemorrhagic smallpox, with near 100 percent lethality.

Mother Nature's pathogens are dangerous—smallpox, anthrax, plague, tularemia, glanders, typhus, Q fever, Venezuelan equine encephalitis, brucellosis, botulinum toxin, dengue fever, Lassa fever, Russian spring-summer encephalitis, Marburg, Ebola, Bolivian hemorrhagic fever, Argentinean hemorrhagic fever and fifty other pathogens could kill thousands or even millions. But on the horizon are more exotic and deadly pathogens.

We have reports that the Soviet Union developed genetically modified pathogens such as a hybrid plague producing diphtheria toxin. This manipulation increased virulence and made the plague microbe more resistant to vaccine. Other possibilities include a Venezuelan equine encephalomyelitis-plague hybrid is a combination of the virus and bacteria; we have no idea what symptoms such a pathogen would manifest or how we might diagnose or treat it. Other hybrid pathogens might be developed, including a Venezuelan equine encephalomyelitis-Ebola hybrid.

We have reports that the Soviet Union developed a powdered Marburg, a hemorrhagic fever where every cell and organ of the victim bleeds. Symptom of Marburg include kidney failure, recurrent hepatitis, inflammation of the spinal cord, bone marrow, eyes, testes, and parotid gland, hemorrhaging into the skin, mucous membranes, internal organs, stomach, and intestines, swelling of the spleen, lymph nodes, kidneys, pancreas, and brain, convulsions, coma and amnesia.

Genetically modified pathogens are another possibility. In 2001 the Journal of Virology reported that Australian scientists seeking to create a contraceptive for mice used recombinant DNA technology to introduce Interleukin 4 into mousepox and found that it created an especially virulent virus. In the words of the scientists, ''These data therefore suggest that virus-encoded IL–4 not only suppresses primary antiviral cell-mediated immune responses but also can inhibit the expression of immune memory responses.'' This public research suggests that introducing IL–4 can create an Andromeda stain of a virus, information of potential use to terrorist sociopaths. In addition, published studies describe how to create a recombinant vaccina virus to induce allergic encephalomyelitis in rabbits, and potentially—highly lethal smallpox virus capable of causing paralyses in humans and how to synthesize the polio virus in a biochemical laboratory .

Other possible pathogens—some of which the Soviet worked on—include antibiotic resistant pathogens. The Soviets apparently developed a strain of plague resistant to ten different antibiotics, and a strain of anthrax resistant to seven different antibiotics. Some claim the Soviets developed a strain of anthrax resistant to the current U.S. anthrax vaccine. A part of this research in a hamster model was published in ''Vaccine'' so this information is available to terrorists.

Other exotic pathogens might include autoimmune peptides, antibiotic induced toxins, and bioregulators and biomodulators. An autoimmune peptide might stimulate an autoimmune attack against the myelin that sheaths the target's nerve cells. Antibiotic induced toxins are hybrid bacteria-viruses where antibiotics administered to treat the bacterial infection stimulate the virus to release a deadly toxin; the greater the doses of antibiotics, the more toxins are released. Bioregulators and biomodulators are synthetic chemical that bond to and disrupt receptors that govern critical functions of the target, including nerve, retinal, liver, kidney, heart, or muscle cells to cause paralysis, blindness, schizophrenia, coma, or memory loss.

Some of these might be available now from the 60 bioterror research laboratories maintained by the Soviet Union. Eventually, terrorists might be able to set up full-blown biotechnology laboratories. Rogue states could do so and they might then transfer bioweapons to terrorists or lose control of them. Over the long term, as the power of modern biotechnology grows, the bioterror threat will grow and increasingly virulent and exotic weapons might become threats.

In November 2003 the CIA's Office of Transnational Issues published ''Our Darker Bioweapons Future,'' which stated that the effect of bioengineered weapons ''could be worse than any disease known to man.'' The rapid evolution of biotechnology makes monitoring development ofbioweapons extremely difficult. Some ofthese weapons might enable the development of ''a class of new, more virulent biological agents engineered to attack distinct biochemical pathways and elicit specific effects, claimed panel members. The same science that may cure some of our worst diseases could be used to create the world's most frightening weapons.'' It specifically mentioned the possibility of ''binary BW agents that only become effective when two components are combined (a particularly insidious example would be a mild pathogen that when combined with its antidote becomes virulent)''; ''designer'' BW agents created to be antibiotic resistant or to evade an immune response; weaponized gene therapy vectors that effect permanent change in the victim's genetic makeup; or a ''stealth'' virus, which could lie dormant inside the victim for an extended period before being triggered.

Illustrating the speed with which biotechnology is advancing to create new bioterrorism threats is a recent announcement by Craig Venter and his Institute for Biological Energy Alternatives that in fourteen days they had synthetically created working copies of the known existing bacteriophage virus Phi X174. Other researchers had previously synthesised the poliovirus, which is slightly bigger, employing enzymes usually found in cells. But this effort took years to achieve and produced viruses with defects in their code. So the timescale has shifted from years to weeks to make a virus. There are other bigger viruses that would require more time to assemble. Venter asserts that his team could make a bacteria with about 60 times larger genome from scratch within about a year of starting. Does this mean that the debate about whether to destroy smallpox virus stocks is pointless because any virus or bacteria whose DNA sequence is published is eventually going to be easily creatable by labs all around the world?

These pathogens might be deployed by terrorists, sociopaths or rogue states that have no compunctions about killing massive numbers of ''infidels'' or enemies in the west. They would experience great joy in sowing widespread panic, injury and death in America. Osama Bin Laden's spokesman, Sulaiman Abu Ghaith, bragged that al Qaeda has ''the right to kill 4 million Americans'' in response to deaths he claims the west has inflicted on Muslims. We are facing sociopaths with no compunction about using

whatever weapons of mass destruction they can develop or secure. They would see the potential to unleash a weapon in North America and trust that our borders would be closed so that it would only rage here and not spread to the Muslim world.

The Brookings Institution estimated that a bioterror attack would cause one million casualties and inflict $750 billion in economic damage. An earlier Office of Technology Assessment found that there might be three million casualties. If there are this many casualties, what can we expect in the way of public panic and flight? A 2004 poll finds that ''most Americans would not cooperate as officials would expect them to during a terrorism incident.'' Only 2/5 said that they'd ''follow instructions to go to a public vaccination site in a smallpox outbreak'' and only 3/5 would ''stay in a building other than their own home . . .'' A vivid vision of what an attack might look like is found in Albert Camus' The Plague, with its incinerators and quarantine camps. We can review the history of the Black Death, which killed up to one half of Europe's population between 1348 and 1349.

Imagine what would happen if the attack involves a pathogen for which we have no diagnostic, vaccine or therapeutic. If we resorted to quarantines, what would the rules of engagement be for the police and military forces we deploy to enforce it? Would it be possible to establish an effective quarantine if there is mass panic and flight? Would our hospitals be overwhelmed by the ''worried well''? Would public health workers continue to serve or also flee? If our hospitals are contaminated, where would Americans receive medical care for non-terror related emergencies?

What would happen if a bioterror, chemical or radiological attack closed Atlanta's Hartsfield International Airport—which handled nearly eighty million passengers last year? Or what would happen if we put a hold on the one hundred and twenty million international airline arrivals and departures we see each year? What would happen if we were forced to close our borders with Mexico and Canada—with 500 million crossings last year? What would happen if we restrained the 2.79 trillion automobile passenger miles driven in the U.S., one billion of which exceeded 100 miles?

What would happen if a terror attack rendered certain types of business activity uninsurable? What will happen if large swaths of residential real estate—none of which is currently insured for acts of terror—were contaminated and rendered worthless with anthrax spores?

We are vulnerable to a bioterror attack in many ways, but one of the most troubling is that we have essentially none of the diagnostics, therapeutics and vaccines we need to treat those who might be exposed or infected. If we don't have these medicines, we are likely to see quarantines and panic, which will amplify the damage and disruption. My office is on the 7th floor of the Hart Building, immediately above Senator Daschle's office. We were told if we immediately started a course of treatment with Cipro we would not die, so there was no panic. Think what would have happened if the government had said, ''We don't know what this is, it's deadly, we have no way to tell who has been exposed, and we have no medicines to give you.''

In the summer of 2000 the Defense Science Board found that we had only one of the fifty-seven diagnostics, drugs and vaccines we most need to respond to a bioterror attack, we had a therapeutic for chlamydia psittaci, a bacteria. It projected that we'd have twenty of the fifty-seven within 5 years and thirty-four within 20 years. But today we have only two of the fifty-seven countermeasures, we now have a diagnostic for anthrax.

At this rate of developing these medical countermeasures, we won't have twenty of them available until 2076 and we won't have thirty-four until 2132. This list does not include antibiotic resistant pathogens, hybrid pathogens, genetically modified pathogens, and a host of other exotic bioterror pathogens.

The Congress administration have not responded to the anthrax attack with an appropriate sense of urgency, especially with regard to the development of medicines. We have not responded with a crash industrial development program as we did when we developed radar during the Second World War or as we are now undoubtedly undertaking to detect roadside bombs. Reluctantly, I would characterize our national response as lackadaisical.

December 4 is the third anniversary of my introduction of legislation to provide incentives for the development of medical countermeasures—including diagnostics, therapeutics and vaccines—for bioterror pathogens, S. 1764. Chairman HATCH, October 17 is the second anniversary of our introducing our first bill together on this subject, S. 314, and we introduced our current bill on March 19 of last year (S. 666). Twenty months ago President Bush proposed Project BioShield, a bill based on one of the twelve titles in our bills, and it was finally enacted into law on July 21. If we enact one of the titles of our bill every two years, it'll take 22 more years to complete our legislative work.

The critical issue for this hearing is whether Project BioShield, Public Law 108–276, is sufficient or whether we need to supplement it with BioShield II, a bill that you and I intend to introduce this Fall. BioShield is only one title of our proposal—the title that provides that the government will define the size and terms of the market for a Bioterror countermeasure in advance before a biopharma company puts its own capital at risk. This is a necessary first step; companies won't risk their capital to develop a product unless they can assess the possible rate of return, product sale on their investment.

Enacting BioShield is a step in the right direction. If we were to enact only one idea first, this is the right first step. We will now see how the Department of Health and Human Services implements this law. We will see what R&D priorities it sets, whether it projects a market for these products sufficiently large to engage the better biopharma companies in this research, and whether it sets contract terms that company Chief Financial Officers find acceptable.

Unfortunately, we all heard a deafening silence from biopharma industry—the target of this legislation—as BioShield was being considered. The industry did essentially nothing to fix the Administration's draft—which the industry privately stated was laced with dysfunctional provisions. The industry did essentially nothing to pass BioShield. And the industry has said essentially nothing since BioShield was enacted.

It is clear to me that BioShield is not sufficient to secure development of the medical countermeasures we need, indeed, I believe it is woefully insufficient.

The industry is skeptical that the government will be a reliable partner during the development bioterror countermeasures. The basis of its skepticism runs deep.

The industry points to the Cipro procurement as a case in point. In 1999, before the anthrax attack, Bayer, the developer of Cipro, was asked by FDA and CDC to secure a label indication for Cipro for anthrax. The government wanted to have one antibiotic available that was explicitly labeled for anthrax—it understands that patients might be reluctant to take a medicine for anthrax where it is not labeled for this indication. Bayer incurred the expenses to do this with no expectation of ever utilizing the product in this manner, and when the attack occurred, Cipro was the only therapeutic with a label indication for anthrax. Bayer handled this emergency with honor. It immediately donated huge stocks of Cipro, 2 million tablets to the Postal Service and 2 million tablets to the Federal government to be used to protect those who might have been exposed or infected. The government then sought to procure additional stocks of Cipro and demanded that Bayer sell it as one-fourth the market price. Threats were made by Members of Congress that if Bayer would not agree to this price the government might step in to challenge the patent for Cipro. Bayer readily agreed to the deep discount. We can assume that every other purchaser of Cipro then demanded this same price and that this cut Bayer's market return for Cipro. To add insult to injury, Bayer has had to defend itself from lawsuits by those who took Cipro in response to the attack even though it did what was asked, provided more than enough free product to treat

all patients and greatly reduced it's stockpile pricing. Bayer also was deeply concerned with employee and plant security risks when it was publicly identified as the sole source of this counter-bioterrorism agent.

The industry view this incident as proving that with regard to bioterrorism research, no good deed will go unpunished. If a large pharmaceutical company can be manhandled this way, what would happen to a small biotechnology company? The industry expects that if there is an attack, and the company has the indispensable medicine we need to respond to it, the government is likely to steal the product. The industry is deeply skeptical of the government already. It has very complex and often contentious relationships with other HHS agencies, including the Center for Medicare Services, the Food and Drug Administration, and the National Institute of Health. It has constant battles with state Medicaid agencies. This is not an industry that trusts government.

Some in Congress have proposed legislation that feed industry fears. In 1994 and 1995 legislation was introduced in the House, H.R. 4370, introduced on May 10, 1994, and H.R. 761, introduced on January 31, 1995, that provided the government with eminent domain power with regard to AIDS to confiscate ''all potential curatives and all data . . . regarding their development,'' including the patents for such compounds. Similarly, in 1999 and 2001 legislation was introduced in the House, H.R. 2927, introduced on September 23, 1999, and H.R. 1708, introduced on May 3, 2001, that provided for the compulsory licensing of ''any subject invention related to health'' where the government finds it ''necessary to alleviate health or safety needs'' or the patented material is ''priced higher than may be reasonably expected based on criteria developed by the Secretary of Commerce.'' Legislation has been introduced that would deny the benefits of the R&D tax credit for research by pharmaceutical companies where the products that arise from that research are sold at higher prices abroad than in the United States. See H.R. 3665 introduced on February 15, 2000.

The industry response to these threats to its patents must be seen in light of the events of March 14, 2000. On that day a White House spokesman apparently indicated that the government might move to challenge some biopharma industry patents for genes. The industry lost $40 billion in market capitalization in the panic that ensued on Wall Street. That was not only the beginning of a deep drought in biotech company financing, it was the beginning of the collapse of the entire NASDAQ market. A similar collapse and drought had occurred in 1993–1994 the Clinton Administration proposed that the prices of ''breakthrough drugs would be reviewed by a special government panel.''

The issue of price controls and patents was recently considered and rejected by NIH in response to a petition for the government to march-in on the patent of Abbott Laboratories for ritonavir, sold under the name of Norvir, an AIDS therapeutic. The petitioner, Essential Inventions, asked that the government cancel the license of this patent to Abbott, which it alleged was charging too much for Norvir. The petitioner had also been involved in the 1994–1995 NIH proceeding, where NIH reviewed the impact of its 1989 protocol to review whether ''reasonable'' prices were being charged by companies that had licenses with NIH. NIH found that this price review process was destroying the NIH technology transfer program—companies simply would not enter into agreements with NIH. As a result, NIH repealed the price review process. The new march-in petition raised essentially the same issues and if the petition had been granted, we could have expected that the NIH tech transfer process will be crippled—again, as it was from 1989–1995. In rejecting the petition, NIH did not state, however, that is has no right to march-in based on the price of a product, implying that it could or might assert such power in the future. This can only have a chilling impact on companies considering entering into biodefense procurement and research agreements.

Aside from fears about government actions, we could not have picked a worse time to ask the industry to undertake a whole new portfolio of research. The biotech NASDAQ index stood at 1380 and it now stands at about 725. The Amex biotech index peaked at 801 and it now stands at about 525. The Dow Jones pharmaceutical index peaked at 420 and it now stands at about 275. The biotech industry raised $32 billion in capital in 2000 and only $16 billion last year. In June of this year, 36 percent of the public biotech companies had stock trading at less than $5 per share. There were 67 biotech IPOs in 2000 and only 7 last year. The industry losses each year continue run to $4 billion. The National Venture Capital Association reports that only 2 percent venture money went into biodefense following the October anthrax attack.

Of the 506 drugs publicly disclosed to be under development by the 22 largest pharmaceutical companies, only 32 are for infectious disease and half of these are aimed at HIV/AIDS. In 1967 we had 67 vaccine companies and in 2002 we had 12. World wide sales vaccines is about $6 billion, but the world wide sales of Lipitor are $10 billion.

In addition, it is not clear whether the government is able or willing to provide the industry with the operating margins—profits—it sees for its other products. The operating margin for successful biopharma companies is 2.76 to 3.74 times as great as the operating margins for major defense contractors. This means that the defense contractor model will not work to engage biopharma companies in developing medical countermeasures for bioterror agents. Whether the successful bipharma companies are ''too profitable'' is a separate issue. The issue addressed here is the operating margin that successful biopharma companies seek and expect as they assess lines of research to undertake. If the operating margin for biodefense research is less, or substantially less than the operating margin for non-biodefense research, it is not likely that these companies will choose to undertake biodefense research. This research is a voluntary undertaking putting their capital at risk; there is no requirement that they do this when the prospects for profits are not competitive with that from other lines of research.

Mostly we are seeing the industry hiding, not commenting on the pending legislation, not participating in the legislative process, and making every effort not to seem to be unpatriotic or greedy. Companies do not say in public that they are disinterested. They will not say what package of incentives would be sufficient to persuade them to take up biodefense work. They fear a debate on patents. They feel besieged by the current drug import debate, pressure from CMS over drug prices, and the debate over generic biologics. While I understand these fears, we simply have to know what it would take in the way of incentives to establish a biodefense industry. If the incentives in BioShield or BioShield II are not sufficient, we need to know what incentives are sufficient. We need to know what reassurances would persuade the industry that what happened to Bayer will never happen again. And only the industry can give us a clear answer to these questions. We cannot have a dialogue on these urgent national questions without the government listening and the industry speaking.

The goal of BioShield II is to shift the risk of countermeasure research and development to the industry. Given the skepticism of the industry about the reliability of the government as a partner, shifting the risk to the industry—with it risking its own capital to fund the R&D—will be difficult. But engaging the industry as entrepreneurs, rather than as defense contractors, is likely to be less expensive for the government and it's much more likely to secure the development of the medicines that we need.

If the Government funds the research, the industry can expect to receive the operating margins that are typically paid to defense contractors—8.5–9 percent. If the industry risks its own capital and funds the failures and cost overruns, the industry believes it would be justified demanding the operating margins that are typically paid in the commercial sector—28–32 percent.

If the Government funds the research, the industry expects that the government will control or own the patents associated with the medicines. If the industry funds the research, it

believes it has claims on all the patents.

The only companies that are likely to accept a defense contractor model are companies with no approved products, no revenue from product sales, and no other source of capital to keep the lights on. For them Government funding is ''non-dilution'' capital, meaning it's a form of capital that does not dilute the ownership shares of its current shareholders. Many biotech companies have stock trading in the low single digits, so they cannot issue another round of stock that would enrage the current shareholders. For them this Government funding might validate the scientific platform of the company, generate some revenue, and hype the stock.

Biotech industry executives state in private that if their capital markets strengthen they will be even less likely to consider bioterror countermeasure research. One CEO whose company has received an NIH grant for bioterror countermeasure research stated in private that his company would never have considered this entanglement with the Government if it had any other options to fund its research.

Our goal with BioShield IT should be to engage the successful biopharma companies in this research—companies that have brought products to the market—and persuade them that the Government will be a reliable partner. Then the risk of failure and cost overruns is shifted to the industry and we've engaged the companies with a track record of bringing products to the market. The Government will need to provide substantial rewards if—and only if—the companies do succeed in developing the medicines we need, but then the Government is only paying for results. When the Government funds the research, it funds a process with no guarantees of any success. Providing the industry with substantial rewards for success is a model that engages the industry as entrepreneurs, drawing on the greatest strength our Nation has in the war on terror.

Our bill addresses a critical question: who is in charge for Government if there's a mass casualty event and how do they lead the multifaceted response. The legislation sets up an interagency board to map out and develop the response to such an event and places a new Assistant Secretary Chief Medical Officer at the Department of Homeland Security as its chair. In addition, the new Assistant Secretary would lead the DHS assets and resources as part of this effort. While this proposal is the result of discussions with some of the experts in this area, we recognize there may be different points of view about the optimal structure for the medical response capabilities within DHS and the proposed structure in this bill is open to further discussion. I look forward to working with the chairman of the Senate Homeland Security and Government Affairs Committee, Senator COLLINS, and others in exploring these complex issues. On these issues, this bill is a discussion draft.

We should not need a 9/11 Commission report to galvanize the administration and the Congress to respond to the unprovoked and deadly bioterror attacks of 3 years ago. The threat could not be more obvious and what we need to do is also obvious. If we don't develop the diagnostics, therapeutics, and vaccines to protect those who might be exposed or infected, we risk public panic and quarantines. We have the world's preeminent biopharma industry and we need to put it to work in the national defense.

BioShield I is a step in the right direction, but it is a small step that does not take us where we need to go. We need to follow the implementation of BioShield very carefully and set clear metrics for determining its effectiveness. We should not wait to begin to review the policy options available to supplement BioShield. Senator HATCH and I will be proposing BioShield II and we will press for its consideration. We should press the biopharma industry to present its views on what it will take to engage it in this research and what it will take to establish a biodefense, research tool, and an infectious disease industry.

The American philosopher, George Santana said, ''Those who cannot remember the past are condemned to repeat it.'' It's only been 3 years since the anthrax attack but I fear our memory of it already has faded. Let this hearing stand as a clear statement that some of us in the Congress remember what happened and are determined not to permit it to happen again. War has been declared on us and we need to act as if we noticed.

Mr. HATCH. Mr. President, more than 3 years ago, our country suffered the most deadly attack ever on our soil. We woke up on the morning of September 11, 2001 to a new reality.

A month later, we again realized the magnitude of the ever-changing threat we were facing when the Senate Hart Office Building was contaminated with anthrax and was closed for three months.

Most Americans were shaken out of their sense of complacency in 2001.

As many will recall, after 9/11, Congress took action to secure our borders, our ports, and our airlines and bolster our public health infrastructure.

Yet, it is important to note that the key steps necessary to protect our country against the continuing threat of bioterrorism are still being carefully reviewed and revised.

And while these steps are being evaluated, time is running out. Even yesterday, we heard news reports that al-Qaida is planning attacks on our country through chemical plants within the next five years.

While Congress took an important step when the Project BioShield Act of 2004 was signed into law last July, I believe that much more still needs to be done.

That is why I am once again joining my good friend and colleague, Senator JOE LIEBERMAN, in introducing this bipartisan bill. I am proud to have been Senator LIEBERMAN's primary partner on this legislation over the past several years.

Indeed, we are pleased that some key concepts contained in our earlier bills, such as the guaranteed market, have been adopted by the administration and our colleagues in Congress.

In the last congress, the Senate Judiciary Committee held a joint hearing with the Senate Health, Education, Labor and Pension Committee to determine what priorities should be included in the follow-on legislation, the Bioshield II bill, and to raise awareness on what else needs to be done in order to combat bioterrorism. It is clear that we do need to continue our efforts, and that is why I will continue to push for action on this legislation until the bill is signed into law by the President.

It is well known that terrorists are specifically interested in using biological weapons, such as those produced in the Soviet Union before its collapse.

Some experts believe that Soviet scientists were able to develop smallpox strains that were universally lethal.

Some believe they developed a strain of Black Plague that is resistant to 10 different antibiotics.

Today, it is unclear where some of these former Soviet scientists are working and, even more disturbing, it is not clear if these bioterror agents are still in the former Soviet Union.

As new varieties of biological weapons are developed, the threat of another attack becomes a very real possibility. Again, that is why Senator LIEBERMAN and I strongly believe that Congress needs to act on the Liberman-Hatch legislation immediately.

Over 4 years ago, Congress instructed the executive branch to perform a bioterrorism exercise to determine our Nation's state of preparedness against a bioterror threat.

In May 2000, a bioterrorism exercise was initiated and the naturally occurring plague bacterium, Yersinia Pestis, was theoretically unleashed in Denver. In that exercise, one antibiotic that is available to the public was used to combat the bioterrorism plot and treat the infected individuals.

I believe that this exercise needs to be conducted again—a more realistic scenario would be one in which no effective treatment is available.

To me, that is the more realistic and threatening scenario.

There are already numerous diseases where no actual cure exists, where all the clinicians can do is to support the patient and hope that they survive. We need to focus our efforts on improving our ability to care for these illnesses, as they are currently very attractive weapons to our enemies.

Even as we continue to invest resources to build up a prepared public health infrastructure, we must also develop medicines to threat those who

are exposed or infected. Otherwise, we will be forced to impose quarantines, just as our ancestors did in times of pestilence, and we will surely find it as difficult a proposition as they did. Quarantining hundreds, maybe even hundreds of thousands of people would, obviously, be extremely difficult to manage.

Developing ways to prevent, detect, and treat dangerous pathogens must be a priority for our Nation so that we do not face these dreadful scenarios.

Our best defense against bioterrorism is a full medicine chest. We must develop medicines to treat the naturally occurring biologic agents, and, in addition, we need to develop medicines to treat bacteria and viruses that have been genetically manipulated as weapons to cause death or injury to human beings.

Therefore, the biopharma companies must be engaged in these discussions because they will play an integral role.

Our bill, BioShield II, is the next step in the legislative process to ensure bioterror readiness.

We cannot afford to wait. Every day that we sit idle, we encourage our enemies to move forward.

We must abandon business-as-usual and take vigorous steps to protect our Nation, our communities, our citizens and our industries from future bioterrorist attack, especially given the implication of further attacks on the United States.

BioShield II encourages Congress to take vital steps to protect our Nation through an array of intellectual property, tax, procurement, research, liability, and other incentives to ensure the creation of a robust biodefense industry.

Direct government funding can only go so far.

To be effective, we must also enact incentives so that potential investors will want to fund the research associated with building a strong and flexible defense against potential attacks.

But to accomplish this goal, we must unleash the creative genius of the biopharma industry to work with us on these solutions.

Bioshield II will encourage biopharma companies to take the lead in the development of vaccines, therapeutics and diagnostics to combat bioterrorism. These efforts will also help protect our Nation against naturally occurring diseases. In fact, a major improvement in this bill is that we allow the array of incentives to be employed against infectious diseases and as well as disease prevalent in the developing world.

All research on infectious disease is interrelated. SARS, HIV, malaria, and avian and pandemic flue are chilling reminders that our public health system must be able to take on all comers; it is not just deliberately engineered agents that threaten us.

Our infrastructure—our researchers, our pharmaceutical industry, our hospitals, and our caregivers—must be prepared and equipped to fight illness, wherever and however it occurs. By expanding the scope of covered research under this bill, we may also discover cures for diseases that afflict the world's poorest nations.

The goal of our legislation is to have a safer and better prepared America. But, to do this we must provide researchers and investors with the proper incentives. Forming unprecedented and vigorous partnerships with these companies is the key. Otherwise, this endeavor will never work and the American public will remain at great risk.

The harsh reality is that nearly 4 years after 9/11, we have not developed one significant bioterrorism countermeasure.

Aside from vaccines for smallpox and anthrax—both of which have their own downsides—and a handful of antibiotics and anti-infectives—also with their own array of strengths and weaknesses—the cupboard is bare.

This is simply not acceptable.

As new varieties of bioterror weapons are developed, the threat of another attack comes ever-closer to our shores. For this reason, Senator LIEBERMAN and I are introducing the ''Project BioShield II Act of 2005''.

We plan to work closely with all interested members of Congress, including Senator BURR, Senators ENZI and KENNEDY, chairman and ranking Democratic member of the HELP Committee respectively, Senators GRASSLEY and BAUCUS, chairman and ranking Democratic member of the Finance Committee, Senators SPECTER and LEAHY, chairman and ranking Democratic member of the Judiciary Committee; and Senator COLLINS, chairman of the Senate Homeland Security and Governmental Affairs Committee.

We will work closely with all the relevant officials in the Bush administration; and we will work with Senate Leadership and with all interested parties in the House.

I urge my colleagues to join me in supporting this very important legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 128—DESIGNATING APRIL 30, 2005, AS ''DIA DE LOS NINOS: CELEBRATING YOUNG AMERICANS'', AND FOR OTHER PURPOSES

Mr. HATCH (for himself, Mr. CORNYN, Mr. GRASSLEY, Mrs. HUTCHISON, Mr. MARTINEZ, and Ms. MURKOWSKI) submitted the following resolution; which was submitted and read:

S. RES. 128

Whereas many nations throughout the world, and especially within the Western hemisphere, celebrate ''Día de los Niños'', or ''Day of the Children'' on the 30th of April, in recognition and celebration of their country's future—their children;

Whereas children represent the hopes and dreams of the people of the United States;

Whereas children are the center of American families;

Whereas children should be nurtured and invested in to preserve and enhance economic prosperity, democracy, and the American spirit;

Whereas Hispanics in the United States, the youngest and fastest growing ethnic community in the Nation, continue the tradition of honoring their children on this day, and wish to share this custom with the rest of the Nation;

Whereas 1 in 4 Americans is projected to be of Hispanic descent by the year 2050, and as of 2003, approximately 12,300,000 Hispanic children live in the United States;

Whereas traditional Hispanic family life centers largely on children;

Whereas the primary teachers of family values, morality, and culture are parents and family members, and we rely on children to pass on these family values, morals, and culture to future generations;

Whereas more than 500,000 children drop out of school each year, and Hispanic dropout rates are unacceptably high;

Whereas the importance of literacy and education are most often communicated to children through family members;

Whereas families should be encouraged to engage in family and community activities that include extended and elderly family members and encourage children to explore, develop confidence, and pursue their dreams;

Whereas the designation of a day to honor the children of the United States will help affirm for the people of the United States the significance of family, education, and community;

Whereas the designation of a day of special recognition for the children of the United States will provide an opportunity for children to reflect on their future, to articulate their dreams and aspirations, and to find comfort and security in the support of their family members and communities;

Whereas the National Latino Children's Institute, serving as a voice for children, has worked with cities throughout the country to declare April 30 as ''Día de los Niños: Celebrating Young Americans''—a day to bring together Hispanics and other communities nationwide to celebrate and uplift children; and

Whereas the children of a nation are the responsibility of all its people, and people should be encouraged to celebrate the gifts of children to society—their curiosity, laughter, faith, energy, spirit, hopes, and dreams: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 30, 2005, as ''Día de los Niños: Celebrating Young Americans''; and

(2) calls on the people of the United States to join with all children, families, organizations, communities, churches, cities, and States across the United States to observe the day with appropriate ceremonies, including activities that—

(A) center around children, and are free or minimal in cost so as to encourage and facilitate the participation of all our people;

(B) are positive and uplifting and that help children express their hopes and dreams;

(C) provide opportunities for children of all backgrounds to learn about one another's cultures and to share ideas;

(D) include all members of the family, and especially extended and elderly family members, so as to promote greater communication among the generations within a family, enabling children to appreciate and benefit from the experiences and wisdom of their elderly family members;

(E) provide opportunities for families within a community to get acquainted; and

(F) provide children with the support they need to develop skills and confidence, and to