Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 632

At the request of Mr. CRAIG, the names of the Senator from Nevada (Mr. ENSIGN), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 632, a bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the medicare program for beneficiaries with cardiovascular disease.

S. 647

At the request of Mr. KENNEDY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 647, a bill to amend title 10, United States Code, to provide for Department of Defense funding of continuation of health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents, and for other purposes.

S. 652

At the request of Mr. CHAFEE, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 652, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 661

At the request of Mr. SCHUMER, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 661, a bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes.

S. 764

At the request of Mr. CAMPBELL, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 764, a bill to extend the authorization of the Bulletproof Vest Partnership Grant Program.

S. 774

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 774, a bill to amend the Internal Revenue Code of 1986 to allow the use of completed contract method of accounting in the case of certain long-term naval vessel construction contracts.

S. 789

At the request of Mr. NELSON of Florida, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 789, a bill to change the requirements for naturalization through service in the Armed Forces of the United States.

S. 874

At the request of Mr. TALENT, the names of the Senator from Colorado (Mr. CAMPBELL) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 877

At the request of Mr. BURNS, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 877, a bill to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet.

S. 881

At the request of Mr. BINGAMAN, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 881, a bill to amend title XVIII of the Social Security Act to establish a minimum geographic cost-of-practice index value for physicians' services furnished under the medicare program.

S. 897

At the request of Mr. CORNYN, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 897, a bill to amend the Immigration and Nationality Act to change the requirements for naturalization through service in the Armed Forces of the United States, and for other purposes.

S. 922

At the request of Mr. REID, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 922, a bill to change the requirements for naturalization through service in the Armed Forces of the United States, to extend naturalization benefits to members of the Selected Reserve of the Ready Reserve of a reserve component of the Armed Forces, to extend posthumous benefits to surviving spouses, children, and parents, and for other purposes.

S. 939

At the request of Mr. HAGEL, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 939, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes.

S. 942

At the request of Mr. BROWNBACK, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 942 , 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.

S. CON. RES. 33

At the request of Mr. CRAIG, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Con . Res. 33, a concurrent resolution expressing the sense of the Congress regarding scleroderma.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. SPECTER, Mr. DASCHLE, Mr. SMITH, Mr. LEAHY, Ms. COLLINS, Mr. LIEBERMAN, Ms. SNOWE, Mr. WYDEN, Mr. JEFFORDS, Mr. SCHUMER, Mr. CHAFEE, Mr. AKAKA, Mr. ENSIGN, Mr. BAYH, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. GRAHAM of Florida, Mr. HARKIN, Mr. INOUYE, Mr. JOHNSON, Mr. KERRY, Ms. LANDRIEU, Mr. LEVIN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MILLER, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Ms. STABENOW, Mr. LAUTENBERG, and Mr. PRYOR):

S. 966. A bill to provide Federal assistance to States and local jurisdictions to prosecute hate crimes; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, it's a privilege to join my colleagues in introducing this legislation to combat hate crimes. Hate crimes are a violation of all our country stands for. They send the poisonous message that some Americans deserve to be victimized solely because of who they are. Like acts of terrorism, hate crimes have an impact far greater than the impact on the individual victims. They are crimes against entire communities, against the whole Nation, and against the fundamental ideals on which America was founded. As Attorney General Ashcroft has said, ''Criminal acts of hate run counter to what is best in America—our belief in equality and freedom.''

Although there was a significant overall reduction in violent crimes during the 1990s, the number of hate crimes continued to grow. According to the Federal Bureau of Investigation, 9,730 hate crimes were reported in the United States in 2001. That is over 26 hate crimes a day, every day. More than 83,000 hate crimes have been reported since 1991.

The need for an effective national response is as compelling as it has ever been. Hate crimes against Arabs and Muslims rose dramatically in the weeks following the September 11 terrorist attacks. These hate crimes included murder, beatings, arson, attacks on mosques, shootings, and other assaults. In 2001, anti-Islamic incidents were the second highest-reported type of hate crimes based on religion—second only to anti-Jewish hate crimes.

Los Angeles and Chicago reported a massive increase in the number of anti-Arab and anti-Muslim crimes after 9/11.

Hate crimes based on sexual orientation continue to be a serious danger, constituting 14 percent of all hate crimes reported.

Each person's life is valuable, and even one life lost is too many. It is not the frequency of hate crimes alone that makes these acts of violence so serious. It is the terror and intimidation they inflict on the victims, their families, their communities, and, in some cases, the entire Nation.

Congress cannot sit silent while this hatred spreads. It is long past time for us to do more to end hate-motivated violence. The Local Law Enforcement Enhancement Act will strengthen the ability of Federal, State and local governments to investigate and prosecute these vicious and senseless crimes. Our legislation is supported by over 175 law enforcement, civil rights, civic, and religious organizations.

The current Federal law on hate crimes was passed soon after the assassination of Dr. Martin Luther King Jr. Today, however, it is a generation out of date. It has two significant deficiencies. It does not cover hate crimes based on sexual orientation, gender, or disability. And even in cases of hate crimes based on race, religion, or ethnic background, it contains excessive restrictions requiring proof that the victims were attacked because they were engaged in certain ''federally protected activities.''

Our bill is designed to close these substantial loopholes. It has six principal provisions: 1. It removes the ''federally protected activity'' barrier. 2. It adds sexual orientation, gender and disability to the existing categories of race, color, religion, and national origin. 3. It protects State interests with a strict certification procedure that requires the Federal Government to consult with local officials before bringing a Federal case. 4. It offers federal assistance to State and local law enforcement officials to investigate and prosecute heated crimes in any of the federal categories. 5. It offers training grants for local law enforcement. 6. It amends the Federal Hate Crime Statistics Act to add gender to the existing categories of race, religion, ethnic background, sexual orientation, and disability.

These much needed changes in current law will help ensure that the Department of Justice has what it needs to combat the growing problem of hate-motivated violence more effectively.

Nothing in the bill prohibits or punishes speech, expression, or association in any way—even ''hate speech.'' It addresses only violent actions that result in death or injury. The Supreme Court has ruled repeatedly—and as recently as this year, in the cross-burning decision Virginia v. Black—that a hate crimes statute that considers bias motivation directly connected to a defendant's criminal conduct does not violate the First Amendment. No one has a First Amendment right to commit a crime.

A strong Federal role in prosecuting hate crimes is essential, because crimes have an impact far greater than their impact on individual victims. Nevertheless, our bill fully respects the primary role of state and local law enforcement in responding to violent crime. The vast majority of hate crimes will continue to be prosecuted at the state and local level. The bill authorizes the Justice Department to assist State and local authorities in hate crimes cases, but it authorizes Federal prosecutions only when a state does not have jurisdiction, or when it asks the Federal Government to take jurisdiction, or when it fails to act against hate-motivated violence. In other words, the bill establishes an appropriate back-up for State and local law enforcement, to deal with hate crimes in cases where states request assistance, or cases that would not otherwise be effectively investigated and prosecuted.

Working cooperatively, State, local and Federal law enforcement officials have the best chance to bring the perpetrators of hate crimes to justice. Federal resources and expertise in the identification and proof of hate crimes can provide invaluable assistance to state and local authorities without undermining the traditional role of states in prosecuting crimes. As Attorney General Ashcroft has said of current law, ''Cooperation between federal agents and local law enforcement officers and between Justice Department prosecutors and local prosecutors has been outstanding.'' And it will continue to be so, and be even more effective, when this legislation is enacted into law.

Now is the time for Congress to speak with one voice and insist that all Americans will be guaranteed the equal protection of the laws. Now is the time to make combating hate crimes a high national priority. The Local Law Enforcement Enhancement Act is a needed response to a serious problem that continues to plague the nation, and I urge the Senate to support it.

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. 966

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 ''Local Law Enforcement Enhancement Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) The prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.

(7) Perpetrators cross State lines to commit such violence.

(8) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(9) Such violence is committed using articles that have traveled in interstate commerce.

(10) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(11) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct ''races''. Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(12) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(13) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States and local jurisdictions.

SEC. 3. DEFINITION OF HATE CRIME.

In this Act, the term ''hate crime'' has the same meaning as in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

SEC. 4. SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of a law enforcement official of a State or Indian tribe, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(B) constitutes a felony under the laws of the State or Indian tribe; and

(C) is motivated by prejudice based on the race, color, religion, national origin, gender, sexual orientation, or disability of the victim, or is a violation of the hate crime laws of the State or Indian tribe.

(2) PRIORITY.—In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than 1 State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(b) GRANTS.—

(1) IN GENERAL.—The Attorney General may award grants to assist State, local, and Indian law enforcement officials with the extraordinary expenses associated with the investigation and prosecution of hate crimes.

(2) OFFICE OF JUSTICE PROGRAMS.—In implementing the grant program, the Office of Justice Programs shall work closely with the funded jurisdictions to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(3) APPLICATION.—

(A) IN GENERAL.—Each State that desires a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(B) DATE FOR SUBMISSION.—Applications submitted pursuant to subparagraph (A) shall be submitted during the 60-day period beginning on a date that the Attorney General shall prescribe.

(C) REQUIREMENTS.—A State or political subdivision of a State or tribal official applying for assistance under this subsection shall—

(i) describe the extraordinary purposes for which the grant is needed;

(ii) certify that the State, political subdivision, or Indian tribe lacks the resources necessary to investigate or prosecute the hate crime;

(iii) demonstrate that, in developing a plan to implement the grant, the State, political subdivision, or tribal official has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of hate crimes; and

(iv) certify that any Federal funds received under this subsection will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection.

(4) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 30 business days after the date on which the Attorney General receives the application.

(5) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000 for any single jurisdiction within a 1 year period.

(6) REPORT.—Not later than December 31, 2004, the Attorney General shall submit to Congress a report describing the applications submitted for grants under this subsection, the award of such grants, and the purposes for which the grant amounts were expended.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2004 and 2005.

SEC. 5. GRANT PROGRAM.

(a) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall award grants, in accordance with such regulations as the Attorney General may prescribe, to State and local programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 6. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2004, 2005, and 2006 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of title 18, United States Code, as added by section 7.

SEC. 7. PROHIBITION OF CERTAIN HATE CRIME ACTS.

(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

''§ 249. Hate crime acts

''(a) IN GENERAL.—

''(1) OFFENSES INVOLVING ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, OR NATIONAL ORIGIN.—Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

''(A) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

''(B) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

''(i) death results from the offense; or

''(ii) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(2) OFFENSES INVOLVING ACTUAL OR PERCEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, OR DISABILITY.—

''(A) IN GENERAL.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, or disability of any person—

''(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

''(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

''(I) death results from the offense; or

''(II) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(B) CIRCUMSTANCES DESCRIBED.—For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

''(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim—

''(I) across a State line or national border; or

''(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

''(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

''(iii) in connection with the conduct described in subparagraph (A), the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

''(iv) the conduct described in subparagraph (A)—

''(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

''(II) otherwise affects interstate or foreign commerce.

''(b) CERTIFICATION REQUIREMENT.—No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that—

''(1) he or she has reasonable cause to believe that the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of any person was a motivating factor underlying the alleged conduct of the defendant; and

''(2) he or his designee or she or her designee has consulted with State or local law enforcement officials regarding the prosecution and determined that—

''(A) the State does not have jurisdiction or does not intend to exercise jurisdiction;

''(B) the State has requested that the Federal Government assume jurisdiction;

''(C) the State does not object to the Federal Government assuming jurisdiction; or

''(D) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence.

''(c) DEFINITIONS.—In this section—

''(1) the term 'explosive or incendiary device' has the meaning given the term in section 232 of this title; and

''(2) the term 'firearm' has the meaning given the term in section 921(a) of this title.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 13 of title 18, United States Code, is amended by adding at the end the following:

''249. Hate crime acts.''.

SEC. 8. DUTIES OF FEDERAL SENTENCING COMMISSION.

(a) AMENDMENT OF FEDERAL SENTENCING GUIDELINES.—Pursuant to the authority provided under section 994 of title 28, United States Code, the United States Sentencing Commission shall study the issue of adult recruitment of juveniles to commit hate crimes and shall, if appropriate, amend the Federal sentencing guidelines to provide sentencing enhancements (in addition to the sentencing enhancement provided for the use of a minor during the commission of an offense) for adult defendants who recruit juveniles to assist in the commission of hate crimes.

(b) CONSISTENCY WITH OTHER GUIDELINES.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishments for substantially the same offense.

SEC. 9. STATISTICS.

Subsection (b)(1) of the first section of the Hate Crimes Statistics Act (28 U.S.C. 534 note) is amended by inserting ''gender,'' after ''race,''.

SEC. 10. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

By Mr. SESSIONS:

S. 968. A bill to amend the Internal Revenue Code of 1986 to provide capital gain treatment under section 631(b) of such Code for outright sales of timber by landowners; to the Committee on Finance.

Mr. SESSIONS. Mr. President, I rise today to introduce legislation which will simplify and update a provision of the tax code that affects the sale of timber. It is both a simplification measure and a fairness measure. I call it the Timber Tax Simplification Act.

Under current law, landowners that are occasional sellers of timer are often classified by the Internal Revenue Service as ''dealers.'' As a result, the small landowner is forced to choose, because of the tax code, between two different methods of selling their timber. The first method, ''lump sum sales provides for good business practice but is subjected to a high income tax. The second method ''pay-as-cut'' sales, allows for lower capital gains tax treatment, but often results in an underrealization of the fair value of the contract. Why, one might ask, do these conflicting incentives exist for our Nation's timber growers?

Ealier in this century, outright, or ''lump sum,'' sales on a cash in advance, sealed basis, were associated with a ''cut and run'' mentality that did not promote good forest management. ''Pay-as-cut sales,'' however, in which a timber owner is only paid for timber that is harvested, were associated with ''enlighted'' resource management. Consequently, in 1943, Congress, in an effect to provide an incentive for improved forest management, passed legislation that allowed capital gains treatment under 631(b) of the IRS Code for pay-as-cut sales, leaving lump-sum sales to pay the much higher rate of income tax. It is said that President Roosevelt opposed the bill and almost vetoed it.

Today, however, Section 631(b) like so many provisions in the IRS Code, is outdated. Forest management practices are much different from what they were in 1943 and lump-sum sales are no longer associated with poor forest management. And while there are occasional special situations where other methods may be more appropriate, most timber owners prefer this method over the ''pay-as-cut'' method. The reasons are simple: title to the timber is transferred upon the closing of the sale and the buyer assumes the risk of any physical loss of timber to fire, insects, disease, storms, etc. Furthermore, the price to be paid for the timber is determined and received at the time of the sale.

Unfortunately, in order for timber owners to qualify for the favorable capital gains treatment, they must market their timber on a ''pay-as-cut'' basis under Section 631(b) which requires timber owners to sell their timber with a ''retained economic interest.'' This means that the timber owner, not the buyer, must bear the risk of any physical loss during the timber sale contract period and must be paid only for the timber that is actually harvested. As a result, this type of sale can be subject to fraud and abuse by the timber buyer. Since the buyer pays only for the timber that is removed and scaled, there is an incentive to waste poor quality timber by breaking the tree during the logging process, underscaling the timber, or removing the timber without scaling. But because 631(b) provides for the favorable tax treatment, many timber owners are forced into exposing themselves to unnecessary risk of loss by having to market their timber in this disadvantageous way instead of the more preferable lump-sum method.

Like many of the provisions in the tax code, Section 631(b) is outdated and prevents good forestry business management. Timber farmers, who have usually spent decades producing their timber ''crop,'' should be able to receive equal tax treatment regardless of the method used for marketing their timber.

In the past, the Joint Committee on Taxation has studied this legislation to consider what impact it might have on the Treasury and found that it would have no real cost—only a ''negligible change'' according to their analysis.

The IRS has no business stepping in and dictating the kind of sales contract a landowner must choose. My legislation will provide greater consistency by removing the exclusive ''retained economic interest'' requirement in the IRC Section 631(b). Reform of 631(b) is important to our Nation's non-industrial, private landowners because it will improve the economic viability of their forestry investments and protect the taxpayer from unnecessary exposure to risk of loss. This in turn will benefit the entire forest products industry, the U.S. economy and especially small landowners.

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

S. 969. A bill to enhance the security and safety of the Nation by increasing the time allowed to track terrorists during periods of elevated alert, closing loopholes that have allowed terrorists to acquire firearms, maintaining records of certain handgun transfers during periods of heightened terrorist risk, and for other purposes; to the Committee on the Judiciary.

Mr. LAUTENBERG. Mr. President, I rise to introduce a critical piece of legislation, the Homeland Security Gun Safety Act.

In the aftermath of the tragic events of 9–11, the Federal Government has reassessed the Nation's vulnerabilities to acts and threats of terrorism.

And in response, the United States Congress gave the Department of Justice expanded powers to detain suspected terrorists, conduct surveillance and obtain confidential information on American citizens. In addition, we have created the new Department of Homeland Security—the largest reorganization of the Federal Government since the 1940s.

In short, the events of 9–11 required us to reevaluate our safety concerns and the security of the Nation.

Echoing this need, President Bush said before the United Nations on November 10, 2001, that ''we have the responsibility to deny weapons to terrorists and to actively prevent private citizens from providing them.''

I wholeheartedly agree with this statement. And I believe the American people want the U.S. Senate to follow through with concrete legislative action.

However, we have failed to address a significant remaining threat: the accessibility to firearms and explosives within our own borders.

How can we truly protect this Nation, if we do not enact legislation which prevents terrorists and potential terrorists from acquiring guns in the United States?

Terrorists have identified the lax gun laws of the United States as a means to advance their evil goal to terrorize and harm the American people.

In December 2001, during the war on terror, we attacked a terrorist training facility south of Kabul. Found among the rubble at that facility was a manual called: ''How I Can Train Myself for Jihad.''

This manual, contains an entire section on ''Firearms Training'' and singles out the United States for its easy availability of firearms. It stipulates that terrorists living in the U.S. should ''obtain an assault weapon legally, preferably AK-47 or variations.'' It also advises would-be terrorsts on how they should conduct themselves in order to avoid arousing suspicion as they amass and transport firearms.

There are other examples where terrorists have sought to take advantage of this nation's lax gun laws.

On the eve of the September 11 terrorist attack, on September 10, 2001, a Federal jury convicted Ali Boumelhem, a known member of the terrorist group Hezbollah on seven counts of weapons charges and conspiracy to ship weapons and ammunition to Lebanon.

And we have seen how firearms can be used to terrorize an entire community.

We are all familiar with the case of John Muhammad and John Malvo, who terrorized the Washington, DC area for more than three weeks as they embarked on a shooting spree with a sniper rifle, shooting 13 innocent people before being caught.

Homeland Security Secretary Tom Ridge agrees that there is a dangerous link between guns and terror. During his confirmation hearing before Governmental Affairs Committee on January 17, 2003, in response to a question I asked him about guns and terror, Secretary Ridge said:

[W]hen anyone uses a firearm, whether it's the kind of terrorism that we are trying to combat with al Qaeda and these non-state terrorists, or as a former district attorney involved in the conviction of an individual who used firearms against innocent citizens—regardless of how we define terrorism, that individual and that family felt that they were victims of a terrorist act. Brandishing a firearm in front of anybody under any set of circumstances is a terrorist act and needs to be dealt with.

Well, the Homeland Security Gun Safety Act deals with it. The Act deals with this threat that leaves America especially vulnerable to future terrorist attacks.

The Homeland Security Gun Safety Act would enact specific measures that would help prevent terrorists from acquiring firearms within our own borders.

Under current law, there are cases when law enforcement is blocked from conducting an adequate investigation when a terrorist or criminal tries to buy a gun.

Current law says if law enforcement takes over three days to conduct a background check on someone who wants a weapon—just hand over the gun.

That is ludicrous—especially when we are in an elevated state of terrorist threat.

When we are at Code Yellow, the Department of Homeland Security has determined that we are at a significant risk of terrorist attack.

The bill I am introducing today would suspend these loopholes in our gun safety laws when we are at Code Yellow or above in the interest of homeland security.

The three-day limit on law enforcement is nothing more than a loophole in our laws put there by the gun lobby.

And it's a dangerous loophole—a recent study showed that, from December 1998 to June 2001, nearly 10,000 people who should not have been permitted to buy guns, did receive guns because the three-day period passed before law enforcement could finish a background check.

Our bill will also require that the Federal Government retain records of weapons transactions while we are in an elevated state of alert. There is no reason we should handicap law enforcement during such a dangerous time.

This bill will also close a number of loopholes that have allowed rogue gun dealers to skirt the law. These are the same few gun dealers that are now the subject of lawsuits across the country.

These dangerous loopholes that the gun lobby built into our gun laws now pose a major threat to homeland security.

This bill will help shut down those loopholes. The bill would require gun dealers to: immediately report ''missing'' guns or face suspension of their license; and put appropriate security measures in place to prevent theft of their weapons; and check with the FBI's Stolen Gun Registry to make sure that secondhand weapons they purchase are not stolen.

This bill will also step up enforcement of gun dealers: law enforcement would not be restricted in its ability to inspect dealers. Currently, law enforcement is only allowed one unannounced inspection per year.

The bill will also increase the penalties for violations of gun dealer laws to a felony. Right now, the maximum penalty is only a misdemeanor. It has no teeth.

I know the NRA will cry wolf to gun owners about this bill. But this bill will not affect the vast majority of honest, law abiding Americans who want to purchase guns. This bill focuses on preventing weapons from getting into the hands of terrorists and criminals.

Over 75 percent of background checks are performed in mere minutes. However, there are those purchasers who raise red flags that require further investigation.

Those are red flags we can no longer afford to ignore.

When we are at Code Yellow, everyday Americans are prevented from taking a tour of the White House—but a terrorist can buy weapons.

It makes no sense.

This bill offers Congress a clear choice: protect our homeland or protect the gun lobby.

I ask unanimous consent that a summary of my bill, the Homeland Security Gun Safety Act, be printed in the RECORD.

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

THE HOMELAND SECURITY GUN SAFETY ACT OF 2003

In the aftermath of the tragic events of September 11, 2001, the Federal Government has reassessed the Nation's vulnerabilities to acts and threats of terrorism. However, actions taken thus far have failed to address a major remaining threat: accessibility to firearms and explosives within our own borders. The Homeland Security Gun Safety Act of 2003 addresses this threat that leaves America especially vulnerable to future terrorist attacks.

The Act would enact specific measures that would help prevent terrorists from acquiring firearms and explosives in the United States. Specifically, the Act: 1. enacts increased homeland security measures regarding firearm sales when the terrorist risk level of the Homeland Security Advisory System is raised to ''Elevated''; 2. closes loopholes that have allowed rogue gun dealers to abuse existing law and supply weapons to terrorists and criminals; and 3. strengthens the enforcement of laws federally licensed gun dealers are required to follow.

''We have the responsibility to deny weapons to terrorists and to actively prevent private citizens from providing them.''—President George W. Bush, Address to the United Nations, November 10, 2001.

THE PROBLEM: TERRORISM AND GUNS

There are a number of cases in which terrorists, both domestic and international, have been acquiring firearms in our country and are using them here and abroad for despicable acts of violence. Firearms are being acquired by prohibited persons due to the weakness and lack of enforceability of existing gun laws.

Examples of the link between terrorism and firearms in the U.S. include:

In December, 2001, a manual titled ''How I Can Train Myself for Jihad'' was found among the rubble at a training facility for a radical Pakistan-based Islamic terrorist organization in Afghanistan. This manual contains an entire section on ''Firearms Training'' and singles out the United States for its easy availability of firearms. It stipulates that terrorists living in the U.S. ''obtain an assault weapon legally, preferably AK–47 or variations.'' It also advises would-be terrorists on how they should conduct themselves in order to avoid arousing suspicion as they amass and transport firearms.

In November 2000, Ali Bourmelhem, was arrested for shipping guns and ammunition to Hezbollah militants in Lebanon by hiding the arms in cargo crates. Boumelhem, who was a resident of Detroit and Beirut, was observed by authorities traveling to gun shows to buy gun parts and ammunition for shipment overseas. He was arrested just before he was scheduled to travel to Lebanon.

In September 2000, Conor Claxton, an admitted member of the IRA, bought dozens of handguns, rifles and rounds of high-powered ammunition through illegal multiple sales and at gun shows. Police in Northern Ireland intercepted 23 of the packages which contained 122 guns and other weapons originating from the group. Claxton's team enlisted the assistance of a licensed firearms dealer in Florida who sold at least 43 handguns to associates of Claxton. The dealer agreed not to report all of the sales on required Federal forms in exchange for an extra $50 per gun. The dealer admitted that he suspected the guns could wind up in the hands of assassins. The dealer later cooperated with prosecutors and pleaded guilty to conspiring to export guns illegally. According to the FBI Agent interviewing Claxton: ''Claxton stated that it is common knowledge that obtaining weapons in the United States is easy,'' and that ''Claxton blamed the United States government for not having tougher gun laws.''

In 1993, the owners of the Al Fajr Trading Company in Atlanta were convicted of illegally shipping hundreds of guns to Muslim street gangs and drug dealers in New York, Detroit and Philadelphia. Among the customers was a gang associated with Sheik Omar Abdel-Rahman, the Egyptian cleric who was involved in the 1993 terrorist bombing of the World Trade Center. Al Fajr was a licensed dealer but intentionally failed to maintain firearms transaction records of nearly 1,000 guns that were trafficked to the Northeast.

In 1992, an Iranian immigrant in the United States was shot and killed execution style outside her home in Northern New Jersey by a suspected Iranian terrorist. The gun was bought at a Virginia gun shop that was preferred by straw purchasers, high-volume buyers, gun traffickers and convicted felons. The Virginia gun shop owners were arrested 2 months prior to the murder and pleaded guilty to charges stemming from straw purchases.

Cases of the use of firearms for terrorist acts include:

In 2002, John Muhammad and John Malvo terrorized the Washington, DC area for more than 3 weeks by embarking on a shooting spree with a sniper rifle. The weapon used to shoot 13 innocent victims was a Bushmaster XM–15 rifle purchased at the Bull's Eye Shooter Supply in Tacoma, WA. Muhammad

could not have legally purchased it because he is under a domestic violence restraining order and Malvo at age 17 is disqualified as a minor and an illegal immigrant. Two employees of the store admitted that they noticed that the .223 caliber Bushmaster was ''missing'' from a display case but the store's owner did not report the loss as required by Federal law. Following the sniper killings, the shop revealed that over 200 guns went ''missing'' in the last several years. Bull's Eye Shooter Supply remains in operation today.

In February 1997, Ali Abu Kamal opened fire on a crowd of tourists at the Empire State Building, killing one person and wounding six others. Kamal arrived in New York from Cairo on a tourist visa. After a short stay in New York, he traveled to Melbourne, FL where he checked into a motel. He showed the motel receipt as proof of residency to obtain a Florida ID card which he used to buy a 14-shot, semi-automatic Beretta handgun. Total time from arrival in this country to purchase of the gun was 37 days. The same gun store in Melbourne sold a Ruger Mini 14 rifle to mass-murderer William Cruse a month before he went on a shooting spree in Palm Bay, FL. Cruse killed six people and wounded two dozen others.

''[W]hen anyone uses a firearm, whether it's the kind of terrorism that we are trying to combat with al Qaeda and these non-state terrorists, or as a former district attorney involved in the conviction of an individual who used firearms against innocent citizens—regardless of how we define terrorism, that individual and that family felt that they were victims of a terrorist act. Brandishing a firearm in front of anybody under any set of circumstances is a terrorist act and needs to be dealt with.''—Tom Ridge, January 17, 2003, at his confirmation hearing for Secretary of Homeland Security, before the Senate Government Affairs Committee.

CONFRONTING THE THREAT: THE HOMELAND SECURITY GUN SAFETY ACT OF 2003

The Homeland Security Gun Safety Act of 2003 integrates gun safety into our national homeland security strategy. The bill will suspend the current restrictions on law enforcement's investigative powers during periods of ''Elevated'' terror threat.

Currently, law enforcement is severely limited in its ability to conduct background checks on suspicious gun purchasers. While over 70 percent of background checks are completed within seconds, and approximately 95 percent are completed within 2 hours, red flags raised on some people's records require further investigation. Under current law, law enforcement only has 3 days to conduct a background check. Given the complexity of tracing court records, the 3-day period often does not give law enforcement enough time to complete a check in some important cases. However, under current law, after the 3-day period has expired, the firearm is handed over to the purchaser—even if the person is a convicted felon or part of a terrorist organization.

Under the Homeland Security Gun Safety Act, when the Department of Homeland Security determines that the nation is in an ''Elevated'' (yellow) risk of attack or above, the 3-day rule would be suspended and law enforcement would have as much time as needed to complete a background check on an individual seeking a weapon or explosive. Upon reverting to a ''Low,'' green, risk for a period of 180 consecutive days, the 3-day rule would resume.

The Homeland Security Gun Safety Act would suspend this record destruction rule, and require that all records of firearms transfers subject to background checks and records of the National Instant Criminal Background Check system be maintained indefinitely when the Department of Homeland Security determines that the nation is at an ''elevated,'' yellow, risk of terrorist attack or above. Upon reverting to a ''Low,'' green, risk for a period of 180 consecutive days, the standard destruction of records rule resumes. This information will be critical to investigators who are tracking potential terrorists within our borders while we are in a heightened state of alert.

Federal Firearms Dealer Responsibilities

The Homeland Security Gun Safety Act requires more responsibility on the part of Federal Firearms Licensees; FFLs; to prevent the flow of illegal firearms. Under the current regime, rules gun dealers are ''required'' to follow are routinely ignored, as the gun laws provide for little enforcement, and even restrict the ability of law enforcement to check gun dealer compliance. In addition, the current system allows terrorists and criminals to travel from dealer to dealer to attempt to purchase a gun until they ''score''—without worrying about detection of their failed purchases. The Homeland Security Gun Safety Act would close these loopholes that allow rogue gun dealers to evade the law and sell guns to criminals and terrorists. Specifically, the Act would:

Require FFLs to report missing weapons immediately and satisfy record keeping requirements, for multiple handgun sales, theft or loss of firearm registration documents, trace requests, out of business and demand records, or face suspension of their licenses. As the ATF's ability to trace crime guns depends on the records kept by FFLs, it is imperative that FFLs fulfill their responsibility to timely report missing weapons and relevant records.

Requires FFLs not to sell a firearm to an individual when they have reasonable cause to believe that a gun will be used in the commission of a crime.

If a FFL has reasonable cause to believe that a purchaser is not buying a firearm for his or her own use, but intends to transfer it to another individual who would not qualify for a legal gun purchase, he or she will be prohibited from making the transfer. This is commonly known as a ''straw purchase'' and is a major problem in firearm trafficking in the United States.

Require FFLs to abide by security standards for the storage and display of firearms. According to the ATF, in 1998 and 1999, FFLs filed reports on over 27,287 missing or stolen firearms. The Act would authorize suspensions and fines of FFLs who fail to abide by security standards for the display and storage of firearms.

Require FFLs to check all secondhand firearm purchases through the FBI's Stolen Gun Registry to confirm that the firearm was not stolen prior to the purchase.

Require that FFLs notify NICS immediately upon receiving a request from a prospective transferee, of any check conducted within the previous 30 days that did not result in the transfer of a handgun.

Increase the number of permissible inspections of gun dealers from one unannounced inspection per year, current law, to an unlimited amount of inspections for any violation. If a licensee has a poor compliance record, such as one of the 1.2 percent of firearms dealers who account for 57 percent of crime guns, multiple compliance inspections within the 1-year period are necessary for adequate supervision.

Increase penalties for FFLs who fail to account for missing weapons, fail to timely record or maintain records, record keeping violations or knowingly make false statements in connection with firearms from 1 year to 5 years and assess fines up to $10,000 per violation. The current penalty for this violation is a misdemeanor.

Prohibit any licensed firearms dealer from selling two or more handguns to an unlicensed individual during any 30-day period. This prohibition will be inapplicable to an exchange of one handgun for one handgun.

Increase the penalties for persons who unlawfully transfer handguns to juveniles from a misdemeanor to a felony.

Suspend a FFL's license if the licensee is charged with a crime. Currently, a gun dealer can remain in operation if charged with a crime.

Require the termination of a FFLs license upon a conviction of a felony. Under current law, a licensee convicted of a felony may continue to conduct business until appeal rights are exhausted. This is a serious loophole which jeopardizes public safety by allowing convicted felons to continue buying and selling large quantities of firearms in interstate commerce pending the resolution of their appeals.

Require criminal background checks of gun industry employees who deal with firearms, including gun shops, manufacturers and distributors.

Increase the penalty for persons who unlawfully transfer firearms to a juvenile, from a misdemeanor to a felony.

Decrease the amount of black powder explosive one is able to acquire without a permit from 50 pounds to 5 pounds.

According to the ATF report on Commerce in Firearms in the United States, only 1.2 percent of Federal firearms licensees—1,020 of the approximately 83,200 FFL retail dealers—account for over half, 57 percent, of the crime guns traced to current FFLs. This is a staggering number that depicts the disregard of existing laws by these rogue gun dealers. The Homeland and Security Gun Safety Act will strengthen current regulatory control and enforcement in order to protect the safety of the public, while allowing law-abiding Americans to purchase firearms for their own use.

''It's our position at the Justice Department and the position of this Administration that we need to unleash every possible tool in the fight against terrorism and do so promptly.''—Attorney General John Ashcroft, Testimony before Congress, September 24, 2001.

It is time we take a common sense approach to the terrorist threats that face our country today. Terrorists are well aware of our lax gun laws, and we must act preemptively to prevent future tragedies. It is time for action to prevent terrorism by strengthening our country's current gun laws. Our citizens demand it and our homeland security depends on it.

It is time we take a common sense approach to the terrorist threats that face our country today. Terrorists are well aware of our lax gun laws, and we must act preemptively to prevent future tragedies. It is time for action to prevent future tragedies by strengthening our country's current gun laws. Our homeland security depends on it.

By Mr. HOLLINGS:

S. 970. A bill to amend the Internal Revenue Code of 1986 to preserve jobs and production activities in the United States; to the Committee on Finance.

Mr. HOLLINGS. Mr. President, March marked the 32nd consecutive month, since July 2000), that manufacturing employment has declined in the United States. This is the longest consecutive monthly decline in the post

World War II era. Already, more than 2 million manufacturing jobs are gone.

In South Carolina, we have seen a steady erosion of our manufacturing job base, and if we don't come up with new concepts to create and maintain domestic manufacturing jobs, America will go out of business.

For all of 2002, industrial production fell 0.6 percent following a 3.5 percent decline in 2001. That represented the first back-to-back annual declines in industrial output since 1974–1975.

Quite frankly, this is unacceptable.

We must act to save our manufacturing jobs. Earlier this Congress, I introduced S. 592, the ''Save American Manufacturing Act of 2003,'' that seeks to eliminate the tax incentives for offshore production. Today, I introduce complementary legislation to provide tax incentives to produce in the United States.

The legislation I'm introducing today would provide tax benefits to domestic producers. These tax incentives would become increasingly beneficial as the percentage of manufacturing done in the United States increases. Conversely, as the percentage of domestic production decreases the incentives would also decrease.

This mechanism will provide a strong incentive for manufacturers to maintain U.S. production and to return runaway production to the United States.

Our communities, our industries and our workers are being harmed by the erosion of our manufacturing base. Today's legislation is one additional way that we can provide assistance to these vital groups.

This legislation is the companion to H.R. 1769 introduced earlier this session in the House by Representatives RANGEL and CRANE.

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. 970

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 ''Job Protection Act of 2003''.

SEC. 2. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME.

(a) IN GENERAL.—Section 114 of the Internal Revenue Code of 1986 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subpart E of part III of subchapter N of chapter 1 of such Code (relating to qualifying foreign trade income) is hereby repealed.

(2) The table of subparts for such part III is amended by striking the item relating to subpart E.

(3) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 114.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract—

(A) which is between the taxpayer and a person who is not a related person (as defined in section 943(b)(3) of such Code, as in effect on the day before the date of the enactment of this Act), and

(B) which is in effect on April 11, 2003, and at all times thereafter.

For purposes of this paragraph, a binding contract shall include a purchase option, renewal option, or replacement option which is included in such contract.

(d) REVOCATION OF SECTION 943(e) ELECTIONS.—

(1) IN GENERAL.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)—

(A) the corporation may revoke such election, effective as of the date of the enactment of this Act, and

(B) if the corporation does revoke such election—

(i) such corporation shall be treated as a domestic corporation transferring (as of the date of the enactment of this Act) all of its property to a foreign corporation in connection with an exchange described in section 354 of the Internal Revenue Code of 1986, and

(ii) no gain or loss shall be recognized on such transfer.

(2) EXCEPTION.—Subparagraph (B)(ii) of paragraph (1) shall not apply to gain on any asset held by the revoking corporation if—

(A) the basis of such asset is determined in whole or in part by reference to the basis of such asset in the hands of the person from whom the revoking corporation acquired such asset,

(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

(C) a principal purpose of the acquisition was the reduction or avoidance of tax.

(e) GENERAL TRANSITION.—

(1) IN GENERAL.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2009, for purposes of chapter 1 of such Code, each current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

(2) CURRENT FSC/ETI BENEFICIARY.—The term ''current FSC/ETI beneficiary'' means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2001 with respect to which FSC/ETI benefits were allowable.

(3) TRANSITION AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the adjusted base period amount.

(B) PHASEOUT PERCENTAGE.—

(i) IN GENERAL.—In the case of a taxpayer using the calendar year as its taxable year, the phaseout percentage shall be determined under the following table:

"Years:	The phaseout percentage is:
2004 and 2005	100
2006	75
2007	75
2008	50
2009 and thereafter	0

(ii) SPECIAL RULE FOR 2003.—The phaseout percentage for 2003 shall be the amount that bears the same ratio to 100 percent as the number of days after the date of the enactment of this Act bears to 365.

(iii) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxpayer not using the calendar year as its taxable year, the phaseout percentage is the weighted average of the phaseout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

(4) ADJUSTED BASE PERIOD AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—In the case of a taxpayer using the calendar year as its taxable year, the adjusted base period amount for any taxable year is the base period amount multiplied by the applicable percentage, as determined in the following table:

"Years:	The applicable percentage is:
2003	100
2004	100
2005	105
2006	110
2007	115
2008	120
2009 and thereafter	0

(B) BASE PERIOD AMOUNT.—The base period amount is the aggregate FSC/ETI benefits for the taxpayer's taxable year beginning in calendar year 2001.

(C) SPECIAL RULES FOR FISCAL YEAR TAXPAYERS, ETC.—Rules similar to rules of clauses (ii) and (iii) of paragraph (3)(B) shall apply for purposes of this paragraph.

(5) FSC/ETI BENEFIT.—For purposes of this subsection, the term 'FSC/ETI benefit' means—

(A) amounts excludable from gross income under section 114 of such Code, and

(B) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of the enactment of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be excluded any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in part by the taxpayer.

(6) SPECIAL RULE FOR FARM COOPERATIVES.—Under regulations prescribed by the Secretary, determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes of this subsection shall be carried out by excluding amounts from the gross income of its patrons.

(7) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 41(f) of such Code shall apply for purposes of this subsection.

(8) COORDINATION WITH BINDING CONTRACT RULE.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phaseout percentage of any FSC/ETI benefit realized for the taxable year by reason of subsection (c)(2). The preceding sentence shall not apply to any FSC/ETI benefit attributable to a transaction described in the last sentence of paragraph (5).

(9) SPECIAL RULE FOR TAXABLE YEAR WHICH INCLUDES DATE OF ENACTMENT.—In the case of a taxable year which includes the date of the enactment of this Act, the deduction allowed under this subsection to any current FSC/ETI beneficiary shall in no event exceed—

(A) 100 percent of such beneficiary's adjusted base period amount for calendar year 2003, reduced by

(B) the aggregate FSC/ETI benefits of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on the date of the enactment of this Act.

SEC. 3. DEDUCTION RELATING TO INCOME ATTRIBUTABLE TO UNITED STATES PRODUCTION ACTIVITIES.

(a) IN GENERAL.—Part VIII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to special deductions for corporations) is amended by adding at the end the following new section:

"SEC. 250. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

''(a) IN GENERAL.—In the case of a corporation, there shall be allowed as a deduction an amount equal to 10 percent of the qualified production activities income of the corporation for the taxable year.

''(b) PHASEIN.—In the case of taxable years beginning in 2006, 2007, 2008 or 2009, subsection (a) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

"Taxable years beginning in:	The transition percentage is:
2006	1
2007	2
2008	4
2009	9

''(c) QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this section, the term 'qualified production activities income' means the product of—

''(1) the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities, and

''(2) the domestic/foreign fraction.

''(d) DETERMINATION OF INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.—For purposes of this section—

''(1) IN GENERAL.—The portion of the modified taxable income which is attributable to domestic production activities is so much of the modified taxable income for the taxable year as does not exceed—

''(A) the taxpayer's domestic production gross receipts for such taxable year, reduced by

''(B) the sum of—

''(i) the costs of goods sold that are allocable to such receipts,

''(ii) other deductions, expenses, or losses directly allocable to such receipts, and

''(iii) a ratable portion of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.

''(2) ALLOCATION METHOD.—Except as provided in regulations, allocations under clauses (ii) and (iii) of paragraph (1)(B) shall be made under the principles used in determining the portion of taxable income from sources within and without the United States.

''(3) SPECIAL RULE.—

''(A) For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States without a transfer price meeting the requirements of section 482 shall be treated as acquired by purchase, and its cost shall be treated as not less than its value when it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

''(B) In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost (or adjusted basis) under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

''(4) MODIFIED TAXABLE INCOME.—The term 'modified taxable income' means taxable income computed without regard to the deduction allowable under this section.

''(e) DOMESTIC PRODUCTION GROSS RECEIPTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

''(A) any sale, exchange, or other disposition of, or

''(B) any lease, rental or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

''(2) SPECIAL RULE.—The term 'domestic production gross receipts' includes gross receipts of the taxpayer from the sale, exchange, or other disposition of replacement parts if—

''(A) such parts are sold by the taxpayer as replacement parts for qualified production property produced or manufactured in whole or significant part by the taxpayer in the United States, and

''(B) the taxpayer (or a related party) owns the designs for such parts.

''(3) RELATED PARTY.—The term 'related party' means any corporation which is a member of the taxpayer's expanded afiliated group.

''(f) QUALIFYING PRODUCTION PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualifying production property' means—

''(A) any tangible personal property,

''(B) any computer software, and

''(C) any films, tapes, records, or similar reproductions.

''(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'qualifying production property' shall not include—

''(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

''(B) oil or gas (or any primary product thereof),

''(C) electricity,

''(D) water supplied by pipeline to the consumer,

''(E) any unprocessed timber which is softwood,

''(F) utility services, or

''(G) any property (not described in paragraph (1)(B)) which is a film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

For purposes of subparagraph (E), the term 'unprocessed timber' means any log, cant, or similar form of timber.

''(g) DOMESTIC/FOREIGN FRACTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'domestic/foreign fraction' means a fraction—

''(A) the numerator of which is the value of the domestic production of the taxpayer, and

''(B) the denominator of which is the value of the worldwide production of the taxpayer.

''(2) VALUE OF DOMESTIC PRODUCTION.—The value of domestic production is the excess of—

''(A) the domestic production gross receipts, over

''(B) the cost of purchased inputs allocable to such receipts that are deductible under this chapter for the taxable year.

''(3) PURCHASED INPUTS.—

''(A) IN GENERAL.—Purchased inputs are any of the following items acquired by purchase:

''(i) Services (other than services of employees) used in manufacture, production, growth, or extraction activities.

''(ii) Items consumed in connection with such activities.

''(iii) Items incorporated as part of the property being manufactured, produced, grown, or extracted.

''(B) SPECIAL RULE.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of this subsection.

''(4) VALUE OF WORLDWIDE PRODUCTION.—

''(A) IN GENERAL.—The value of worldwide production shall be determined under the principles of paragraph (2), except that—

''(i) worldwide production gross receipts shall be taken into account, and

''(ii) paragraph (3)(B) shall not apply.

''(B) WORLDWIDE PRODUCTION GROSS RECEIPTS.—The worldwide production gross receipts is the amount that would be determined under subsection (e) if such subsection were applied without any reference to the United States.

''(5) SPECIAL RULE FOR AFFILIATED GROUPS.—

''(A) IN GENERAL.—In the case of a taxpayer that is a member of an expanded affiliated group, the domestic/foreign fraction shall be the amount determined under the preceding provisions of this subsection by treating all members of such group as a single corporation.

''(B) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined—

''(i) by substituting '50 percent' for '80 percent' each place it appears, and

''(ii) without regard to paragraphs (2), (3), and (4) of section 1504(b).

''(h) DEFINITIONS AND SPECIAL RULES.—

''(1) UNITED STATES.—For purposes of this section, the term 'United States' includes the Commonwealth of Puerto Rico and any other possession of the United States.

''(2) SPECIAL RULE FOR PARTNERSHIPS.—For purposes of this section, a corporation's distributive share of any partnership item shall be taken into account as if directly realized by the corporation.

''(3) COORDINATION WITH MINIMUM TAX.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alternative minimum taxable income shall be taken into account in determining the deduction under this section.

''(4) ORDERING RULE.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

''(5) COORDINATION WITH TRANSITION RULES.—For purposes of this section—

''(A) domestic production gross receipts shall not include gross receipts from any transaction if the binding contract transition relief of section 2(c)(2) of the Job Protection Act of 2003 applies to such transaction, and

''(B) any deduction allowed under section 2(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.''.

(b) CLERICAL AMENDMENT.—The table of sections for part VIII of subchapter B of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 250. Income attributable to domestic production activities.''.

(c) EFFECTIVE DATE.—

''(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after 2005.

''(2) APPLICATION OF SECTION 15.—Section 15 of the Internal Revenue Code of 1986 shall apply to the amendments made by this section as if they were changes in a rate of tax.

By Mr. HARKIN (for himself, Mr. SPECTER, Mr. KENNEDY, Mr. COCHRAN, Mr. BIDEN, Ms. LANDRIEU, Mr. KERRY, Mr. CORZINE, Mr. SCHUMER, Mrs. CLINTON, and Mr. DAYTON):

S. 971. A bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes; to the Committee on Finance.

Mr. HARKIN. Mr. President, today Senator SPECTER and I and others introduce the Medicaid Community-Based Attendant Services and Supports Act of 2003, MICASSA. This legislation is needed to truly bring people with disabilities into the mainstream of society and provide equal opportunity for employment and community activities.

In order to work or live in their own homes, Americans with disabilities and older Americans need access to community-based services and supports. Unfortunately, under current Federal Medicaid policy, the deck is stacked in favor of living in an institution. The purpose of our bill is to level the playing field and give eligible individuals equal access to community-based services and supports.

The Medicaid Community Attendant Services and Supports Act accomplishes four goals.

First, the bill amends Title XIX of the Social Security Act to provide a new Medicaid plan benefit that would give individuals who are currently eligible for nursing home services or an intermediate care facility for the mentally retarded equal access to community-based attendant services and supports.

Second, for a limited time, States would have the opportunity to receive additional funds to support community attendant services and supports and for certain administrative activities. Each State currently gets Federal money for their Medicaid program based on a set percentage. This percentage is the Medicaid match rate. This bill would increase that percentage to provide some additional funding to States to help them reform their long term care systems.

Third, the bill provides States with financial assistance to support ''real choice systems change initiatives'' that include specific action steps to increase the provision of home and community based services.

Finally, the bill establishes a demonstration project to evaluate service coordination and cost sharing approaches with respect to the provision of services and supports for individuals with disabilities under the age of 65 who are dually eligible for Medicaid and Medicare.

Some States have already recognized the benefits of home and community based services. Every State offers certain services under home and community based waiver programs, which serve a capped number of individuals with an array of home and community based services to meet their needs and avoid institutionalization. Some States also are now providing the personal care optional benefit through their Medicaid program.

However, despite this market progress, home and community based services are unevenly distributed within and across states and only reach a small percentage of eligible individuals.

Those left behind are often needlessly institutionalize because they cannot access community alternatives. A person with a disability's civil right to be integrated into his or her community should not depend on his or her address. In Olmstead v. LC, the Supreme Court recognized that needless institutionalization is a form of discrimination under the Americans With Disabilities Act. We in Congress have a responsibility to help States meet their obligations under Olmstead.

This MICASSA legislation is designed to do just that and make the promise of the ADA a reality. It will help rebalance the current Medicaid long term care system, which spends a disproportionate amount on institutional services. For example, in 2000, 49.5 billion dollars were spent on institutional care, compared to 18.2 billion on community based care. In the same year, only 3 States spent 50 percent or more of their long term care funds under the Medicaid program on home and community based care.

And that means that individuals do not have equal access to community based care throughout this country. An individual should not be asked to move to another state in order to avoid needless segregation. They also should not be moved away from family and friends because their only choice is an institution.

For example, I know a young man in Iowa, Ken Kendall, who is currently living in a nursing home because he cannot access home and community based care. Ken was injured in a serious accident at the age of 17 and sustained a spinal chord injury. With the help of community based services covered by his insurance company, Ken could live in his home in Iowa City. Remaining independent made a tremendous difference in his life.

However, several years ago, Ken lost his health insurance and after a time, he went onto Medicaid. As a Medicaid recipient, Ken was only given the option to live in a nursing home in Waterloo, almost two hours from his friends and family in Iowa City. In the nursing home, Ken has become isolated. He is very far from his family and friends and does not have access to transportation. He has not been to a restaurant or a movie since he moved to the nursing home over two years ago. His life has dramatically changed from when he lived in his own apartment and hired his own attendants to care for him. MICASSA would give him that choice again—the choice to control his own life and live a full and meaningful life in his home community surrounded by his friends and family.

Federal Medicaid policy should reflect the consensus reached in the ADA that Americans with Disabilities should have equal opportunity to contribute to our communities and participate in our society as full citizens. That means no one has to sacrifice their full participation in society because they need help getting out of the house in the morning or assistance with personal care or some other basic service.

I am very pleased that the administration has included the Real Choice Systems Change grants in its budget this year at $40 million dollars. Senator Specter and I have supported these grants for several years now. I also applaud the administration's commitment to The President's New Freedom Initiative for People with Disabilities and believe that this legislation helps promote the goals of that initiative.

Community based attendant services and supports allow people with disabilities to lead independent lives, have jobs, and participate in the community. Some will become taxpayers, some will get an education, and some will participate in recreational and civic activities. But all will experience a chance to make their own choices and govern their own lives.

This bill will open the door to full participation by people with disabilities in our workplaces, our economy, and our American Dream, and I urge all my colleagues to support us on this issue. I want to thank Senator SPECTER for his leadership on this issue and his commitment to improving access to home and community based services for people with disabilities. I would also like to thank Senators KENNEDY, COCHRAN, BIDEN, LANDRIEU, KERRY, CORZINE, SCHUMER, and CLINTON for joining me in this important initiative.

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. 971

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 ''Medicaid Community-Based Attendant Services and Supports Act of 2003''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Long-term services and supports provided under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) must meet the ability and life choices of individuals with disabilities and older Americans, including the choice to live in one's own home or with one's own family and to become a productive member of the community.

(2) Research on the provision of long-term services and supports under the medicaid program (conducted by and on behalf of the Department of Health and Human Services) has revealed a significant funding bias toward institutional care. Only about 27 percent of long term care funds expended under the medicaid program, and only about 9 percent of all funds expended under that program, pay for services and supports in home and community-based settings.

(3) In the case of medicaid beneficiaries who need long term care, the only long-term care service currently guaranteed by Federal law in every State is nursing home care. Only 27 States have adopted the benefit option of providing personal care services under the medicaid program. Although every State has chosen to provide certain services under home and community-based waivers, these services are unevenly available within and across States, and reach a small percentage of eligible individuals. In fiscal year 2000, only 3 States spent 50 percent or more of their medicaid long term care funds under the medicaid program on home and community-based care.

(4) Despite the funding bias and the uneven distribution of home and community-based services, 2½ times more people are served in home and community-based settings than in institutional settings.

(5) The goals of the Nation properly include providing families of children with disabilities, working-age adults with disabilities, and older Americans with—

(A) a meaningful choice of receiving long-term services and supports in the most integrated setting appropriate to their needs;

(B) the greatest possible control over the services received and, therefore, their own lives and futures; and

(C) quality services that maximize independence in the home and community, including in the workplace.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To reform the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to provide equal access to community-based attendant services and supports.

(2) To provide financial assistance to States as they reform their long-term care systems to provide comprehensive statewide long-term services and supports, including community-based attendant services and supports that provide consumer choice and direction, in the most integrated setting appropriate.

TITLE I—ESTABLISHMENT OF MEDICAID PLAN BENEFIT

SEC. 101. COVERAGE OF COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS UNDER THE MEDICAID PROGRAM.

(a) MANDATORY COVERAGE.—Section 1902(a)(10)(D) of the Social Security Act (42 U.S.C. 1396a(a)(10)(D)) is amended—

(1) by inserting ''(i)'' after ''(D)'';

(2) by adding ''and'' after the semicolon; and

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

''(ii) subject to section 1935, for the inclusion of community-based attendant services and supports for any individual who—

''(I) is eligible for medical assistance under the State plan;

''(II) with respect to whom there has been a determination that the individual requires the level of care provided in a nursing facility or an intermediate care facility for the mentally retarded (whether or not coverage of such intermediate care facility is provided under the State plan); and

''(III) who chooses to receive such services and supports;''.

(b) COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS.—

(1) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(A) by redesignating section 1935 as section 1936; and

(B) by inserting after section 1934 the following:

''COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS

''SEC. 1935. (a) REQUIRED COVERAGE.—

''(1) IN GENERAL.—Not later than October 1, 2007, a State shall provide through a plan amendment for the inclusion of community-based attendant services and supports (as defined in subsection (g)(1)) for individuals described in section 1902(a)(10)(D)(ii) in accordance with this section.

''(2) ENHANCED FMAP AND ADDITIONAL FEDERAL FINANCIAL SUPPORT FOR EARLIER COVERAGE.—Notwithstanding section 1905(b), during the period that begins on or after October 1, 2003, and ends on September 30, 2007, in the case of a State with an approved plan amendment under this section during that period that also satisfies the requirements of subsection (c) the Federal medical assistance percentage shall be equal to the enhanced FMAP described in section 2105(b) with respect to medical assistance in the form of community-based attendant services and supports provided to individuals described in section 1902(a)(10)(D)(ii) in accordance with this section.

''(b) DEVELOPMENT AND IMPLEMENTATION OF BENEFIT.—In order for a State plan amendment to be approved under this section, a State shall provide the Secretary with the following assurances:

''(1) ASSURANCE OF DEVELOPMENT AND IMPLEMENTATION COLLABORATION.—That the State has developed and shall implement the provision of community-based attendant services and supports under the State plan through active collaboration with—

''(A) individuals with disabilities;

''(B) elderly individuals;

''(C) representatives of such individuals; and

''(D) providers of, and advocates for, services and supports for such individuals.

''(2) ASSURANCE OF PROVISION ON A STATEWIDE BASIS AND IN MOST INTEGRATED SETTING.—That community-based attendant services and supports will be provided under the State plan to individuals described in section 1902(a)(10)(D)(ii) on a statewide basis and in a manner that provides such services and supports in the most integrated setting appropriate for each individual eligible for such services and supports.

''(3) ASSURANCE OF NONDISCRIMINATION.—That the State will provide community-based attendant services and supports to an individual described in section 1902(a)(10)(D)(ii) without regard to the individual's age, type of disability, or the form of community-based attendant services and supports that the individual requires in order to lead an independent life.

''(4) ASSURANCE OF MAINTENANCE OF EFFORT.—That the level of State expenditures for optional medical assistance that—

''(A) is described in a paragraph other than paragraphs (1) through (5), (17) and (21) of section 1905(a) or that is provided under a waiver under section 1915, section 1115, or otherwise; and

''(B) is provided to individuals with disabilities or elderly individuals for a fiscal year, shall not be less than the level of such expenditures for the fiscal year preceding the fiscal year in which the State plan amendment to provide community-based attendant services and supports in accordance with this section is approved.

''(c) REQUIREMENTS FOR ENHANCED FMAP FOR EARLY COVERAGE.—In addition to satisfying the other requirements for an approved plan amendment under this section, in order for a State to be eligible under subsection (a)(2) during the period described in that subsection for the enhanced FMAP for early coverage under subsection (a)(2), the State shall satisfy the following requirements:

''(1) SPECIFICATIONS.—With respect to a fiscal year, the State shall provide the Secretary with the following specifications regarding the provision of community-based attendant services and supports under the plan for that fiscal year:

''(A)(i) The number of individuals who are estimated to receive community-based attendant services and supports under the plan during the fiscal year.

''(ii) The number of individuals that received such services and supports during the preceding fiscal year.

''(B) The maximum number of individuals who will receive such services and supports under the plan during that fiscal year.

''(C) The procedures the State will implement to ensure that the models for delivery of such services and supports are consumer controlled (as defined in subsection (g)(2)(B)).

''(D) The procedures the State will implement to inform all potentially eligible individuals and relevant other individuals of the availability of such services and supports under the this title, and of other items and services that may be provided to the individual under this title or title XVIII.

''(E) The procedures the State will implement to ensure that such services and supports are provided in accordance with the requirements of subsection (b)(1).

''(F) The procedures the State will implement to actively involve individuals with disabilities, elderly individuals, and representatives of such individuals in the design, delivery, administration, and evaluation of the provision of such services and supports under this title.

''(2) PARTICIPATION IN EVALUATIONS.—The State shall provide the Secretary with such substantive input into, and participation in, the design and conduct of data collection, analyses, and other qualitative or quantitative evaluations of the provision of community-based attendant services and supports under this section as the Secretary deems necessary in order to determine the effectiveness of the provision of such services and supports in allowing the individuals receiving such services and supports to lead

an independent life to the maximum extent possible.

''(d) QUALITY ASSURANCE PROGRAM.—

''(1) STATE RESPONSIBILITIES.—In order for a State plan amendment to be approved under this section, a State shall establish and maintain a quality assurance program with respect to community-based attendant services and supports that provides for the following:

''(A) The State shall establish requirements, as appropriate, for agency-based and other delivery models that include—

''(i) minimum qualifications and training requirements for agency-based and other models;

''(ii) financial operating standards; and

''(iii) an appeals procedure for eligibility denials and a procedure for resolving disagreements over the terms of an individualized plan.

''(B) The State shall modify the quality assurance program, as appropriate, to maximize consumer independence and consumer control in both agency-provided and other delivery models.

''(C) The State shall provide a system that allows for the external monitoring of the quality of services and supports by entities consisting of consumers and their representatives, disability organizations, providers, families of disabled or elderly individuals, members of the community, and others.

''(D) The State shall provide for ongoing monitoring of the health and well-being of each individual who receives community-based attendant services and supports.

''(E) The State shall require that quality assurance mechanisms appropriate for the individual be included in the individual's written plan.

''(F) The State shall establish a process for the mandatory reporting, investigation, and resolution of allegations of neglect, abuse, or exploitation in connection with the provision of such services and supports.

''(G) The State shall obtain meaningful consumer input, including consumer surveys, that measure the extent to which an individual receives the services and supports described in the individual's plan and the individual's satisfaction with such services and supports.

''(H) The State shall make available to the public the findings of the quality assurance program.

''(I) The State shall establish an ongoing public process for the development, implementation, and review of the State's quality assurance program.

''(J) The State shall develop and implement a program of sanctions for providers of community-based services and supports that violate the terms or conditions for the provision of such services and supports.

''(2) FEDERAL RESPONSIBILITIES.—

''(A) PERIODIC EVALUATIONS.—The Secretary shall conduct a periodic sample review of outcomes for individuals who receive community-based attendant services and supports under this title.

''(B) INVESTIGATIONS.—The Secretary may conduct targeted reviews and investigations upon receipt of an allegation of neglect, abuse, or exploitation of an individual receiving community-based attendant services and supports under this section.

''(C) DEVELOPMENT OF PROVIDER SANCTION GUIDELINES.—The Secretary shall develop guidelines for States to use in developing the sanctions required under paragraph (1)(J).

''(e) REPORTS.—The Secretary shall submit to Congress periodic reports on the provision of community-based attendant services and supports under this section, particularly with respect to the impact of the provision of such services and supports on—

''(1) individuals eligible for medical assistance under this title;

''(2) States; and

''(3) the Federal Government.

''(f) NO EFFECT ON ABILITY TO PROVIDE COVERAGE UNDER A WAIVER.—

''(1) IN GENERAL.—Nothing in this section shall be construed as affecting the ability of a State to provide coverage under the State plan for community-based attendant services and supports (or similar coverage) under a waiver approved under section 1915, section 1115, or otherwise.

''(2) ELIGIBILITY FOR ENHANCED MATCH.—In the case of a State that provides coverage for such services and supports under a waiver, the State shall not be eligible under subsection (a)(2) for the enhanced FMAP for the early provision of such coverage unless the State submits a plan amendment to the Secretary that meets the requirements of this section.

''(g) DEFINITIONS.—In this title:

''(1) COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS.—

''(A) IN GENERAL.—The term 'community-based attendant services and supports' means attendant services and supports furnished to an individual, as needed, to assist in accomplishing activities of daily living, instrumental activities of daily living, and health-related functions through hands-on assistance, supervision, or cueing—

''(i) under a plan of services and supports that is based on an assessment of functional need and that is agreed to by the individual or, as appropriate, the individual's representative;

''(ii) in a home or community setting, which may include a school, workplace, or recreation or religious facility, but does not include a nursing facility or an intermediate care facility for the mentally retarded;

''(iii) under an agency-provider model or other model (as defined in paragraph (2)(C)); and

''(iv) the furnishing of which is selected, managed, and dismissed by the individual, or, as appropriate, with assistance from the individual's representative.

''(B) INCLUDED SERVICES AND SUPPORTS.—Such term includes—

''(i) tasks necessary to assist an individual in accomplishing activities of daily living, instrumental activities of daily living, and health-related functions;

''(ii) the acquisition, maintenance, and enhancement of skills necessary for the individual to accomplish activities of daily living, instrumental activities of daily living, and health-related functions;

''(iii) backup systems or mechanisms (such as the use of beepers) to ensure continuity of services and supports; and

''(iv) voluntary training on how to select, manage, and dismiss attendants.

''(C) EXCLUDED SERVICES AND SUPPORTS.—Subject to subparagraph (D), such term does not include—

''(i) the provision of room and board for the individual;

''(ii) special education and related services provided under the Individuals with Disabilities Education Act and vocational rehabilitation services provided under the Rehabilitation Act of 1973;

''(iii) assistive technology devices and assistive technology services;

''(iv) durable medical equipment; or

''(v) home modifications.

''(D) FLEXIBILITY IN TRANSITION TO COMMUNITY-BASED HOME SETTING.—Such term may include expenditures for transitional costs, such as rent and utility deposits, first month's rent and utilities, bedding, basic kitchen supplies, and other necessities required for an individual to make the transition from a nursing facility or intermediate care facility for the mentally retarded to a community-based home setting where the individual resides.

''(2) ADDITIONAL DEFINITIONS.—

''(A) ACTIVITIES OF DAILY LIVING.—The term 'activities of daily living' includes eating, toileting, grooming, dressing, bathing, and transferring.

''(B) CONSUMER CONTROLLED.—The term 'consumer controlled' means a method of providing services and supports that allow the individual, or where appropriate, the individual's representative, maximum control of the community-based attendant services and supports, regardless of who acts as the employer of record.

''(C) DELIVERY MODELS.—

''(i) AGENCY-PROVIDER MODEL.—The term 'agency-provider model' means, with respect to the provision of community-based attendant services and supports for an individual, a method of providing consumer controlled services and supports under which entities contract for the provision of such services and supports.

''(ii) OTHER MODELS.—The term 'other models' means methods, other than an agency-provider model, for the provision of consumer controlled services and supports. Such models may include the provision of vouchers, direct cash payments, or use of a fiscal agent to assist in obtaining services.

''(D) HEALTH-RELATED FUNCTIONS.—The term 'health-related functions' means functions that can be delegated or assigned by licensed health-care professionals under State law to be performed by an attendant.

''(E) INSTRUMENTAL ACTIVITIES OF DAILY LIVING.—The term 'instrumental activities of daily living' includes meal planning and preparation, managing finances, shopping for food, clothing, and other essential items, performing essential household chores, communicating by phone and other media, and traveling around and participating in the community.

''(F) INDIVIDUAL'S REPRESENTATIVE.—The term 'individual's representative' means a parent, a family member, a guardian, an advocate, or an authorized representative of an individual.''.

(c) CONFORMING AMENDMENTS.—

(1) MANDATORY BENEFIT.—Section 1902(a)(10)(A) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)) is amended, in the matter preceding clause (i), by striking ''(17) and (21)'' and inserting ''(17), (21), and (27)''.

(2) DEFINITION OF MEDICAL ASSISTANCE.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) by striking ''and'' at the end of paragraph (26);

(B) by redesignating paragraph (27) as paragraph (28); and

(C) by inserting after paragraph (26) the following:

''(27) community-based attendant services and supports (to the extent allowed and as defined in section 1935); and''.

(3) IMD/ICFMR REQUIREMENTS.—Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting ''and (27)'' after ''(24)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section (other than the amendment made by subsection (c)(1)) take effect on October 1, 2003, and apply to medical assistance provided for community-based attendant services and supports described in section 1935 of the Social Security Act furnished on or after that date.

(2) MANDATORY BENEFIT.—The amendment made by subsection (c)(1) takes effect on October 1, 2007.

SEC. 102. ENHANCED FMAP FOR ONGOING ACTIVITIES OF EARLY COVERAGE STATES THAT ENHANCE AND PROMOTE THE USE OF COMMUNITY-BASED ATTENDANT SERVICES AND SUPPORTS.

(a) IN GENERAL.—Section 1935 of the Social Security Act, as added by section 101(b), is amended—

(1) by redesignating subsections (d) through (g) as subsections (f) through (i), respectively;

(2) in subsection (a)(1), by striking ''subsection (g)(1)'' and inserting ''subsection (i)(1)'';

(3) in subsection (a)(2), by inserting '', and with respect to expenditures described in subsection (d), the Secretary shall pay the State the amount described in subsection (d)(1)'' before the period;

(4) in subsection (c)(1)(C), by striking ''subsection (g)(2)(B)'' and inserting ''subsection (i)(2)(B)''; and

(5) by inserting after subsection (c), the following:

''(d) INCREASED FEDERAL FINANCIAL PARTICIPATION FOR EARLY COVERAGE STATES THAT MEET CERTAIN BENCHMARKS.—

''(1) IN GENERAL.—Subject to paragraph (2), for purposes of subsection (a)(2), the amount and expenditures described in this subsection are an amount equal to the Federal medical assistance percentage, increased by 10 percentage points, of the expenditures incurred by the State for the provision or conduct of the services or activities described in paragraph (3).

''(2) EXPENDITURE CRITERIA.—A State shall—

''(A) develop criteria for determining the expenditures described in paragraph (1) in collaboration with the individuals and representatives described in subsection (b)(1); and

''(B) submit such criteria for approval by the Secretary.

''(3) SERVICES AND ACTIVITIES DESCRIBED.—For purposes of paragraph (1), the services and activities described in this subparagraph are the following:

''(A) One-stop intake, referral, and institutional diversion services.

''(B) Identifying and remedying gaps and inequities in the State's current provision of long-term services, particularly those services that are provided based on such factors as age, disability type, ethnicity, income, institutional bias, or other similar factors.

''(C) Establishment of consumer participation and consumer governance mechanisms, such as cooperatives and regional service authorities, that are managed and controlled by individuals with significant disabilities who use community-based services and supports or their representatives.

''(D) Activities designed to enhance the skills, earnings, benefits, supply, career, and future prospects of workers who provide community-based attendant services and supports.

''(E) Continuous improvement activities that are designed to ensure and enhance the health and well-being of individuals who rely on community-based attendant services and supports, particularly activities involving or initiated by consumers of such services and supports or their representatives.

''(F) Family support services to augment the efforts of families and friends to enable individuals with disabilities of all ages to live in their own homes and communities.

''(G) Health promotion and wellness services and activities.

''(H) Provider recruitment and enhancement activities, particularly such activities that encourage the development and maintenance of consumer controlled cooperatives or other small businesses or microenterprises that provide community-based attendant services and supports or related services.

''(I) Activities designed to ensure service and systems coordination.

''(J) Any other services or activities that the Secretary deems appropriate.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2003.

SEC. 103. INCREASED FEDERAL FINANCIAL PARTICIPATION FOR CERTAIN EXPENDITURES.

(a) IN GENERAL.—Section 1935 of the Social Security Act, as added by section 101(b) and amended by section 102, is amended by inserting after subsection (d) the following:

''(e) INCREASED FEDERAL FINANCIAL PARTICIPATION FOR CERTAIN EXPENDITURES.—

''(1) ELIGIBILITY FOR PAYMENT.—

''(A) IN GENERAL.—In the case of a State that the Secretary determines satisfies the requirements of subparagraph (B), the Secretary shall pay the State the amounts described in paragraph (2) in addition to any other payments provided for under section 1903 or this section for the provision of community-based attendant services and supports.

''(B) REQUIREMENTS.—The requirements of this subparagraph are the following:

''(i) The State has an approved plan amendment under this section.

''(ii) The State has incurred expenditures described in paragraph (2).

''(iii) The State develops and submits to the Secretary criteria to identify and select such expenditures in accordance with the requirements of paragraph (3).

''(iv) The Secretary determines that payment of the applicable percentage of such expenditures (as determined under paragraph (2)(B)) would enable the State to provide a meaningful choice of receiving community-based services and supports to individuals with disabilities and elderly individuals who would otherwise only have the option of receiving institutional care.

''(2) AMOUNTS AND EXPENDITURES DESCRIBED.—

''(A) EXPENDITURES IN EXCESS OF 150 PERCENT OF BASELINE AMOUNT.—The amounts and expenditures described in this paragraph are an amount equal to the applicable percentage, as determined by the Secretary in accordance with subparagraph (B), of the expenditures incurred by the State for the provision of community-based attendant services and supports to an individual that exceed 150 percent of the average cost of providing nursing facility services to an individual who resides in the State and is eligible for such services under this title, as determined in accordance with criteria established by the Secretary.

''(B) APPLICABLE PERCENTAGE.—The Secretary shall establish a payment scale for the expenditures described in subparagraph (A) so that the Federal financial participation for such expenditures gradually increases from 70 percent to 90 percent as such expenditures increase.

''(3) SPECIFICATION OF ORDER OF SELECTION FOR EXPENDITURES.—In order to receive the amounts described in paragraph (2), a State shall—

''(A) develop, in collaboration with the individuals and representatives described in subsection (b)(1) and pursuant to guidelines established by the Secretary, criteria to identify and select the expenditures submitted under that paragraph; and

''(B) submit such criteria to the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2003.

TITLE II—PROMOTION OF SYSTEMS CHANGE AND CAPACITY BUILDING

SEC. 201. GRANTS TO PROMOTE SYSTEMS CHANGE AND CAPACITY BUILDING.

(a) AUTHORITY TO AWARD GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall award grants to eligible States to carry out the activities described in subsection (b).

(2) APPLICATION.—In order to be eligible for a grant under this section, a State shall submit to the Secretary an application in such form and manner, and that contains such information, as the Secretary may require.

(b) PERMISSIBLE ACTIVITIES.—A State that receives a grant under this section may use funds provided under the grant for any of the following activities, focusing on areas of need identified by the State and the Consumer Task Force established under subsection (c):

(1) The development and implementation of the provision of community-based attendant services and supports under section 1935 of the Social Security Act (as added by section 101(b) and amended by sections 102 and 103) through active collaboration with—

(A) individuals with disabilities;

(B) elderly individuals;

(C) representatives of such individuals; and

(D) providers of, and advocates for, services and supports for such individuals.

(2) Substantially involving individuals with significant disabilities and representatives of such individuals in jointly developing, implementing, and continually improving a mutually acceptable comprehensive, effectively working statewide plan for preventing and alleviating unnecessary institutionalization of such individuals.

(3) Engaging in system change and other activities deemed necessary to achieve any or all of the goals of such statewide plan.

(4) Identifying and remedying disparities and gaps in services to classes of individuals with disabilities and elderly individuals who are currently experiencing or who face substantial risk of unnecessary institutionalization.

(5) Building and expanding system capacity to offer quality consumer controlled community-based services and supports to individuals with disabilities and elderly individuals, including by—

(A) seeding the development and effective use of community-based attendant services and supports cooperatives, independent living centers, small businesses, microenterprises and similar joint ventures owned and controlled by individuals with disabilities or representatives of such individuals and community-based attendant services and supports workers;

(B) enhancing the choice and control individuals with disabilities and elderly individuals exercise, including through their representatives, with respect to the personal assistance and supports they rely upon to lead independent, self-directed lives;

(C) enhancing the skills, earnings, benefits, supply, career, and future prospects of workers who provide community-based attendant services and supports;

(D) engaging in a variety of needs assessment and data gathering;

(E) developing strategies for modifying policies, practices, and procedures that result in unnecessary institutional bias or the overmedicalization of long-term services and supports;

(F) engaging in interagency coordination and single point of entry activities;

(G) providing training and technical assistance with respect to the provision of community-based attendant services and supports;

(H) engaging in—

(i) public awareness campaigns;

(ii) facility-to-community transitional activities; and

(iii) demonstrations of new approaches; and

(I) engaging in other systems change activities necessary for developing, implementing, or evaluating a comprehensive statewide system of community-based attendant services and supports.

(6) Ensuring that the activities funded by the grant are coordinated with other efforts to increase personal attendant services and supports, including—

(A) programs funded under or amended by the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170; 113 Stat. 1860);

(B) grants funded under the Families of Children With Disabilities Support Act of 2000 (42 U.S.C. 15091 et seq.); and

(C) other initiatives designed to enhance the delivery of community-based services and supports to individuals with disabilities and elderly individuals.

(7) Engaging in transition partnership activities with nursing facilities and intermediate care facilities for the mentally retarded that utilize and build upon items and services provided to individuals with disabilities or elderly individuals under the medicaid program under title XIX of the Social Security Act, or by Federal, State, or local housing agencies, independent living centers, and other organizations controlled by consumers or their representatives.

(c) CONSUMER TASK FORCE.—

(1) ESTABLISHMENT AND DUTIES.—To be eligible to receive a grant under this section, each State shall establish a Consumer Task Force (referred to in this subsection as the ''Task Force'') to assist the State in the development, implementation, and evaluation of real choice systems change initiatives.

(2) APPOINTMENT.—Members of the Task Force shall be appointed by the Chief Executive Officer of the State in accordance with the requirements of paragraph (3), after the solicitation of recommendations from representatives of organizations representing a broad range of individuals with disabilities, elderly individuals, representatives of such individuals, and organizations interested in individuals with disabilities and elderly individuals.

(3) COMPOSITION.—

(A) IN GENERAL.—The Task Force shall represent a broad range of individuals with disabilities from diverse backgrounds and shall include representatives from Developmental Disabilities Councils, Mental Health Councils, State Independent Living Centers and Councils, Commissions on Aging, organizations that provide services to individuals with disabilities and consumers of long-term services and supports.

(B) INDIVIDUALS WITH DISABILITIES.—A majority of the members of the Task Force shall be individuals with disabilities or representatives of such individuals.

(C) LIMITATION.—The Task Force shall not include employees of any State agency providing services to individuals with disabilities other than employees of entities described in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.).

(d) ANNUAL REPORT.—

(1) STATES.—A State that receives a grant under this section shall submit an annual report to the Secretary on the use of funds provided under the grant in such form and manner as the Secretary may require.

(2) SECRETARY.—The Secretary shall submit to Congress an annual report on the grants made under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $50,000,000 for each of fiscal years 2004 through 2006.

(2) AVAILABILITY.—Amounts appropriated to carry out this section shall remain available without fiscal year limitation.

SEC. 202. DEMONSTRATION PROJECT TO ENHANCE COORDINATION OF CARE UNDER THE MEDICARE AND MEDICAID PROGRAMS FOR NON-ELDERLY DUAL ELIGIBLE INDIVIDUALS.

(a) DEFINITIONS.—In this section:

(1) NON-ELDERLY DUALLY ELIGIBLE INDIVIDUAL.—The term ''non-elderly dually eligible individual'' means an individual who—

(A) has not attained age 65; and

(B) is enrolled in the medicare and medicaid programs established under titles XVIII and XIX, respectively, of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq.).

(2) PROJECT.—The term ''project'' means the demonstration project authorized to be conducted under this section.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(b) AUTHORITY TO CONDUCT PROJECT.—The Secretary shall conduct a project under this section for the purpose of evaluating service coordination and cost-sharing approaches with respect to the provision of community-based services and supports to non-elderly dually eligible individuals.

(c) REQUIREMENTS.—

(1) NUMBER OF PARTICIPANTS.—Not more than 5 States may participate in the project.

(2) APPLICATION.—A State that desires to participate in the project shall submit an application to the Secretary, at such time and in such form and manner as the Secretary shall specify.

(3) DURATION.—The project shall be conducted for at least 5, but not more than 10 years.

(d) EVALUATION AND REPORT.—

(1) EVALUATION.—Not later than 1 year prior to the termination date of the project, the Secretary, in consultation with States participating in the project, representatives of non-elderly dually eligible individuals, and others, shall evaluate the impact and effectiveness of the project.

(2) REPORT.—The Secretary shall submit a report to Congress that contains the findings of the evaluation conducted under paragraph (1) along with recommendations regarding whether the project should be extended or expanded, and any other legislative or administrative actions that the Secretary considers appropriate as a result of the project.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Mr. SPECTER. Mr. President, I have sought recognition to join Senator TOM HARKIN, my colleague and distinguished ranking member of the Appropriations Subcommittee on Labor, Health and Human Services and Education, which I chair, in introducing the ''Medicaid Attendant Care Services and Supports Act of 2003.'' This creative proposal addresses a glaring gap in Federal health coverage, and assists one of our Nation's most vulnerable populations, persons with disabilities.

In an effort to improve the delivery of care and the comfort of those with long-term disabilities, this vital legislation would allow for reimbursement for community-based attendant care services, in lieu of institutionalization, for eligible individuals who require such services based on functional need, without regard to the individual's age or the nature of the disability. The most recent data available tell us that 58.5 million individuals receive care for disabilities under the Medicaid program. The number of disabled who are not currently enrolled in the program who would apply for this improved benefit is not easily counted, but would likely be substantial given the preference of home and community-based care over institutional care.

Under this proposal, States may apply for grants for assistance in implementing ''systems change'' initiatives, in order to eliminate the institutional bias in their current policies and for needs assessment activities. Further, if a state can show that the aggregate amounts of Federal expenditures on people living in the community exceeds what would have been spent on the same people had they been in nursing homes, the state can limit the program. No limiting mechanism is mandated under this bill, And finally, States would be required to maintain expenditures for attendant care services under other Medicaid community-based programs, thereby preventing the states from shifting patients into the new benefit proposed under this bill.

Let me speak briefly about why such a change in Medicaid law is so desperately needed. In 1999 the Supreme Court held in Olmstead v. L.C., 119 S. Ct. 2176 (1999), that the Americans with Disabilities Act, ADA, requires States, under some circumstances, to provide community-based treatment to persons with mental disabilities rather than placing them in institutions. This decision and several lower court decisions have pointed to the need for a structured Medicaid attendant-care services benefit in order to meet obligations under the ADA. Disability advocates strongly support this legislation, arguing that the lack of Medicaid community-based services options is discriminatory and unhealthful for disabled individuals. Virtually every major disability advocacy group supports this bill, including ADAPT, the Arc, the National Council on Independent Living, Paralyzed Veterans of America, and the National Spinal Cord Injury Association.

Senator HARKIN and I recognize that such a shift in the Medicaid program is a huge undertaking—but feel that it is a vitally important one. We are introducing this legislation today in an attempt to move ahead with the consideration of crucial disability legislation and to provide a starting point for debate. The time has come for concerted action in this arena.

I urge the Congressional leadership, including the appropriate committee chairmen, to move forward in considering this legislation, and take the significant next step forward in achieving the objective of providing individuals with disabilities the freedom to live in their own communities.

By Mr. COLEMAN:

S. 972. A bill to clarify the authority of States to establish conditions for insurers to conduct the business of insurance within a State based on the provision of information regarding Holocaust era insurance policies of the insurer, to establish a Federal cause of action for claims for payment of such insurance policies, and for other purposes; to the Committee on the Judiciary.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the bill I introduce today to clarify the authority of States to establish conditions for insurers to conduct the business of insurance within a State based on the provision of information regarding Holocaust era insurance policies of the insurer, to establish a Federal cause of action for claims of payment of such insurance policies, and for other purposes be printed in the RECORD.

There being no objection, the bill 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 ''Comprehensive Holocaust Accountability in Insurance Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Between 1933 and 1945, the Nazi regime and its collaborators conducted systematic, bureaucratic, and State-sponsored persecution and murder of approximately 6,000,000 Jews—the genocidal act known as the Holocaust.

(2) Before and during World War II, millions of European Jews purchased, in good faith, life insurance policies with certain European insurance companies because these policies were a popular form of savings and investment that provided a means of safeguarding family assets, assisting in retirement planning, providing for a dowry, or saving for the education of children.

(3) After the Nazis came to power in Germany, they systematically confiscated the insurance assets, including the cash value of life insurance policies, of Jews and other designated enemies of the Nazi regime.

(4) After the conclusion of World War II, European insurers often rejected insurance claims of Holocaust victims and heirs who lacked required documentation, such as death certificates.

(5) During the 50 years since the end of the war, only a small percentage of Holocaust victims and their families have been successful in collecting on their policies.

(6) In 1998, the International Commission on Holocaust Era Insurance Claims (ICHEIC) was established by State insurance regulators in the United States, European insurers, and certain nongovernmental organizations to act as a facilitator between insurers and beneficiaries to help expedite payouts on contested insurance policies.

(7) To date ICHEIC has received more than 90,000 claims and has only made 2,281 settlement offers, which amounts to a resolution rate of less than a 3 percent.

(8) These insurance payments should to be expedited to the victims of the most heinous crime of the 20th Century to ensure that they do not become victims a second time.

(9) States should be allowed to collect Holocaust-era insurance information from foreign-based insurance companies that want to do business in such States.

(10) Holocaust victims and their families should be able to recover claims on Holocaust era insurance policies in Federal court when they consider it necessary to seek redress through the judicial system.

SEC. 3. STATE AUTHORITY TO ESTABLISH REQUIREMENTS FOR CONDUCTING INSURANCE BUSINESS.

(a) IN GENERAL.—A State may establish requirements on insurers as a condition of doing insurance business in that State, to the extent such requirements are consistent with the due process guarantees of the Constitution of the United States, as follows:

(1) INFORMATION REQUIREMENTS.—The State may require that an insurer provide to the State the following information regarding Holocaust era insurance policies:

(A) Whether the insurer, or any affiliate or predecessor company, sold any such policies.

(B) The number of such policies sold by the insurer, and any affiliates and predecessor companies, and the number the insurer and its affiliates currently have in their possession.

(C) The identity of the holder and beneficiary of each such policy sold or held and the current status of each such policy.

(D) The city of origin, domicile, and address for each policyholder listed.

(E) If an insurer has no such policies to report because records are no longer in the possession of the insurer or its affiliates, a statement explaining the reasons for the lack of possession of such records.

(F) Any other information regarding such policies as the State considers appropriate.

(2) REQUIREMENTS REGARDING PAYMENT OF POLICIES.—A State may require that an insurer certify that, with respect to any Holocaust era insurance policies sold or at any time held by the insurer—

(A) the proceeds of the policy were paid;

(B) the beneficiaries of the policy or heirs or such beneficiaries could not, after diligent search, be located, and the proceeds were distributed to Holocaust survivors or charities;

(C) a court of law has certified a plan for the distribution of the proceeds; or

(D) the proceeds have not been distributed.

(b) HOLOCAUST ERA INSURANCE POLICIES.—In this section, the term ''Holocaust era insurance policy'' means a policy for insurance coverage that—

(1) was in force at any time during the period beginning with 1920 and ending with 1945; and

(2) has a policy beneficiary, policyholder, or insured life that is a listed Holocaust victim.

SEC. 4. FEDERAL CAUSE OF ACTION FOR COVERED CLAIMS.

(a) FEDERAL CAUSE OF ACTION.—

(1) IN GENERAL.—There shall exist a Federal cause of action for any covered claim.

(2) STATUTE OF LIMITATIONS.—Any action brought under paragraph (1) shall be filed not later than 10 years after the date of the enactment of this Act.

(b) SUBJECT MATTER JURISDICTION.—The district courts shall have original jurisdiction of any civil action on a covered claim (whether brought under subsection (a) or otherwise).

(c) PERSONAL JURISDICTION.—Notwithstanding any provision of Rule 4 of the Federal Rules of Civil Procedure to the contrary, in a civil action on a covered claim (whether brought under subsection (a) or otherwise) commenced in a district where the defendant is not a resident—

(1) the court may exercise jurisdiction over such defendant on any basis not inconsistent with the Constitution of the United States; and

(2) service of process, summons, and subpoena may be made on such defendant in any manner not inconsistent with the Constitution of the United States.

(d) DEFINITIONS.—In this section:

(1) COVERED CLAIM.—The term ''covered claim'' means a claim against a covered foreign insurance company that arises out of the insurance coverage involved in an original request.

(2) ORIGINAL REQUEST.—The term ''original request'' means a request that—

(A) seeks payment of any claim on insurance coverage that—

(i) was provided by a covered foreign insurance company;

(ii) had as the policyholder, insured, or beneficiary a listed Holocaust victim; and

(iii) was in effect during any portion of the 13-year period beginning with 1933 and ending with 1945; and

(B) was made by a listed Holocaust victim, or the heirs of beneficiaries of such victim, to the covered foreign insurance company or the International Commission on Holocaust Era Insurance Claims.

(3) COVERED FOREIGN INSURANCE COMPANY.—The term ''covered foreign insurance company'' means each of the following companies, and its affiliates and predecessor companies:

(A) Assicurazioni Generali S.p.A.

(B) Union Des Assurances de Paris.

(C) Victoria Lebenversicherungs AG.

(D) Winterthur Lebensversicherungs Gesellschaft.

(E) Allianz Lebensversicherungs AG.

(F) Wiener Allianz Versicherungs AG.

(G) Riunione Adriatica di Sicurta.

(H) Vereinte Lebensversicherungs AG.

(I) Basler Lebens-Versicherungs Gesellschaft.

(J) Deutscher Ring Lebensversicherungs AG.

(K) Nordstern Lebensversicherungs AG.

(L) Gerling Konzern Lebensversicherungs AG.

(M) Manheimer Lebensversicherung AG.

(N) Der Anker.

(O) Allgemeine Versicherungs AG.

(P) Zuerich Lebensversicherungs Gesellschaft.

(Q) Any other foreign insurance company that a State or the Attorney General determines was in a position to have financial dealings with any individual who was a victim of the Holocaust.

SEC. 5. LISTED HOLOCAUST VICTIMS.

In this Act, the term ''listed Holocaust victim'' means the following individuals:

(1) LIST OF SURVIVORS.—Any individual whose name is on the list of Jewish Holocaust Survivors maintained by the United States Holocaust Memorial Museum in Washington, D.C.

(2) LIST OF DECEASED.—Any individual whose name is on the list of individuals who died in the Holocaust maintained by the Yad Veshem of Jerusalem in its Hall of Names.

(3) OTHER LISTS.—Any individual whose name is on any list of Holocaust victims that is designated as appropriate for use under this Act by the chief executive officer of a State or a State insurance commissioner or other principal insurance regulatory authority of a State.

By Mr. NICKLES (for himself and Mr. BREAUX):

S. 973. A bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain restaurant buildings; to the Committee on Finance.

Mr. NICKLES. Mr. President, I rise today to introduce legislation to provide that restaurant buildings are depreciated over 15 years instead of the

current-law 39 years. My legislation will ensure that the tax laws more accurately reflect the true economic life of restaurant buildings.

Under current law, real estate property and any improvements thereto generally must be depreciated over 39 years. However, restaurant buildings undergo excessive wear and tear, and are renovated on average every 6 to 8 years. Requiring restaurant owners to depreciate these renovations over 39 years leads to a mismatch of income and expenses, thereby increasing the tax consequence of making such improvements. The long depreciation period simply makes no economic sense.

In recent years, Congress has changed the depreciation schedules for competitors of owner-occupied restaurants. For example, convenience stores are depreciated over 15 years. In addition, leased properties, including leased restaurant space, can take advantage of the temporary bonus depreciation incentives contained in the 2001 economic stimulus bill.

I believe that our tax laws should be updated to treat restaurant property in a more rational manner. That is why I am introducing legislation to reduce the depreciable life of restaurant property from 39 years to 15 years. My legislation would ensure that all restaurants, either leased or owner-occupied, are treated equally. It would also ensure a level playing field between restaurants and their competitors. By reducing the time period over which all restaurants are depreciated, my bill will more accurately align a restaurant's income and expenses. According to the National Restaurant Association, enacting this legislation would generate an additional $3.7 billion in cash flow for restaurants over the next 10 years. This is money that could be reinvested and, in turn, generate new jobs.

I look forward to working with my colleagues to enact my legislation that will provide more rational tax-treatment of restaurants on a permanent basis. by doing so, we will take an incremental step toward modernizing the tax code's outdated depreciation rules.

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

S. 974. A bill to amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products; to the Committee on Health, Education, Labor, and Pensions.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce legislation designed to permit certain youths, those exempt from attending school, between the ages of 14 and 18 to work in sawmills under special safety conditions and close adult supervision. I introduced identical measures in the past three Congresses. Similar legislation introduced by my distinguished colleague, Representative JOSEPH R. PITTS, has already passed in the House in the 105th and 106th Congresses. I am hopeful the Senate will also enact this important issue.

As Chairman of the Labor, Health and Human Services and Education Appropriations Subcommittee, I have strongly supported increased funding for the enforcement of the important child safety protections contained in the Fair Labor Standards Act. I also believe, however, that accommodation must be made for youths who are exempt from compulsory school-attendance laws after the eighth grade. It is extremely important that youths who are exempt from attending school be provided with access to jobs and apprenticeships in areas that offer employment where they live.

The need for access to popular trades is demonstrated by the Amish community. In 1998, I toured an Amish sawmill in Lancaster County, PA, and had the opportunity to meet with some of my Amish constituency. In December 2000, Representative PITTS and I held a meeting in Gap, PA with over 20 members of the Amish community to hear their concerns on this issue. On May 3, 2001, I chaired a hearing of the Labor, Health and Human Services and Education Appropriations Subcommittee to examine these issues.

At the hearing the Amish explained that while they once made their living almost entirely by farming, they have increasingly had to expand into other occupations as farmland has disappeared in many areas due to pressure from development. As a result, many of the Amish have come to rely more and more on work in sawmills to make their living. The Amish culture expects youth, upon the completion of their education at the age of 14, to begin to learn a trade that will enable them to become productive members of society. In many areas, work in sawmills is one of the major occupations available for the Amish, whose belief system limits the types of jobs they may hold. Unfortunately, these youths are currently prohibited by law from employment in this industry until they reach the age of 18. This prohibition threatens both the religion and lifestyle of the Amish.

Under my legislation, youths would not be allowed to operate power machinery, but would be restricted to performing activities such as sweeping, stacking wood, and writing orders. My legislation requires that the youths must be protected from wood particles or flying debris and wear protective equipment, all while under strict adult supervision. The Department of Labor must monitor these safeguards to insure that they are enforced.

The Department of Justice has raised serious concerns under the Establishment Clause with the House legislation. The House measure conferred benefits only to a youth who is a ''member of a religious sect or division thereof whose established teachings do not permit formal education beyond the eighth grade.'' By conferring the ''benefit'' of working in a sawmill only to the adherents of certain religions, the Department argues that the bill appears to impermissibly favor religion to ''irreligion.'' In drafting my legislation, I attempted to overcome such an objection by conferring permission to work in sawmills to all youths who ''are exempted from compulsory education laws after the eighth grade.'' Indeed, I think a broader focus is necessary to create a sufficient range of vocational opportunities for all youth who are legally out of school and in need of vocational opportunities.

I also believe that the logic of the Supreme Court's 1972 decision in Wisconsin v. Yoder supports my bill. In Yoder, the Court held that Wisconsin's compulsory school attendance law requiring children to attend school until the age of 16 violated the Free Exercise Clause. The Court found that the Wisconsin law imposed a substantial burden on the free exercise of religion by the Amish since attending school beyond the eighth grade ''contravenes the basic religious tenets and practices of the Amish faith.'' I believe a similar argument can be made with respect to Amish youth working in sawmills. As their population grows and their subsistence through an agricultural way of life decreases, trades such as sawmills become more and more crucial to the continuation of their lifestyle. Barring youths from the sawmills denies these youths the very vocational training and path to self-reliance that was central to the Yoder Court's holding that the Amish do not need the final two years of public education.

I offer my legislation with the hope that my colleagues will work with me to provide relief for the Amish community.

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

S. 975. A bill to revise eligibility requirements applicable to essential air service subsidies; to the Committee on Commerce, Science, and Transportation.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce legislation designed to improve the Department of Transportation's Essential Air Services program and reinstate Lancaster, PA's eligibility to receive subsidized air service.

The Essential Air Services program provides operating subsidies to airlines, enabling them to serve smaller markets which would otherwise be unable to attract or retain commercial flights. To be eligible to receive such a subsidy, the community where the airport is located must be greater than 70 miles from the nearest large or medium hub airport. If the airport is located within 70 miles of a hub airport, the Secretary of Transportation may use his or her discretion to award a subsidy if the most commonly used highway route between both places is greater than 70 miles. It is up to the Department of Transportation to determine what route is used in making this mileage determination.

Residents and businesses in many rural and smaller communities throughout the United States rely heavily upon air service to provide a necessary link to larger cities. Lancaster, PA is one such community which had been designated as an Essential Air Services city since the Airline Deregulation Act of 1978. Up until the events of September 11, when the Airport faced a sharp decline in passenger revenue, Lancaster had never required a subsidy under this program.

When Lancaster ultimately found it necessary to seek a subsidy for its three daily flights to Pittsburgh, the Department of Transportation issued an Order to Show Cause on March 8, 2002, stating that Lancaster was not eligible for an Essential Air Services subsidy because it was located within 70 miles of Philadelphia International Airport. The Secretary of Transportation declined to use his discretion to award the subsidy because the Department identified a driving route of less than 70 miles between Lancaster City and Philadelphia Airport. While there is no question that such a route exists, it is by no means the most commonly used highway route as required by law.

The route selected by the Department of Transportation is one which the average person would never travel, via back roads and seldom used streets. In making its distance determination, the Department used a 66 mile route along Route 30 which would take over three hours to drive. The more commonly used highway route to the Philadelphia International Airport would be along US 222 to the Pennsylvania Turnpike, and then on to I–76, which is over 70 miles.

The legislation I am introducing today addresses this issue by designating an area's local metropolitan planning organization, rather than the Department of Transportation, as the organization responsible for determining the most commonly used highway route. If no such organization exists, the Governor of the State in which the airport is located, or the Governor's designee will make the determination. I believe that a local entity, not the Department of Transportation, is better suited to identify the route most travelers would drive. In such cases where that route exceeds 70 miles, the Department should be required to designate a community as eligible to receive subsidized air service.

My legislation will not place too great a burden upon the Essential Air Services program by allowing additional airports to participate. I am advised that there are only eight other communities, including Lancaster, which could become newly eligible to receive subsidized air service as a result of the changes I am proposing. Further, I would note that of the $113 million the program received in Fiscal Year 2002, there was an excess of $10.9 million which remained unspent and which carried over into Fiscal Year 2003.

Lancaster Airport's only commercial air carrier, Colgan Air, ceased operations on March 23, 2003, because it could not sustain service without a subsidy. The loss of commercial air service has already had a serious impact upon the Lancaster community. I am confident that my legislation will not only reinstate Lancaster's eligibility for subsidized air service and allow for the return of commercial air service, but it will also provide for a greater level of fairness for other communities which rely so heavily upon this important program.

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

S. 976. A bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement; to the Committee on Banking, Housing, and Urban Affairs.

Mr. WARNER. Mr. President, I rise today to introduce legislation, along with my colleague, Senator ALLEN, to mint a commemorative coin celebrating the 400th anniversary of the founding of Jamestown, VA in 2007.

The lasting significance of Jamestown stretches far beyond its contributions to the Commonwealth of Virginia. Our Nation is indebted to the 104 original inhabitants of Jamestown who, after completing a harrowing journey across the Atlantic in May of 1607, established the first permanent English settlement in America.

The legacies of Jamestown extend from the founding of our representative democracy in which we serve today, to the free market enterprise system on which our economy has flourished. Our unshakeable traditions of common law, agricultural production, manufacturing, and our free market economy received their humble beginnings from the entrepreneurial spirit of the Jamestown colonists.

The colonists established and implemented the principles of a representative government to build our American democracy that has withstood the test of time and internal conflict. The Jamestown settlers elected America's first democratic assembly, the Virginia House of Burgesses. The structure and procedures of this first legislative body still resonates in the chamber we serve in today. Our political philosophies and traditions took hold in the untamed landscape of Jamestown Island and remain the cornerstone of our republic today.

Jamestown also marked the beginning of the American cultural identity, hosting a combination of diverse cultural traditions. The settlement united English, Native American, and African cultures compelling each one to learn valuable lessons from the others. The colonists at Jamestown were the first immigrants to travel to America, making us a nation of immigrants of which we are so proud today.

The colony at Jamestown showcased the triumph of American ingenuity and hard work. Colonists at Jamestown were forced to battle starvation, disease, and the weather of their new home. Life in Jamestown was a struggle, and the determination shown by the colonists set the foundation for the revolutionary ideas that guided Americans through the colonial era.

Now 395 years later, the history of our Nation continues to come alive in Jamestown. Since 1994, archaeologists have found the remains of the original Jamestown fort constructed in 1607 and over 350,000 artifacts from the colonial period. These fascinating discoveries have given scholars, visitors, and most importantly, America's young people, a realistic view of 17th century American life. The continuing restoration and discovery of the original Jamestown colony provides all Americans with a window on their roots, and to the foundation on which this great Nation was built.

The proceeds from this commemorative coin will help both the National Park Service and the Association for the Preservation of Virginia Antiquities continue their research at the Jamestown site, complete necessary construction projects at the Jamestown National Park, and provide funds for events surrounding the 400th anniversary celebration. In addition, this legislation would help ensure that the Jamestown Rediscovery project will have adequate funds to continue educating the American public on our colonial history. In the 106th Congress, the House and Senate created the Jamestown 400th Commemoration Commission to ensure that the anniversary in 2007 is a truly national event. This legislation that I introduce today continues along this same line.

Recent events have brought about a renewed reverence and interest in our nation's history among the American people. This legislation would help bring national attention to this important anniversary and would serve as a fitting tribute to America's first permanent settlers. This event celebrates America's colonial history and gives every American a chance to help support America's Hometown, Jamestown, VA.

I ask my colleagues in the Senate to join me in supporting our Nation's and Virginia's colonial traditions with this important legislation. 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. 976

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 ''Jamestown 400th Anniversary Commemorative Coin Act of 2003''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the founding of the colony at Jamestown, Virginia in 1607, the first permanent English colony in America, and the capital of Virginia for 92 years, has major significance in the history of the United States;

(2) the Jamestown settlement brought people from throughout the Atlantic Basin together to form a multicultural society, including English, other Europeans, Native Americans, and Africans;

(3) the economic, political, religious, and social institutions that developed during the first 9 decades of the existence of Jamestown continue to have profound effects on the United States, particularly in English common law and language, cross cultural relationships, manufacturing, and economic structure and status;

(4) the National Park Service, the Association for the Preservation of Virginia Antiquities, and the Jamestown-Yorktown Foundation of the Commonwealth of Virginia collectively own and operate significant resources related to the early history of Jamestown;

(5) in 2000, Congress established the Jamestown 400th Commemoration Commission to ensure a suitable national observance of the Jamestown 2007 anniversary and to support and facilitate marketing efforts for a commemorative coin, stamp, and related activities for the Jamestown 2007 observances;

(6) a commemorative coin will bring national and international attention to the lasting legacy of Jamestown, Virginia; and

(7) the proceeds from a surcharge on the sale of such commemorative coin will assist the financing of a suitable national observance in 2007 of the 400th anniversary of the founding of Jamestown, Virginia.

SEC. 3. COIN SPECIFICATIONS.

(a) $5 GOLD COINS.—The Secretary of the Treasury (in this Act referred to as the ''Secretary'') shall issue not more than 100,000 $5 coins, which shall—

(1) weigh 8.359 grams;

(2) have a diameter of 0.850 inches; and

(3) contain 90 percent gold and 10 percent alloy.

(b) $1 SILVER COINS—The Secretary shall issue not more than 500,000 $1 coins, which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1,500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(c) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(e) SOURCES OF BULLION.—

(1) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under section 5116 of title 31, United States Code.

(2) SILVER.—The Secretary shall obtain silver for the coins minted under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the settlement of Jamestown, Virginia, the first permanent English settlement in America.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2007''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) DESIGN SELECTION.—Subject to subsection (a), the design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with—

(A) the Jamestown 2007 Steering Committee, created by the Jamestown-Yorktown Foundation of the Commonwealth of Virginia;

(B) the National Park Service; and

(C) the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the period beginning on January 1, 2007, and ending on December 31, 2007.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins minted under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (c) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(c) BULK SALES.—The Secretary shall make bulk sales of the coins minted under this Act at a reasonable discount.

(d) SURCHARGE.—All sales of coins minted under this Act shall include a surcharge of—

(1) $35 per coin for the $5 coin; and

(2) $10 per coin for the $1 coin.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) RECIPIENTS.—

(1) IN GENERAL.—All surcharges received by the Secretary from the sale of coins minted under this Act shall be promptly paid by the Secretary to the recipients listed under paragraphs (2) and (3).

(2) JAMESTOWN-YORKTOWN FOUNDATION.—The Secretary shall distribute 50 percent of the surcharges described under paragraph (1) to the Jamestown-Yorktown Foundation of the Commonwealth of Virginia, to support programs to promote the understanding of the legacies of Jamestown.

(3) OTHER RECIPIENTS.—

(A) IN GENERAL.—The Secretary shall distribute 50 percent of the surcharges described under paragraph (1) to the entities specified under subparagraph (B), in equal shares, for the purposes of—

(i) sustaining the ongoing mission of preserving Jamestown;

(ii) enhancing the national and international educational programs;

(iii) improving infrastructure and archaeological research activities; and

(iv) conducting other programs to support the commemoration of the 400th anniversary of Jamestown.

(B) ENTITIES SPECIFIED.—Entities specified under this subparagraph are—

(i) the Secretary of the Department of the Interior;

(ii) the President of the Association for the Preservation of Virginia Antiquities; and

(iii) the Chairman of the Jamestown Yorktown Foundation.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the entities specified in subsection (a), as may be related to the expenditure of amounts distributed under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

By Mr. FITZGERALD (for himself, Mr. KENNEDY, and Ms. SNOWE):

S. 977. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage from treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease; to the Committee on Health, Education, Labor, and Pensions.

Mr. FITZGERALD. Mr. President, I rise today to introduce the Children's Deformities Act of 2003, which will require insurance companies to cover corrective surgeries for children with congenital or developmental deformities.

According to the March of Dimes, 3.8 percent of babies born annually—about 150,000 babies per year suffer from birth defects. Approximately 50,000 of these babies require reconstructive surgery. Examples of these deformities include cleft lip, cleft palate, skin lesions, vascular anomalies, malformations of the ear, hand, or foot, and other more profound craniofacial deformities.

Plastic surgeons are able to correct many of these problems, and doing so is critical to both the physical and mental health and development of the child. On average, children with congenital deformities or developmental anomalies will need three to five surgical procedures before normalcy is achieved. An increasing number of insurance companies are denying access

to care by labeling the surgical procedures cosmetic or nonfunctional in nature. In some cases, carriers may provide coverage for initial procedures, but resist covering later, necessary procedures, claiming that they are cosmetic and not medically necessary.

Although insurance companies ultimately have decided to cover some of these procedures, families have had to battle through the appeals process of insurance companies for extended periods of time, thereby forcing children to wait unnecessarily for needed surgeries. The treatment plan for children with congenital defects usually requires staged surgical care in accordance with the child's growth pattern. Onerous and time-consuming appeals procedures can jeopardize the physical and psychological health of children with deformities.

The American Medical Association defines cosmetic surgery as being performed to reshape normal structures of the body in order to improve the patient's appearance and self-esteem. In contrast, reconstructive surgery is defined as being performed on abnormal structures of the body, caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease. According to the American Society of Plastic Surgeons, reconstructive surgery is performed in order to improve function and approximate a normal appearance.

The Treatment of Children's Deformities Act of 2003 will prohibit insurers from denying coverage for reconstructive surgery for children. This bill identifies the difference between cosmetic and reconstructive surgery and incorporates the American Medical Association's definition of reconstructive surgery. The measure requires group and individual health insurers and group health plans to provide coverage for treatment of a minor child's congenital or developmental deformity, disease, or injury. The legislation defines ''treatment'' to include reconstructive surgical procedures. These are procedures that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease.

The Treatment of Children's Deformities Act of 2003 has been endorsed by the American Society of Plastic Surgeons, the American Medical Association, the American Academy of Pediatrics, and several other medical organizations. Fifteen States have already enacted legislation that to different degrees require insurance companies to cover treatment of craniofacial and congenital anomalies. While governor of Texas, George W. Bush signed into law legislation that is similar to the legislation I introduce today.

I would like to thank Senator KENNEDY and Senator SNOWE for cosponsoring this important legislation. I urge all of my colleagues to join me in supporting this bill so that children who suffer from congenital deformities or developmental anomalies do not have to wait unnecessarily for needed treatment.

I ask unanimous consent that the bill be printed in the RECORD following the conclusion of my remarks.

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

S. 977

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 ''Treatment of Children's Deformities Act of 2003''.

SEC. 2. COVERAGE OF MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following:

''SEC. 2707. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

''(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

''(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

''(3) TREATMENT DEFINED.—

''(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

''(i) procedures that do not materially affect the function of the body part being treated; and

''(ii) procedures for secondary conditions and follow-up treatment.

''(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.

''(b) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.''.

(B) CONFORMING AMENDMENT.—Section 2723(c) of the Public Health Service Act (42 U.S.C. 300gg–23(c)) is amended by striking ''section 2704'' and inserting ''sections 2704 and 2707''.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

''(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

''(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

''(3) TREATMENT DEFINED.—

''(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

''(i) procedures that do not materially affect the function of the body part being treated; and

''(ii) procedures for secondary conditions and follow-up treatment.

''(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.

''(b) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.''.

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191(c)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(ii) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(iii) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following:

''Sec. 714. Standards relating to benefits for minor child's congenital or developmental deformity or disorder.''.

(3) INTERNAL REVENUE CODE AMENDMENTS.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(A) in the table of sections, by inserting after the item relating to section 9812 the following:

''Sec. 9813. Standards relating to benefits for minor child's congenital or developmental deformity or disorder.''; and

(B) by inserting after section 9812 the following:

''SEC. 9813. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

''(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

''(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

''(3) TREATMENT DEFINED.—

''(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

''(i) procedures that do not materially affect the function of the body part being treated; and

''(ii) procedures for secondary conditions and follow-up treatment.

''(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.''.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following:

''SEC. 2753. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

''(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

''(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

''(3) TREATMENT DEFINED.—

''(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

''(i) procedures that do not materially affect the function of the body part being treated; and

''(ii) procedures for secondary conditions and follow-up treatment.

''(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.

''(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 714(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.''.

(2) CONFORMING AMENDMENT.—Section 2762(b)(2) of the Public Health Service Act (42 U.S.C. 300gg–62(b)(2)) is amended by striking ''section 2751'' and inserting ''sections 2751 and 2753''.

(c) EFFECTIVE DATES.—

(1) GROUP HEALTH COVERAGE.—The amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after January 1, 2004.

(2) INDIVIDUAL HEALTH COVERAGE.—The amendment made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.

(d) COORDINATED REGULATIONS.—Section 104(1) of Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 300gg-92 note) is amended by striking ''this subtitle (and the amendments made by this subtitle and section 401)'' and inserting ''the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of parts A and C of title XXVII of the Public Health Service Act, and chapter 100 of the Internal Revenue Code of 1986''.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator FITIZGERALD and Senator SNOWE in introducing the Treatment of Children's Deformities Act. The purpose of our bill is to see that health insurers and health plans cover the treatment of children's congenital and developmental deformities and disorders.

About 7 percent of all children are born with significant problems, including cleft lips or cleft palates, serious skin lesions such as port wine stains, malformations of the ear, or facial deformities. Plastic surgery can correct many of these conditions, but too often parents face significant barriers in obtaining care for their children. More than half of all plastic surgeons report that these patients are denied insurance coverage or had the struggle to receive it. Too often, insurers deny coverage by calling the treatment cosmetic or not medically necessary.

The medical, developmental, and psychological problems associated with denied or delayed treatment of these deformities are enormous. Treatment often requires a series of treatments as the child grow. No child should be forced to live with an untreated cleft lip or a facial deformity while parents appeal an insurer's unfair denial. Delayed or denied treatment puts a child's physical and mental health at risk.

Our bill requires health insurers and health plans to provide coverage to treat a child's congenial or developmental deformity, or disorders caused by disease, trauma, infection, or tumor. It is supported by many medical organizations, including the American Academy of Pediatrics, the American Medical Association, and the American Society of Plastic Surgeons. I urge the Senate to support this important bill, and give children and families the support they deserve.

By Mr. ENSIGN (for himself, Mrs. BOXER, Ms. CANTWELL, Mr. CRAPO, Mr. CRAIG, Mr. ALLEN, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. REID, Mr. ALLARD, Mr. BURNS, Mr. WARNER, Mr. BENNETT, Mr. SMITH, Ms. STABENOW, and Mr. COLEMAN):

S. 979. A bill to direct the Securities and Exchange Commission to require enhanced disclosures of employee stock options, to require a study on the economic impact of broad-based employee stock options plans, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ENSIGN. Mr. President, I rise today, along with my good friend, the junior Senator from California, to introduce legislation on an issue that could have a significant impact on the economy.

The financial scandals which occurred last year at Enron, WorldCom, and other corporations rocked our financial markets and greatly diminished investor confidence in this country. In response to abuses by a few high-profile corporate executives, Congress passed the Sarbanes-Oxley Corporate Responsibility Act, which closed loopholes that led to those scandals and sought to restore investor confidence in our markets.

However, in the wake of those scandals, I believe that stock options have been incorrectly equated with abuse.

Stock option plans reflect America's best business values—the willingness to take risks, the vision to develop new entrepreneurial companies and technologies, and a way to broaden ownership and participation among all employees.

Last week, the Financial Accounting Standards Board made a tentative decision to mandate the expensing of stock options. This would effectively kill broad-based stock option plans which are used by many high-growth, entrepreneurial companies. Such board-based plans distribute options to rank-and-file employees, not just to senior executives. This is a very different approach than that used by companies associated with the scandals of last year.

This issue was brought to my attention by a couple hundred chief executive officers and leaders in the high-tech world. This is their No. 1 issue because, when they are properly structured, stock options are valuable incentives for productivity and growth. They also help startup companies recruit and retain workers—an essential tool in a struggling economy.

I think it is absolutely ludicrous that we would risk destroying growth when there isn't even a workable model available to accurately expense stock options. Not only is the plan wrong, it is not doable.

The legislation that we are introducing today would provide shareholders with accurate information

about a company's use of stock options, while also preserving this critical tool for all company employees. It would enhance the availability of financial reporting by requiring the SEC to take very specific steps to give shareholders and investors the important financial information they need.

Additionally, this bill places a 3-year moratorium on the mandatory expensing of stock options. This will allow the Department of Commerce to take a very detailed look at the negative impact that mandating expensing of stock options could have on our economy.

It is important that we do not react to the corporate scandals of last year by stifling this vital tool for economic growth. It would be bad for the economy, bad for workers in this country, and bad for potential investors.

Mr. President, before I yield the floor, I would like to thank the Senator from California, Mrs. BOXER, for her hard work on this issue. I would also like to recognize and thank my colleagues who have signed on in support of this bill, Senators GEORGE ALLEN, MIKE CRAPO, LARRY CRAIG, MARIA CANTWELL, PATTY MURRAY, DIANNE FEINSTEIN, HARRY REID, WAYNE ALLARD, CONRAD BURNS, GORDON SMITH, ROBERT BENNETT and JOHN WARNER.

I yield the floor.

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

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

S. 979

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 ''Broad-Based Stock Option Plan Transparency Act of 2003''.

SEC. 2. CONGRESSIONAL FINDINGS.

Congress finds that—

(1) innovation and entrepreneurship, particularly in the high technology industry, helped propel the economic growth of the 1990s, and will continue to be the essential building blocks of economic growth in the 21st century;

(2) broad-based employee stock option plans enable entrepreneurs and corporations to attract quality workers, to incentivize worker innovation, and to stimulate productivity, which in turn increase shareholder value;

(3) broad-based employee stock options plans that expand corporate ownership to rank-and-file employees spur capital formation, benefit workers, and improve corporate performance to the benefit of investors and the economy;

(4) concerns raised about the impact of employee stock option plans on shareholder value raise legitimate issues relevant to the current level of disclosure and transparency of those plans to current and potential investors; and

(5) investors deserve to have accurate, reliable, and meaningful information about the existence of outstanding employee stock options and their impact on the share value of a going concern.

SEC. 3. IMPROVED EMPLOYEE STOCK OPTION TRANSPARENCY AND REPORTING DISCLOSURES.

(a) ENHANCED DISCLOSURES REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission (in this Act referred to as the ''Commission'') shall, by rule, require, for each company required to file periodic reports under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)), that such reports include detailed information regarding stock option plans, stock purchase plans, and other arrangements involving an employee acquisition of an equity interest in the company, particularly with respect to the dilutive effect of such plans, including—

(1) a discussion, written in ''plain English'' (in accordance with the Plain English Handbook published by the Office of Investor Education and Assistance of the Commission), of the dilutive effect of stock option plans, including tables or graphic illustrations of such dilutive effects;

(2) expanded disclosure of the dilutive effect of employee stock options on the earnings per share number of the company;

(3) prominent placement and increased comparability of all stock option related information; and

(4) a summary of the stock options granted to the 5 most highly compensated executive officers of the company, including any outstanding stock options of those officers.

(b) EQUITY INTEREST.—As used in this section, the term ''equity interest'' includes common stock, preferred stock, stock appreciation rights, phantom stock, and any other security that replicates the investment characteristics of such securities, and any right or option to acquire any such security.

SEC. 4. EVALUATION OF EMPLOYEE STOCK OPTION PLANS TRANSPARENCY AND REPORTING DISCLOSURES AND REPORT TO CONGRESS.

(a) STUDY AND REPORT.—

(1) STUDY.—During the 3-year period following the date of issuance of a final rule under section 3(a), the Commission shall conduct a study of the effectiveness of the enhanced disclosures required by section 3 in increasing transparency to current and potential investors.

(2) REPORT.—Not later than 180 days after the end of the 3-year period referred to in paragraph (1), the Commission shall transmit a report of the results of the study conducted under paragraph (1) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(b) MORATORIUM ON NEW ACCOUNTING STANDARDS RELATED TO STOCK OPTIONS.—During the period beginning on the date of enactment of this Act and ending 60 days after the date of transmission of the report required under subsection (a)(2), the Commission shall not recognize as generally accepted accounting principles for purposes of enforcing the securities laws any accounting standards related to the treatment of stock options that the Commission did not recognize for that purpose before April 1, 2003.

SEC. 5. STUDY ON THE ECONOMIC IMPACT OF BROAD-BASED EMPLOYEE STOCK OPTION PLANS AND REPORT TO CONGRESS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Commerce shall conduct a study and analysis of broad-based employee stock option plans, particularly in the high technology and any other high growth industries.

(2) CONTENT.—The study and analysis required by paragraph (1) shall include an examination of—

(A) the impact of such plans on expanding employee corporate ownership to workers at a wide-range of income levels, with a particular focus on rank-and-file employees;

(B) the role of such plans in the recruitment and retention of skilled workers; and

(C) the role of such plans in stimulating research and innovation;

(D) the impact of such plans on the economic growth of the United States; and

(E) the role of such plans in strengthening the international competitiveness of companies organized under the laws of the United States.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce shall submit a report on the study and analysis required by subsection (a) to—

(1) the Committee on Energy and Commerce and the Committee on Financial Services of the House of Representatives; and

(2) the Committee on Commerce, Science, and Transportation and the Committee on Banking, Housing, and Urban Affairs of the Senate.

Mrs. FEINSTEIN. Mr. President, I rise in support of legislation introduced by Senators BOXER and ENSIGN to improve disclosure of stock option grants in company financial statements while, at the same time, delaying the adoption of new accounting standards that could fundamentally distort reported earnings.

I believe that at this time of continued economic weakness it is critical that we take action to both increase transparency and improve corporate governance, without which we cannot hope to restore investor confidence.

The Broad-Based Stock Option Plan Transparency Act would increase the transparency of stock option grants at all levels of public companies, particularly executive compensation, and would provide investors with additional tools to make investment decisions.

Increased disclosure provisions in the bill include: expanded disclosure of the dilutive effect of employee stock options on reported earnings per share; a ''plain English'' discussion of share value dilution, which would allow individual investors to understand the impact of options grants on their investment; more prominent placement and increased comparability of stock option-related footnotes; and a summary of stock options granted to the 5 most highly compensated executives of the company.

These provisions help us fulfill the goal of greater transparency in our markets and improved corporate governance. With passage of the Sarbanes-Oxley accounting reform legislation last summer, we took a major step in that direction, and I believe this bill adds to those achievements.

If individual investors do not feel comfortable with the information reported by public companies or the advice given by banks and other major players in our financial markets, they will not feel comfortable making new investments and our markets are unlikely to recover.

In addition to requiring new disclosure of the impact of employee stock options on a company's earnings per share, this bill also requires the SEC to

monitor the effectiveness of increased disclosure requirements for 3 years.

The bill also specifies that the SEC must examine the impact of broad-based stock option plans on worker productivity and the performance of the firms which use such plans.

As anyone who has spent time in Silicon Valley can attest, the phenomenal achievements of high tech companies in California and across the country would not have been possible without employee stock options.

Stock options give employees a stake in the success of their company and create a degree of employee loyalty, productivity, and achievement that simply would not be possible if cash were the only form of compensation available. Moreover, it has allowed start-ups that are cash-poor to hire and retain talent that might otherwise have been available only to established firms.

A mandatory expensing standard will sharply limit the use of stock options, particularly for rank and file workers, and will slow our economic recovery.

Without a strong high tech sector developing new technologies and bringing new products to market, we cannot hope to return to the robust economic growth of the last decade.

Moreover, mandatory expensing could actually decrease transparency for the average investor. The Financial Accounting Standards Board (FASB) has indicated it will implement such a rule within the next year, but has not come up with an adequate means of valuing those options for expensing purposes.

The binomial pricing model currently used to value short-term derivatives, also known as Black/Scholes, does not work with the types of long-term, restricted options packages granted to employees. Without an accurate valuation methodology, we risk giving investors a much less accurate picture of a company's financial health than they would have otherwise.

I have spoken with the chief executive officers of a number of companies in my state, including John Chambers, CEO of Cisco Systems, Craig Barrett, CEO of Intel, and Richard Kovacevich, CEO of Wells Fargo. Each one of those corporate leaders has told me that a mandatory expensing standard would lead them to sharply limit the number of options he grants to his employees.

They also told me that it would lead them cut back on hiring and possibly send more jobs abroad. I found those comments disturbing, and they should give us pause and compel us to act prudently. That is why we should support further study of the accounting treatment of stock options, during which period no new accounting rules pertaining tot stock options could be adopted.

I would like to describe briefly the impact of employee stock options on the value of an investor's holdings in the company that granted the option.

In order for employee stock options not to be counted as an expense, they must be set at or above the average closing price of the company's stock during a fixed period. They are also generally restricted, and usually cannot be exercised for several years after their grant date.

Should the value of the underlying shares fall during the life of the option, the options are underwater and are effectively worthless. Should the share price increase, however, the exercise of those options creates no cash charge to the company whatsoever. Instead, it increases the total number of shares outstanding.

To take one concrete example, Cisco Systems recently reported approximately 7.3 billion shares outstanding in their latest annual report. They also reported approximately 600 million options to purchase shares that were ''in the money,'' or had an exercise price below the current share price.

If all those options were exercised, and no shares were repurchased, each share would be entitled to approximately 8 percent less in dividends than before. In fact, the actual dilution would likely be somewhat less.

If options are expensed, however, the impact on Cisco's bottom line would be dramatic, despite the fact that their only tangible impact is on the number of shares outstanding. Had Cisco expensed their stock options for the 2001 fiscal year, their reported profits would have been 171 percent lower. A roughly $1 billion profit would instead have been a nearly $1 billion loss.

Yet the actual value of those options now is almost nil. They were all granted at exercise prices well above the current share price, and may never be exercised.

Options are not a cash expense and represent no tangible exchange of assets. They are a form of incentive pay that may ultimately be worthless. In short, they are nothing like a cash salary.

The legislation introduced by Senators BOXER and ENSIGN recognizes the need for further study, but does not place an indefinite moratorium on FASB action. It is a balanced bill that will help the average investor and ultimately strengthen our financial markets.

I urge my colleagues to support the Broad-Based Stock Option Transparency Act.

By Mr. GRAHAM of South Carolina (for himself and Mr. MILLER):

S. 980. A bill to conduct a study on the effectiveness of ballistic imaging technology and evaluate its effectiveness as a law enforcement tool; to the Committee on the Judiciary.

Mr. GRAHAM of South Carolina. 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. 980

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 ''Ballistic Imaging Evaluation and Study Act of 2003''.

SEC. 2. PURPOSES.

The purposes of this Act are the following:

(1) To conduct a comprehensive study of ballistic imaging technology and evaluate design parameters for packing and shipping of fired cartridge cases and projectiles.

(2) To determine the effectiveness of the National Integrated Ballistic Information Network (NIBIN) as a tool in investigating crimes committed with handguns and rifles.

(3) To establish the cost and overall effectiveness of State-mandated ballistic imaging systems and the sharing and retention of the data collected by the systems.

SEC. 3. STUDY.

(a) IN GENERAL.—Not later than six (6) months after the date of the enactment of this Act, the Attorney General shall enter into an arrangement with the National Research Council of the National Academy of Sciences, which shall have sole responsibility for conducting under the arrangement a study to determine the following:

(1) The design parameters for an effective and uniform system for packing fired cartridge cases and projectiles, and for collecting information that will accompany a fired cartridge case and projectile and be entered into a ballistic imaging system.

(2) The most effective method for projectile recovery that can be used to collect fired projectiles for entry into a ballistic imaging system and the cost of such recovery equipment.

(3) Which countries are employing ballistic imaging systems and the results of the systems as a tool in investigating crimes committed with handguns and rifles.

(4) The comprehensive cost, to date, for Federal, State, and local jurisdictions that have implemented a ballistic imaging system to include startup, operating costs, and outlays for personnel and administration.

(5) The estimated yearly cost for administering a ballistic imaging system, the storage of cartridge cases and projectiles on a nationwide basis, and the costs to industry and consumers of doing so.

(6) How many revolvers, manually operated handguns, semiautomatic handguns, manually operated rifles, and semiautomatic rifles are sold in the United States each year, the percentage of crimes committed with revolvers, other manually operated handguns, and manually operated rifles as compared with semiautomatic handguns and semiautomatic rifles, and the percentage of each currently on record in the NIBIN system.

(7) Whether in countries where ballistic identification has been implemented, a shift has occurred in the number of semiautomatic handguns and semiautomatic rifles, compared with revolvers, other manually operated handguns, and manually operated rifles that are used to commit a crime.

(8) A comprehensive list of environmental and nonenvironmental factors, including modifications to a firearm, that can substantially alter or change the identifying marks on a cartridge case and projectile so as to preclude a scientifically reliable comparison between specimens and the stored image from the same firearm being admissible as evidence in a court of law.

(9) The technical improvements in database management that will be necessary to keep pace with system growth and the estimated cost of the improvements.

(10) What redundant or duplicate systems exist, or have existed, the ability of the various systems to share information, and the

cost and time it will take to integrate operating systems.

(11) Legal issues that need to be addressed at the Federal and State levels to codify the type of information that would be captured and stored as part of a national ballistic identification program and the sharing of the information between State systems and NIBIN.

(12) What storage and retrieval procedures guarantee the integrity of cartridge cases and projectiles for indefinite periods of time and insure proper chain of custody and admissibility of ballistic evidence or images in a court of law.

(13) The time, cost, and resources necessary to enter images of fired cartridge cases and fired projectiles into a ballistic imaging identification system of all new handguns and rifles sold in the United States and those possessed lawfully by firearms owners.

(14) Whether an effective procedure is available to collect fired cartridge cases and projectiles from privately owned handguns and rifles.

(15) Whether the cost of ballistic imaging technology is worth the investigative benefit to law enforcement officers.

(16) Whether State-based ballistic imaging systems, or a combination of State and Federal ballistic imaging systems that record and store cartridge cases and projectiles can be used to create a centralized list of firearms owners.

(17) The cost-effectiveness of using a Federal, NIBIN-based approach to using ballistic imaging technology as opposed to State-based initiatives.

SEC. 4. CONSULTATION.

In carrying out this Act, the National Research Council of the National Academy of Sciences shall consult with—

(1) Federal, State, and local officials with expertise in budgeting, administering, and using a ballistic imaging system, including the Bureau of Alcohol, Tobacco and Firearms, and the Federal Bureau of Investigation, and the Bureau of Forensic Services at the California Department of Justice, and the National Institute for Forensic Sciences in Brussels, Belgium;

(2) law enforcement officials who use ballistic imaging systems;

(3) entities affected by the actual and proposed uses of ballistic imaging technology, including manufacturers, distributors, importers, and retailers of firearms and ammunition, firearms purchasers and owners and their organized representatives, the Sporting Arms and Ammunition Manufacturers' Institute, Inc., and the National Shooting Sports Foundation, Inc.;

(4) experts in ballistics imaging and related fields, such as the Association of Firearm and Tool Mark Examiners, projectile recovery system manufacturers, and ballistic imaging device manufacturers;

(5) foreign officials administering ballistic imaging systems;

(6) individuals or organizations with significant expertise in the field of ballistic imaging technology, as the Attorney General deems necessary.

SEC. 5. REPORT.

Not later than 30 days after the National Research Council of the National Academy of Sciences completes the study conducted under section 3, the National Research Council shall submit to the Attorney General a report on the results of the study, and the Attorney General shall submit to the Congress a report, which shall be made public, that contains—

(1) the results of the study; and

(2) recommendations for legislation, if applicable.

SEC. 6. SUSPENSION OF USE OF FEDERAL FUNDS FOR BALLISTIC IMAGING TECHNOLOGY.

(a) IN GENERAL.—Notwithstanding any other provision of law, a State shall not use Federal funds for ballistic imaging technology until the report referred to in section 5 is completed and transmitted to the Congress.

(b) WAIVER AUTHORITY.—On request of a State, the Secretary of the Treasury may waive the application of subsection (a) to a use of Federal funds upon a showing that the use would be in the national interest.

SEC. 7. DEFINITIONS.

In this Act:

(1) The term ''ballistic imaging technology'' means software and hardware that records electronically, stores, retrieves, and compares the marks or impressions on the cartridge case and projectile of a round of ammunition fired from a handgun or rifle.

(2) The term ''handgun'' has the meaning given the term in section 921(a)(29) of title 18, United States Code.

(3) The term ''rifle'' has the meaning given the term in section 921(a)(7) of title 18, United States Code.

(4) The term ''cartridge case'' means the part of a fully assembled ammunition cartridge that contains the propellant and primer for firing.

(5) The terms ''manually operated handgun'' and ''manually operated rifle'' mean any handgun or rifle, as the case may be, in which all loading, unloading, and reloading of the firing chamber is accomplished through manipulation by the user.

(6) The term ''semiautomatic handgun'' means any repeating handgun which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, which requires a pull of the trigger to fire each cartridge.

(7) The term ''semiautomatic rifle'' has the meaning given the term in section 921(a)(28) of title 18, United States Code.

(8) The term ''projectile'' means that part of ammunition that is, by means of an explosive, expelled through the barrel of a handgun or rifle.

By Mrs. BOXER:

S. 981. A bill to limit the period for which the Federal Government may procure property or services using non-competitive procedures during emergency and urgent situations; to the Committee on Governmental Affairs.

Mrs. BOXER. Mr. President, today I am introducing legislation is to ensure that American taxpayers and American businesses are protected when the Federal Government procures property or services.

The purpose of this legislation is to close certain loopholes that allow Federal agencies to enter into contracts through a process that does not ensure full and open competition. Current law provides several exceptions that allow Federal agencies to limit competition or provide a sole-source contract. My legislation does not eliminate any of these exceptions, but it does place a 90-day limitation on the broadest exceptions to ensure that a full and fair bidding process takes place as soon as possible.

This bill does not extend the 90-day limitation on sole-source or limited-source contracts when full and open competition is not practicable. For example, the legislation will continue to allow sole-source or limited-source contracts when there is a threat to the national security of the United States or when the property or service is only available from one party.

But we must take a common-sense approach to shield taxpayers from waste and abuse. This bill does just that. I have heard from people throughout my state who believe that the administration is abusing its authority in providing sole-source and limited-source contacts in Iraq.

One example is the sole-source contract worth up to $7 billion that was awarded earlier this year to Kellogg, Brown and Root—a subsidiary of Halliburton—to extinguish oil fires in Iraq. The exception under Federal law used to provide KBR with the sole-source contract was that a full and open bid process would cause unacceptable delays. While it is understandable that oil fires cannot be allowed to burn while an open bid process takes place, it is not acceptable that the term of this contract was 2 years.

Recently, the administration announced that this contract would be terminated and an open bid process take place. While I applaud this move, I fear it would not have happened without the outcry of the American people. My legislation will ensure that certain sole-source contracts will be limited to 90 days. During the 90-day period, a full and open competition would take place so that the long-term contract is awarded to the qualified low-bidder.

It is the responsibility of Congress to ensure that these contracts are awarded in a competitive manner whenever possible. This legislation is a step in the right direction.

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. 981

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 ''Business and Taxpayer Procurement Protection Act.''

SECTION 2. LIMITATION ON CONTRACTS AWARDED ON A NONCOMPETITIVE BASIS.

(a) IN GENERAL.—Notwithstanding any other provision of law or regulation, including the Federal Property and Administrative Services Act of 1949, section 2304 of title 10, United States Code, and the Federal Acquisition Regulation—

(1) any procurement for property or services that is not subject to competitive procedures under a provision of law or regulation set forth in subsection (b) may not exceed 90 days; and

(2) if any property or services procured under the limitations of paragraph (1) are required beyond the 90 days referred to in paragraph (1), such property or services shall—

(A) during the 90-day period, be the subject of a full and open competition in accordance with the appropriate law or regulation; and

(B) shall not be procured using procedures other than competitive procedures under a provision of law or regulation set forth in subsection (b).

(b) APPLICABILITY.—The provisions of law and regulations referred to in subsection (a) are the following:

(1) Subsections (c)(2), (c)(3)(A), (c)(7), and (d)(1)(B)(ii) of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

(2) Subsections (c)(2), (c)(3)(A), (c)(7), and (d)(1)(B)(ii) of section 2304 of title 10, United States Code.

(3) Any other provision of law or regulation that provides for the use of noncompetitive procedures for the same or a similar reason as those referred to in clauses (1) and (2).

SECTION 3. EFFECTIVE DATE.

This Act shall apply with respect to contracts entered into after the date of the enactment of this Act.

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

S. 982. A bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes; to the Committee on Foreign Relations.

Mrs. BOXER. Mr. President, today I am reintroducing the Syria Accountability Act, a bill that aims to end Syrian support for terrorism by diplomatic and economic means.

It is well known that terrorist organizations like Hizballah, Hamas, and the Popular Front for the Liberation of Palestine maintain offices, training camps, and other facilities on Syrian territory and in areas of Lebanon occupied by the Syrian armed forces. We must address this issue not with saber rattling but by confronting the Government of Syria in a diplomatic way that shows the seriousness of our concerns.

The Syria Accountability Act works to achieve our foreign policy goals by expanding economic and diplomatic sanctions against Syria until the President certifies that Syria has ended its support of terrorism, withdrawn from Lebanon, ceased its chemical and biological weapons program, and no longer illegally imports Iraqi oil. The bill provides flexibility to the President by allowing him to choose from a variety of sanctions, as well as the authority to waive sanctions if it is in the interest of United States national security.

I hope this legislation will receive the support of the Administration and Congress because it provides the President with the flexibility to target specific sanctions against Syria, but in no way threatens or condones the use of military force against Syria.

By Mr. CHAFEE (for himself, Mr. REID, Mr. HATCH, Ms. MIKULSKI, Ms. COLLINS, Mr. LEAHY, Mr. WARNER, Mr. KENNEDY, Mr. VOINOVICH, Mr. BIDEN, Mr. ALLEN, Mrs. CLINTON, Mr. FITZGERALD, MRS. MURRAY, Ms. SNOWE, Mr. JOHNSON, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. REED, and Mr. CORZINE):

S. 983. A bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer; to the Committee on Health, Education, Labor, and Pensions.

Mr. CHAFEE. Mr. President, I am pleased to be joined today by Senator HARRY REID and others in introducing the Breast Cancer and Environmental Research Act of 2003. This bill would establish research centers that would be the first in the Nation to specifically study the environmental factors that may be related to the development of breast cancer. The lack of agreement within the scientific community and among breast cancer advocates on this question highlights the need for further study.

It is generally believed that the environment plays some role in the development of breast cancer, but the extent of that role is not understood. The Breast Cancer and Environmental Research Act of 2003 will enable us to conduct more conclusive and comprehensive research to determine the impact of the environment on breast cancer. Before we can find the answers, we must determine the right questions we should be asking.

While more research is being conducted into the relationship between breast cancer and the environment, there are still several issues that must be resolved to make this research more effective. They are as follows:

There is no known cause of breast cancer. There is little agreement in the scientific community on how the environment affects breast cancer. While studies have been conducted on the links between environmental factors like pesticides, diet, and electromagnetic fields, no consensus has been reached. There are other factors that have not yet been studied that could provide valuable information. While there is much speculation, it is clear that the relationship between environmental exposures and breast cancer is poorly understood.

There are challenges in conducting environmental research. Identifying linkages is difficult. Laboratory experiments and cluster analyses, such as those in Long Island, New York, cannot reveal whether an environmental exposure increases a woman's risk of breast cancer. Epidemiological studies must be designed carefully, because environmental exposures are difficult to measure.

Coordination between the National Institutes of Health, NIH, the National Cancer Institute, NCI, and the National Institute of Environmental Health Sciences, NIEHS, needs to occur. NCI and NIEHS are the two institutes in the NIH that fund most of the research related to breast cancer and the environment; however, comprehensive information is not currently available.

This legislation would establish eight Centers of Excellence to study these potential links. These ''Breast Cancer Environmental Research Centers'' would provide for multi-disciplinary research among basic, clinical, epidemiological and behavioral scientists interested in establishing outstanding, state-of-the-art research programs addressing potential links between the environment and breast cancer. The NIEHS would award grants based on a competitive peer-review process. This legislation would require each Center to collaborate with community organizations in the area, including those that represent women with breast cancer. The bill would authorize $30 million for the next five years for these grants.

''Genetics loads the gun, the environment pulls the trigger,'' as Ken Olden, the Director of NIEHS, frequently says. Many scientists believe that certain groups of women have genetic variations that may make them more susceptible to adverse environmental exposures. We need to step back and gather evidence before we come to conclusions—that is the purpose of this bill. People are hungry for information, and there is a lot of inconclusive data out there, some of which has no scientific merit whatsoever. We have the opportunity through this legislation to gather legitimate and comprehensive data from premier research institutions across the nation.

According to the American Cancer Society, each year 800 women in Rhode Island are diagnosed with breast cancer, and 200 women in my state will die of this terrible disease this year. We owe it to these women who are diagnosed with this life-threatening disease to provide them with answers for the first time.

I urge my colleagues to join me in supporting and cosponsoring this important legislation, and ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 983

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 ''Breast Cancer and Environmental Research Act of 2003''.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Breast cancer is the second leading cause of cancer deaths among American women.

(2) More women in the United States are living with breast cancer than any other cancer (excluding skin cancer). Approximately 3,000,000 women in the United States are living with breast cancer, 2,000,000 of which have been diagnosed and an estimated 1,000,000 who do not yet know that they have the disease.

(3) Breast cancer is the most commonly diagnosed cancer among women in the United States and worldwide (excluding skin cancer). In 2003, it is estimated that 258,600 new cases of breast cancer will be diagnosed among women in the United States, 211,300

cases of which will involve invasive breast cancer and 47,300 cases of which will involve ductal carcinoma in situ (DCIS).

(4) Breast cancer is the second leading cause of cancer death for women in the United States. Approximately 40,000 women in the United States die from the disease each year. Breast cancer is the leading cause of cancer death for women in the United States between the ages of 20 and 59, and the leading cause of cancer death for women worldwide.

(5) A woman in the United States has a 1 in 8 chance of developing invasive breast cancer in her lifetime. This risk was 1 in 11 in 1975. In 2001, a new case of breast cancer will be diagnosed every 2 minutes and a woman will die from breast cancer every 13 minutes.

(6) All women are at risk for breast cancer. About 90 percent of women who develop breast cancer do not have a family history of the disease.

(7) The National Action Plan on Breast Cancer, a public private partnership, has recognized the importance of expanding the scope and breadth of biomedical, epidemiological, and behavioral research activities related to the etiology of breast cancer and the role of the environment.

(8) To date, there has been only a limited research investment to expand the scope or coordinate efforts across disciplines or work with the community to study the role of the environment in the development of breast cancer.

(9) In order to take full advantage of the tremendous potential for avenues of prevention, the Federal investment in the role of the environment and the development of breast cancer should be expanded.

(10) In order to understand the effect of chemicals and radiation on the development of cancer, multi-generational, prospective studies are probably required.

SEC. 3. NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES; AWARDS FOR DEVELOPMENT AND OPERATION OF RESEARCH CENTERS REGARDING ENVIRONMENTAL FACTORS RELATED TO BREAST CANCER.

Subpart 12 of part C of title IV of the Public Health Service Act (42 U.S.C. 285L et seq.) is amended by adding at the end the following section:

"SEC. 463B. RESEARCH CENTERS REGARDING ENVIRONMENTAL FACTORS RELATED TO BREAST CANCER.

''(a) IN GENERAL.—The Director of the Institute, based on recommendations from the Breast Cancer and Environmental Research Panel established under subsection (b) (referred to in this section as the 'Panel') shall make grants, after a process of peer review and programmatic review, to public or nonprofit private entities for the development and operation of not more than 8 centers for the purpose of conducting multidisciplinary and multi-institutional research on environmental factors that may be related to the etiology of breast cancer. Each such center shall be known as a Breast Cancer and Environmental Research Center of Excellence.

''(b) BREAST CANCER AND ENVIRONMENTAL RESEARCH PANEL.—

''(1) ESTABLISHMENT.—The Secretary shall establish in the Institute of Environmental Health Sciences a Breast Cancer and Environmental Research Panel.

''(2) COMPOSITION.—The Panel shall be composed of—

''(A) 9 members to be appointed by the Secretary, of which—

''(i) six members shall be appointed from among physicians, and other health professionals, who—

''(I) are not officers or employees of the United States;

''(II) represent multiple disciplines, including clinical, basic, and public health sciences;

''(III) represent different geographical regions of the United States;

''(IV) are from practice settings or academia or other research settings; and

''(V) are experienced in biomedical review; and

''(ii) three members shall be appointed from the general public who are representatives of individuals who have had breast cancer and who represent a constituency; and

''(B) such nonvoting, ex officio members as the Secretary determines to be appropriate.

''(3) CHAIRPERSON.—The members of the Panel appointed under paragraph (2)(A) shall select a chairperson from among such members.

''(4) MEETINGS.—The Panel shall meet at the call of the chairperson or upon the request of the Director, but in no case less often than once each year.

''(5) DUTIES.—The Panel shall—

''(A) oversee the peer review process for the awarding of grants under subsection (a) and conduct the programmatic review under such subsection;

''(B) make recommendations with respect to the funding criteria and mechanisms under which amounts will be allocated under this section; and

''(C) make final programmatic recommendations with respect to grants under this section.

''(c) COLLABORATION WITH COMMUNITY.—Each center under subsection (a) shall establish and maintain ongoing collaborations with community organizations in the geographic area served by the center, including those that represent women with breast cancer.

''(d) COORDINATION OF CENTERS; REPORTS.—The Director of the Institute shall, as appropriate, provide for the coordination of information among centers under subsection (a) and ensure regular communication between such centers, and may require the periodic preparation of reports on the activities of the centers and the submission of the reports to the Director.

''(e) REQUIRED CONSORTIUM.—Each center under subsection (a) shall be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute. Each center shall require collaboration among highly accomplished scientists, other health professionals and advocates of diverse backgrounds from various areas of expertise.

''(f) DURATION OF SUPPORT.—Support of a center under subsection (a) may be for a period not exceeding 5 years. Such period may be extended for one or more additional periods not exceeding 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director of the Institute and if such group has recommended to the Director that such period should be extended.

''(g) GEOGRAPHIC DISTRIBUTION OF CENTERS.—The Director of the Institute shall, to the extent practicable, provide for an equitable geographical distribution of centers under this section.

''(h) INNOVATIVE APPROACHES.—Each center under subsection (a) shall use innovative approaches to study unexplored or under-explored areas of the environment and breast cancer.

''(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $30,000,000 for each of the fiscal years 2004 through 2009. Such authorization is in addition to any other authorization of appropriations that is available for such purpose.''.

Mr. REID. Mr. President, I am pleased to join Senator CHAFEE in reintroducing the Breast Cancer and Environmental Research Act. Senator CHAFEE and I serve together on the Environment and Public Works Committee where we have had the opportunity to take a closer look at different environment-related health concerns. After a number of children in the small town of Fallon, NV, were diagnosed with leukemia, the committee traveled to Nevada to investigate what environmental factors may have contributed to the cancer cluster.

The Fallon hearing reminded me how little we know about what causes cancer and what, if any, connection exists between the environment and cancer. Three decades have passed since President Nixon declared the ''War on Cancer'' and scientists are still struggling with these and other crucial unanswered questions about cancer. This is particularly true in the case of breast cancer. We still don't know what causes breast cancer. We don't know if the environment plays a role in the development of breast cancer, and if it does, we don't know how significant that role is. In our search for answers about breast cancer, we need to make sure we are asking the right questions.

To date, there has been only a limited research investment to study the role of the environment in the development of breast cancer. More research needs to be done to determine the impact of the environment on breast cancer. The Breast Cancer and Environmental Research Act would give scientists the tools they need to pursue a better understanding about what links between the environment and breast cancer may exist. Specifically, our bill would authorize $30 million to the National Institute of Environmental Health Sciences to establish eight Centers of Excellence that would focus on breast cancer and the environment.

In the year 2003 alone, it is estimated that 258,600 new cases of breast cancer will be diagnosed among women in the United States. In Nevada, an estimated 1400 new cases will be diagnosed in 2003, and tragically, approximately 300 women in Nevada will die of breast cancer this year. If we miss promising research opportunities because of Congress' failure to act, millions of women and their families will face critical unanswered questions about breast cancer. During the 107th Congress, almost half of the Senate cosponsored this important legislation. There is no reason we should not be able to work together during this session to pass this bill so we can find answers for the millions of Americans affected by breast cancer. I urge my colleagues to join in our quest for answers about this deadly disease and to support the Breast Cancer and Environmental Research Act.

By Mr. BAUCUS:

S. 984. A bill to direct the Secretary of the Interior to evaluate opportunities to enhance domestic oil and gas

production through the exchange of nonproducing Federal oil and gas leases located in the Lewis and Clark National Forest, in the Flathead National Forest, and on Bureau of Land Management land in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BAUCUS. Mr. President, I am introducing a bill today that I hope will take us one step closer to achieving permanent protections for Montana's magnificent Rocky Mountain Front.

The Front, as we call it back home, is part of one of the largest and most intact wild places left in the lower 48. To the North, the Front includes a 200 square mile area known as the Badger-Two Medicine in the Lewis and Clark National Forest. This area sits just south-east of Glacier National Park, one of our greatest national treasures. The Badger-Two Medicine area is sacred ground to the Blackfeet Tribe. In January of 2002, portions of the Badger-Two, known as the Badger-Two Medicine Blackfoot Traditional Cultural District, were declared eligible for listing in the National Register of Historic Places.

South of the Badger-Two, the Front includes a 400 square mile strip of national forest land and about 20 square miles of BLM lands, including three BLM Outstanding Natural Areas.

Not only does the Front still retain almost all its native species, but it also harbors the country's largest bighorn sheep herd and second largest elk herd. The Rocky Mountain Front supports one of the largest populations of grizzly bears south of Canada and is the only place in the lower 48 states where grizzly bears still roam from the mountains to their historic range on the plains.

Because of this exceptional habitat, the Front offers world renowned hunting, fishing and recreational opportunities. Sportsmen, local land owners, hikers, local communities and many other Montanans have worked for decades to protect and preserve the Front for future generations.

In short, a majority of Montanans feel very strongly that oil and gas development, and Montana's Rocky Mountain Front, just don't mix. The habitat is too rich, the landscape too important, to subject it to the roads, drills, pipelines, industrial equipment, chemicals, noise and human activity that come with oil and gas development.

Building upon a significant public and private conservation investment and following an extensive public comment process, the Lewis and Clark National Forest decided in 1997 to withdraw for 15 years 356,000 acres in the Front from any new oil and gas leasing. This was a significant first step in protecting the Front from development that I wholeheartedly supported.

However, in many parts of the Rocky Mountain Front, oil and gas leases exist that pre-date the 1997 decision or are located in the Badger-Two Medicine area, where the lease suspension could be lifted soon. These leaseholders have invested time and resources in acquiring their leases. Several leaseholders have applied to the federal government for permits to drill. These leases are the subject of my proposed bill.

History has shown that energy exploration and development in the Front is likely to result in expensive and time-consuming environmental studies and litigation. This process rarely ends with a solution that is satisfactory to the oil and gas lessee. For example, in the late 1980's both Chevron and Fina applied for permits to drill in the Badger Two Medicine portion of the Front.

After millions of dollars spent on studies and years of public debate, Chevron abandoned or assigned all of its lease rights, and Fina sold its lease rights back to the original owner.

Therefore, I think we should be fair to those leaseholders. We want them to continue to provide for our domestic oil and gas needs, but they are going to have a long, difficult and expensive road if they wish to develop oil and gas in the Rocky Mountain Front.

My legislation would direct the Interior Department to evaluate non-producing leases in the Rocky Mountain Front and look at opportunities to cancel those leases, in exchange for allowing leaseholders to explore for oil and gas somewhere else, namely in the Gulf of Mexico or in the State of Montana. In conducting this evaluation, the Secretary would have to consult with leaseholders, with the State of Montana, the public and other interested parties.

When Interior concludes this study in two years, the bill calls for the agency to make recommendations to Congress and the Energy and Natural Resources Committee on the advisability of pursuing lease exchanges in the Front and any changes in law and regulation needed to enable the Secretary to undertake such an exchange.

Finally, in order to allow the Secretary to conduct this study, my bill would continue the current lease suspension in the Badger-Two Medicine Area for three more years. This lease suspension would only apply to the Badger-Two Medicine Area, not the entire Front.

That's it, that's all my bill does. It doesn't predetermine any outcome, it doesn't impact any existing exploration activities or environmental processes. It just creates a process through which the federal government, the people of Montana and leaseholders can finally have a real, open and honest discussion about the fate of the Rocky Mountain Front.

I would also point out that the Administration recently completed an inventory of the onshore oil and gas reserves on federal lands in five basins in the Interior West, including the Rocky Mountain Front, also known as the Montana Thrust Belt. The Administration's study found that this area contains the smallest volumes of oil and gas resources of all five of the Western inventory areas. For example, the mean estimate of all natural gas reserves in the Uinta/Pinceance Basin in Colorado and Utah is 22 trillion cubic feet. In the Front, the mean estimate is only 8.6 trillion cubic feet.

Additionally, the study concluded that in reality, the vast majority of Federal lands in the interior West are available for leasing with few if any restrictions. Although a large percentage of federal lands in the Front are currently unavailable for leasing, many of those lands are unavailable because they lie under Glacier National Park, Indian lands, and already established wilderness areas, which comprise much of the Federal land in the Front. So, not only is the Front relatively poor in terms of oil and gas reserves, many of those reserves—by Congressional mandate, executive order or treaty—will never be available for leasing.

We should look for ways to fairly compensate leaseholders for investments they've made in their leases if they decide to leave the Front rather than waste years and millions fighting to explore for uncertain—and small—oil and gas reserves. A lot of Montanans just don't want to see the Front developed, and they will fight to protect it. Including me.

So, developers can wait years, or decades, or most likely never, for oil and gas to flow from the Front. Or we can look at ways to encourage domestic production much sooner, in much more cost effective, appropriate and efficient ways somewhere else.

That is what I hope this legislation will accomplish Mr. President, and I hope my colleagues in the Senate will support it.

By Mr. DODD (for himself, Ms. COLLINS, Mrs. CLINTON, Mr. CORZINE, Ms. CANTWELL, Mr. DURBIN, Mr. GRASSLEY, Mr. LEAHY, Ms. SNOWE, Mr. REED, Mr. BIDEN, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. LIEBERMAN, Mr. WARNER, Mr. JOHNSON, Mrs. MURRAY, Mr. CARPER, Mr. KERRY, Mr. BAUCUS, Mr. REID, Mr. SARBANES, and Mr. JEFFORDS):

S. 985. A bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes; to the Committee on Governmental Affairs.

Mr. DODD. Mr. President, I rise today to introduce legislation that is important to America's Federal law enforcement officers and the people they protect across the country. I am joined today by Senator COLLINS, Senator CLINTON, Senator CORZINE, Senator CANTWELL, Senator DURBIN, Senator GRASSLEY, Senator LEAHY, Senator SNOWE, Senator REED, Senator BIDEN, Senator FEINSTEIN, Senator SCHUMER,

Senator LIEBERMAN, Senator WARNER, Senator JOHNSON, Senator MURRAY, Senator CARPER, Senator KERRY, Senator BAUCUS, Senator REID, Senator SARBANES, and Senator JEFFORDS.

The legislation that we are offering will amend the Federal Law Enforcement Pay Reform Act of 1990 to ensure that the government treats Federal law enforcement officers fairly. This bill will partially increase the locality pay adjustments paid to Federal agents in certain high cost areas. These areas have pay disparities so high they are negatively affecting our Federal law enforcement officers, since locality pay adjustments have either not been increased since 1990, or have been increased negligibly.

All over America, Federal law enforcement personnel are enduring tremendous stress associated with our Nation's effort to protect citizens from the threat of terrorism. Unfortunately, that stress has been compounded by ongoing pressing concerns among many such personnel about their pay. I have heard from officers who have described long commutes, high personal debts, and in some cases, almost all-consuming concerns about financial insecurity. Many of these problems occur when agents or officers are transferred from low-cost parts of the country to high-cost areas. I have been told that some Federal officers are forced to separate from their families and rent rooms in the cities to which they have been transferred because they cannot afford to rent or buy homes large enough for a family.

Unfortunately, the raise in the cost of living in many cities across America has outstripped our Federal pay system. I recognize that this is a problem for other Federal employees and I am prepared to work with my colleagues to address this larger issue. The cost of living has also had a very negative impact on non-federal employees as well and I have consistently worked to ensure that all working Americans enjoy a truly livable wage. The legislation that we are introducing today in no way suggests that the needs of other workers should be ignored, but it acknowledges that as we continue to ask Federal law enforcement personnel to put in long hours and remain on heightened alert, we must provide them with a salary sufficient to allow them to focus on their vital work without nagging worries about how to provide their families with the essentials of food, clothing, and shelter.

The Federal Law Enforcement Officers Association, representing more than 19,000 Federal agents, along with the Fraternal Order of Police, National Association of Police Organizations, National Troopers Coalition, National Organization of Black Law Enforcement Executives, International Brotherhood of Police, and the Police Executive Research Forum have endorsed this legislative proposal.

In these difficult times, we must remain committed to recruiting, hiring, and retaining law enforcement officers of the highest caliber. However, we must also recognize that the Federal government is in competition with State and Local police departments that often pay more and provide better standards of living.

I urge all of my colleagues to join us in this effort. I hope that we can quickly pass this important legislation because it will improve the lives of the men and women who are dedicated to protecting us. In so doing, it will improve the Nation's domestic security.

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. 985

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

SECTION 1. ADJUSTED DIFFERENTIALS.

(a) IN GENERAL.—Paragraph (1) of section 404(b) of the Federal Law Enforcement Pay Reform Act of 1990 (5 U.S.C. 5305 note) is amended by striking the matter after ''follows:'' and inserting the following:

''Area	Differential
Atlanta Consolidated Metropolitan Statistical Area	16.82%
Boston-Worcester-Lawrence, MA-NH-ME-CT-RI Consolidated Metropolitan Statistical Area	24.42%
Chicago-Gary-Kenosha, IL-IN-WI Consolidated Metropolitan Statistical Area	25.68%
Cincinnati-Hamilton, OH-KY-IN Consolidated Metropolitan Statistical Area	21.47%
Cleveland Consolidated Metropolitan Statistical Area	17.83%
Columbus Consolidated Metropolitan Statistical Area	16.90%
Dallas Consolidated Metropolitan Statistical Area	18.51%
Dayton Consolidated Metropolitan Statistical Area	15.97%
Denver-Boulder-Greeley, CO Consolidated Metropolitan Statistical Area	22.78%
Detroit-Ann Arbor-Flint, MI Consolidated Metropolitan Statistical Area	25.61%
Hartford, CT Consolidated Metropolitan Statistical Area	24.47%
Houston-Galveston-Brazoria, TX Consolidated Metropolitan Statistical Area	30.39%
Huntsville Consolidated Metropolitan Statistical Area	13.29%
Indianapolis Consolidated Metropolitan Statistical Area	13.38%
Kansas City Consolidated Metropolitan Statistical Area	14.11%
Los Angeles-Riverside-Orange County, CA Consolidated Metropolitan Statistical Area	27.25%
Miami-Fort Lauderdale, FL Consolidated Metropolitan Statistical Area	21.75%
Milwaukee Consolidated Metropolitan Statistical Area	17.45%
Minneapolis-St. Paul, MN-WI Consolidated Metropolitan Statistical Area	20.27%
New York-Northern New Jersey-Long Island, NY-NJ-CT-PA Consolidated Metropolitan Statistical Area	27.11%
Orlando, FL Consolidated Metropolitan Statistical Area	14.22%
Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD Consolidated Metropolitan Statistical Area	21.03%
Pittsburgh Consolidated Metropolitan Statistical Area	14.89%
Portland-Salem, OR-WA Consolidated Metropolitan Statistical Area	20.96%
Richmond Consolidated Metropolitan Statistical Area	16.46%
Sacramento-Yolo, CA Consolidated Metropolitan Statistical Area	20.77%
San Diego, CA Consolidated Metropolitan Statistical Area	22.13%
San Francisco-Oakland-San Jose, CA Consolidated Metropolitan Statistical Area	32.98%
Seattle-Tacoma-Bremerton, WA Consolidated Metropolitan Statistical Area	21.18%
St. Louis Consolidated Metropolitan Statistical Area	14.69%
Washington-Baltimore, DC-MD-VA-WV Consolidated Metropolitan Statistical Area	19.48%
Rest of United States Consolidated Metropolitan Statistical Area	14.19%''.

(b) SPECIAL RULES.—For purposes of the provision of law amended by subsection (a)—

(1) the counties of Providence, Kent, Washington, Bristol, and Newport, RI, the counties of York and Cumberland, ME, and the city of Concord, NH, shall be treated as if located in the Boston-Worcester-Lawrence, MA-NH-ME-CT-RI Consolidated Metropolitan Statistical Area; and

(2) members of the Capitol Police shall be considered to be law enforcement officers within the meaning of section 402 of the Federal Law Enforcement Pay Reform Act of 1990.

(c) EFFECTIVE DATE.—The amendment made by subsection (a)—

(1) shall take effect as if included in the Federal Law Enforcement Pay Reform Act of 1990 on the date of the enactment of such Act; and

(2) shall be effective only with respect to pay for service performed in pay periods beginning on or after the date of the enactment of this Act.

Subsection (b) shall be applied in a manner consistent with the preceding sentence.

SEC. 2. SEPARATE PAY, EVALUATION, AND PROMOTION SYSTEM FOR FEDERAL LAW ENFORCEMENT OFFICERS.

(a) STUDY.—Not later than 6 months after the date of the enactment of this Act, the Office of Personnel Management shall study and submit to Congress a report which shall contain its findings and recommendations regarding the need for, and the potential benefits to be derived from, the establishment of a separate pay, evaluation, and promotion system for Federal law enforcement officers. In carrying out this subsection, the Office of Personnel Management shall take into account the findings and recommendations contained in the September 1993 report of the Office entitled ''A Plan to Establish a New Pay and Job Evaluation System for Federal Law Enforcement Officers''.

(b) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—If, after completing its report under subsection (a), the Office of Personnel Management considers it to be appropriate, the Office shall implement, within 12 months after the date of the enactment of this Act, a demonstration project to determine whether a separate system for Federal law enforcement officers (as described in subsection (a)) would result in improved Federal personnel management.

(2) APPLICABLE PROVISIONS.—Any demonstration project under this subsection shall be conducted in accordance with the provisions of chapter 47 of title 5, United States Code, except that a project under this subsection shall not be taken into account for purposes of the numerical limitation under section 4703(d)(2) of such title.

(3) PERMANENT CHANGES.—Not later than 6 months before the demonstration project's scheduled termination date, the Office of Personnel Management shall submit to Congress—

(A) its evaluation of the system tested under the demonstration project; and

(B) recommendations as to whether or not that system (or any aspects of that system) should be continued or extended to other Federal law enforcement officers.

(c) FEDERAL LAW ENFORCEMENT OFFICER DEFINED.—In this section, the term ''Federal law enforcement officer'' means a law enforcement officer as defined under section 8331(20) or 8401(17) of title 5, United States Code.

SEC. 3. LIMITATION ON PREMIUM PAY.

(a) IN GENERAL.—Section 5547 of title 5, United States Code, is amended—

(1) in subsection (a), by striking ''5545a,'';

(2) in subsection (c), by striking ''or 5545a''; and

(3) in subsection (d), by striking the period and inserting ''or a criminal investigator who is paid availability pay under section 5545a.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 1114 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1239).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 130—EXPRESSING THE SENSE OF THE SENATE THAT PUBLIC SERVANTS SHOULD BE COMMENDED FOR THEIR DEDICATION AND CONTINUED SERVICE TO THE NATION DURING PUBLIC SERVICE RECOGNITION WEEK

Mr. AKAKA (for himself, Mr. FITZGERALD, Ms. COLLINS, Mr. LIEBERMAN, Mr. VOINOVICH, Mr. DURBIN, Mr. COLEMAN, and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 130

Whereas Public Service Recognition Week provides an opportunity to honor and celebrate the commitment of individuals who meet the needs of the Nation through work at all levels of government;

Whereas over 20,000,000 men and women work in government service in every city, county, and State across America and in hundreds of cities abroad;

Whereas Federal, State, and local officials perform essential services the Nation relies upon every day;

Whereas the United States of America is a great and prosperous Nation, and public service employees have contributed significantly to that greatness and prosperity;

Whereas the Nation benefits daily from the knowledge and skills of these highly trained individuals;

Whereas public servants—

(1) help the Nation recover from natural disasters and terrorist attacks;

(2) fight crime and fire;

(3) deliver the mail;

(4) teach and work in the schools;

(5) deliver social security and medicare benefits;

(6) fight disease and promote better health;

(7) protect the environment and national parks;

(8) defend and secure critical infrastructure;

(9) improve and secure transportation and the quality and safety of water and food;

(10) build and maintain roads and bridges;

(11) provide vital strategic and support functions to our military;

(12) keep the Nation's economy stable;

(13) defend our freedom; and

(14) advance United States interests around the world;

Whereas public servants at the Federal, State, and local level are the first line of defense in maintaining homeland security;

Whereas public servants at every level of government are hard-working men and women, committed to doing a good job regardless of the circumstances;

Whereas Federal, State, and local government employees have risen to the occasion and demonstrated professionalism, dedication, and courage while fighting the war against terrorism;

Whereas the men and women serving in the Armed Forces of the United States, as well as those Federal employees who provide support to their efforts, contribute greatly to the security of the Nation and the world;

Whereas May 5 through 11, 2003, has been designated Public Service Recognition Week to honor America's Federal, State, and local government employees; and

Whereas Public Service Recognition Week will be celebrated through job fairs, student activities, and agency exhibits: Now, therefore, be it

Resolved, That the Senate—

(1) commends government employees for their outstanding contributions to this great Nation;

(2) salutes their unyielding dedication and spirit for public service;

(3) honors those public servants who have given their lives in service to their country;

(4) calls upon a new generation of workers to consider a career in public service as an honorable profession; and

(5) encourages efforts to promote public service careers at all levels of government.

Mr. AKAKA. Mr. President. Today I rise to pay tribute to the hard-working men and women who dedicate their lives to public service. Whether it is on the Federal, State, or local level, public servants perform essential functions that Americans rely on every day. For this reason, it is a privilege to submit a resolution to honor these employees for Public Service Recognition Week. I am delighted to be joined in this effort by Senators FITZGERALD, COLLINS, LIEBERMAN, VOINOVICH, DURBIN, COLEMAN, and LEVIN.

Public Service Recognition Week takes place the week of May 5, 2003. Since 1985, the first week in May showcases the talented men and women who serve America as Federal, State and local government employees. Throughout the Nation and around the world, public employees use the week to educate their fellow citizens how government serves them, and how government services make life better for all of us.

For example, public servants help the Nation recover from natural disasters and terrorist attacks; fight crime and fire; deliver the mail; teach our children; provide local transportation; protect the environment; fight disease and promote better health; improve the quality and safety of water and food; and defend our freedom. Since September 11, 2001, public servants at the Federal, State, and local level worked around the clock to prevent terrorist attacks and reduce our vulnerability to future attacks in addition to carrying out their other job related responsibilities. Such dedication and hard work deserve our recognition.

I would like to pay particular attention to the men and women who serve in our armed forces, and the civilian employees who support their missions. These employees are key to the security and defense of our Nation. From the war against terrorism to Operation Iraqi Freedom, our military and civilian support staff show courage in the face of adversity. They too are ready, willing, and able to make this a safer world.

While Public Service Recognition Week represents an opportunity for us to honor and celebrate the commitment of individuals who serve the needs of the Nation as government and municipal employees, it is also a time to call on a new generation of Americans to consider public service. As my colleagues know, the Federal Government is facing a crisis in its recruitment and retention efforts. The problem is so critical that the General Accounting Office, GAO, has placed the so-called 'human capital crisis' on its High Risk List. According to the GAO, nearly 50 percent of the Federal workforce will be eligible to retire by 2005. Although no one knows how many will actually retire, this situation poses serious challenges for succession planning in addition to mission performance. Public Service Recognition Week provides an opportunity for individuals to gain a deeper understanding of the exciting and challenging work in the Federal Government and career opportunities available.

I invite my colleagues to honor the patriotic commitment to public service that our Federal employees exemplify and to join in the Federal Government's annual celebration. During the week there will be an extensive exhibit on the National Mall in Washington, D.C., showcasing many of our Federal agencies and branches of the military, as well as highlighting the services these agencies provide. In addition to the Mall exhibits, I encourage my colleagues to recognize Federal employees in their states, as well as State and local government employees, to let them know how much their work is appreciated.