SCHUMER) was added as a cosponsor of S. Con. Res. 138, a concurrent resolution expressing the sense of Congress that the Secretary of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

S. CON. RES. 142

At the request of Mr. SMITH of Oregon, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. Con. Res. 142, a concurrent resolution expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. JEFFORDS, and Ms. COLLINS):

S. 3114. A bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today with Senators JEFFORDS and COLLINS to introduce the Hometown Heroes Survivors Benefits Act of 2002. Our bipartisan legislation will improve the Department of Justice's Public Safety Officers' Benefits, PSOB, Program by allowing families of public safety officers who suffer fatal heart attacks or strokes to qualify for Federal survivor benefits.

Public safety officers are among our most brave and dedicated public servants. I applaud the efforts of all members of fire, law enforcement, and rescue organizations nationwide who are the first to respond to more than 1.6 million emergency calls annually, whether those calls involve a crime, fire, medical emergency, spill of hazardous materials, natural disaster, act of terrorism, or transportation accident, without reservation. They act with an unwavering commitment to the safety and protection of their fellow citizens, and are forever willing to selflessly sacrifice their own lives to provide safe and reliable emergency services to their communities. Sadly, this dedication to service can result in tragedy, as was evident by the bravery displayed on September 11th.

In the days and months since September 11th, I have been particularly touched by the stories of unselfish sacrifices made by scores of New York City first responders who bravely entered the World Trade Center that day with the singular goal of saving lives. More than one hundred firefighters in America lose their lives every year and thousands are injured in the line of duty. While PSOB benefits can never be a substitute for the loss of a loved one, the families of all our fallen heroes deserve to collect these funds.

The PSOB Program provides a one-time financial benefit to the eligible survivors of federal, state, and local public safety officers whose deaths are the direct and proximate result of a traumatic injury sustained in the line of duty. Last year, Congress improved the PSOB Program by streamlining the process for families of public safety officers killed or injured in connection with prevention, investigation, rescue or recovery efforts related to a terrorist attack. We also retroactively increased the total benefits available by $100,000 as part of the USA PATRIOT Act. The PSOB Program now provides approximately $250,000 in benefits to the families of law enforcement officers, firemen, emergency response squad members, and ambulance crew members who are killed in the line of duty. Unfortunately, the issue of including heart attack and stroke victims in the PSOB Program was not addressed at that time.

The PSOB Program does not cover deaths resulting from occupational illness or pulmonary or heart disease unless a traumatic injury is a substantial factor to the death. However, if toxicology reports demonstrate a carbon monoxide level of 10 percent or greater, 15 percent or greater for the smoker, at the onset of a heart attack benefits are paid. The PSOB Program has developed a formula that addresses oxygen therapy provided to the victim prior to the death.

Heart attack and cardiac related deaths account for almost half of all firefighter fatalities, between 45–50 deaths, and an average of 13 police officer deaths each year. Yet the families of these fallen heroes are rarely eligible to receive PSOB benefits. In January 1978, special Deputy Sheriff Bernard Demag of the Chittenden County Sheriff's Office suffered a fatal heart attack within two hours of his chase and apprehension of an escaped juvenile whom he had been transporting. Mr. Demag's family spent nearly two decades fighting in court for workers' compensation death benefits all to no avail. Clearly, we should be treating surviving family members with more decency and respect.

Public safety is dangerous, exhausting, and stressful work. A first responder's chances of suffering a heart attack or stroke greatly increase when he or she puts on heavy equipment and rushes into a burning building to fight a fire and save lives. The families of these brave public servants deserve to participate in the PSOB Program if their loved ones die of a heart attack or other cardiac related ailments while selflessly protecting us from harm.

First responders across the country now face a new series of challenges as they respond to over 1.6 million emergency calls this year, from responding to fires and hazardous material spills to providing emergency medical services to reacting to weapons of mass destruction. They do this with an unwavering commitment to the safety of their fellow citizens, and are forever willing to selflessly sacrifice their own lives to protect the lives and property of their fellow citizens. It is time for Congress to show its support and appreciation for these extraordinarily brave and heroic public safety officers. We should quickly work to pass the Hometown Heroes Survivors Benefit Act.

Mr. JEFFORDS. Mr. President, I am pleased to join with Senators LEAHY and COLLINS in introducing the Senate counterpart of the Hometown Heroes Survivors Benefits Act of 2002. This legislation closes a gap in the survivor benefits the Federal Government provides to the families of public safety officers who die in the line of duty.

These public safety officers are the people that keep our streets safe, help to fight fires, and respond to emergency calls. The Federal Government has rightfully created a one-time financial benefit for the families of public safety officers who die in the line of duty to recognize the sacrifice and importance of public safety officers in our society.

Unfortunately, due to a technicality in the law some families of public safety officers that die of a heart attack or stroke are being denied this important financial benefit. This is unacceptable and we need to make sure that we enact this legislation to ensure that the families of these public safety officers are covered.

Many years ago I was a volunteer firefighter in my small town of Shrewsbury, VT. It was a very demanding, stressful, and exhausting job. Every year almost half the firefighter fatalities in the United States are from heart attack or cardiac related reasons. Not all of these deaths occur while fighting the fire, but are related to their unselfish dedication to the task at hand.

This legislation would provide that a public safety officer who dies as the result of a heart attack or stroke suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation shall be presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty for purposes of survivor benefits. These public safety officers are out there everyday ensuring our safety; Congress needs to ensure that the surviving families receive this important financial benefit.

I encourage my colleagues to join me in recognizing the heroism and sacrifice of public safety officers by cosponsoring this important legislation.

By Mr. CORZINE:

S. 3116. A bill to permanently eliminate a procedure under which the Bureau of alcohol, Tobacco, and Firearms

can waive prohibitions on the possession of firearms and explosives by convicted felons, drug offenders, and other disqualified individuals; to the Committee on the Judiciary.

Mr. CORZINE. Mr. President, I rise today to introduce important gun control legislation that would shut down permanently the guns for felons program.

For too many years the Federal Government spent millions of dollars a year to restore the gun privileges of convicted felons. Fortunately, for the last ten years, Congress has seen fit to defund the program, through annual funding restrictions.

Congress was right to defund a program that, according to the Violence Policy Center, restored gun privileges for thousands of convicted felons, at a cost of millions of dollars to the taxpayer. As the Violence Policy Center demonstrated, a number of these felons went on to commit violent crimes.

I believe strongly that we must do all we can to keep guns out of criminals' hands. I am pleased that every year Congress has renewed the funding ban, which prohibits ATF from processing firearms applications from convicted felons. Indeed, by introducing this legislation today, I do not in any way intend to imply that the annual funding bans are not sufficient to shut down the guns for felons program.

Today the Supreme Court is hearing arguments in a case that could jeopardize our efforts to ensure that convicted felons do not have access to guns by possibly giving Federal judges the power to rearm those felons regardless of the Congressional funding ban. I have been active in pushing for the funding ban, and it certainly was not my intention, nor do I believe it was anyone else's intention, to give judges power to unilaterally give felons their firearm privileges back. It is hard enough for ATF, after conducting an intensive investigation, to make judgments about an individual felon; for a court to do it on its own is completely inappropriate. To put it simply, courts will lack the resources to make an informed judgment in this regard. In any case, Congress' intent, and the appropriate rule, is that felons should be prohibited from owning guns period. Enacting my legislation will eliminate the guns for felons program permanently and prevent the need for Congress to revisit this issue every year.

By Mr. BURNS:

S. 3117. A bill to extend the cooling off period in the labor dispute between the Pacific Maritime Association and the International Longshore and Warehouse Union; to the Committee on Health, Education, Labor, and Pensions.

Mr. BURNS. Mr. President, last year our Nation's economy was briefly held hostage by an attack on American soil. We have overcome that challenge and are now charging ahead in the right direction.

It is this kind of American resolve that has built this Nation into the thriving world power it is today.

However, recent developments on the West Coast have created a different kind of crisis but no less damaging to America's economy.

On Sunday, September 29, the Pacific Maritime Association, PMA, locked out workers in twenty-nine West Coast ports for more than a week in response to a reported work-slow down by members of the International Longshore and Warehouse Union, ILWU.

Last week, President Bush invoked the Taft-Hartley Act that ended the lock out allowing workers to go back to work and negotiators to work through these problems over the course of an 80-day cooling-off period.

I applaud the President's action. However, I am concerned about conflicting messages being sent by the ILWU and the PMA. More importantly, I am concerned about the lack of interest either party, management or labor, has regarding the economic fate of America's workers and America's agricultural economy.

The economic impact of this labor dispute has temporarily crippled our Nation's economy. This dispute has threatened America's national health and safety. In many economic sectors, jobs were lost, workers were sent home and Americans will temporarily pay higher prices for consumer goods.

However, once the President made his intention known to invoke Taft-Hartley, the AFL–CIO issued an Oct. 7 press release charging the President's action: ''preempts the collective bargaining process and undermines the rights of workers with union representation to negotiate on equal footing with their employers''.

Neither side in a collective bargaining negotiating process should be able to leverage the nation's economy in an attempt to control the debate. Doing so is a very selfish act. And criticizing the President for his action is a very shortsighted approach to these negotiations.

The ILWU claims they want to go back to work. Due to the only recourse available on behalf of the American economy, they are, today, back at work.

I question the AFL–CIO's interest in the American economy. Does the AFL–CIO not recognize the impact this labor disruption has on the nation's economy? At stake are thousands of jobs and millions of dollars in commerce. Let me clarify that impact and put a Montana stamp on it.

Exports are critical to the American economy. American exporters ship their products overseas, including agricultural exports such as wheat, corn, soybeans, and pork products, and manufactured goods of all shapes and sizes.

West Coast ports are crucial to U.S. trade, handling over $300 billion in trade each year. These ports handle more than half of all containerized imports and exports.

West Coast ports handle 25 percent of all U.S. grain exports, 40 percent of all wheat, 14 percent of all corn, and seven percent of all soybeans exports.

Sixty-five percent of all U.S. containerized food trade moved through these ports in 2001. During the lockout, the dispute was estimated to have cost the America's economy $2 billion a day.

Trade with Asia is particularly affected. Japan, Korea, Taiwan, Hong Kong, China, Indonesia, Thailand, the Philippines, India, and Malaysia are the top 10 destinations for containerized U.S. agriculture products. Together, these nations receive 85 percent of all agricultural shipments from the West Coast.

If these countries cannot count on U.S. exports, they will turn to our competitors. Our farmers and ranchers spend precious resources on market development activities. It's very frustrating to lose shares of those markets solely because a small group of labor and management representatives cannot agree on a resolution.

Again, I applaud President Bush's decision last week. I encouraged his action and stand by him now. Invoking Taft-Hartley was the only short-term remedy for the dispute that temporarily closed the West Coast ports.

Furthermore, during the cooling off period, I urge the President to use his powers to judicially enforce productivity is not purposely restricted.

I do not stand here today in support of the PMA's position, nor do I stand here today in support of the ILWU's position. Rather, I stand here today in support of the Nation's economy, the American worker, the Montana farmer, the retailer, the food distributor, the truck and rail operators, the consumer, and every other American that is being harmed by this action.

I believe collective bargaining can and has worked more often than not. However, it is arrogant for any management or labor group to paralyze commerce in our nation.

Reopening the ports, even if only for 80 days, will benefit the economy. The parties will be given time to settle the dispute. Manufacturers and retailers will be given additional time to adjust and prepare.

Invoking Taft-Hartley was the right thing to do. It was the appropriate action to take to protect our economy, to protect American workers, to ensure we have a healthy and happy holiday season.

The 80-day cooling-off period will allow both parties to re-evaluate their respective positions. Furthermore, it will give the ports an opportunity to clear up a mounting backlog that has

paralyzed much of our West Coast export and import commerce. And finally, it will allow the ILWU workers to go back to work earning a living for their families.

Today, I would like to introduce a bill that would extend the cooling-off period thirty days until the end of January. At present the 80 day cooling off period will end between Christmas Day and New Years Day.

This is a move that will not impact the negotiations between the two parties. However, it will allow the cooling-off period to end at the end of January rather than the end of December and between Christmas and New Years.

Extending the deadline beyond the Holiday season will help to unsnarl the mess created by this dispute; give the ports another thirty days to clear up the backlog. Finally, it will give Congress and the American people an ability to approach the end of this cooling-off period fully aware of the importance of this negotiation and uninterrupted by the holiday season.

If negotiators are able to work out a resolution, we have lost nothing. However, if in the case, there is no resolution by the end of the cooling-off period, this extension could save thousands of American jobs and millions of dollars in economic losses.

I encourage my colleagues to join me in this effort.

By Mr. ENSIGN (for himself, Mr. ALLARD, and Ms. CANTWELL):

S. 3118. A bill to strengthen enforcement of provisions of the Animal Welfare Act relating to animal fighting, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ENSIGN. Mr. President, I am pleased to be joined by Senators ALLARD and CANTWELL to introduce the Animal Fighting Enforcement Act. I would like to thank my colleagues for their support in this endeavor to protect the welfare of animals. This legislation targets the troubling, widespread and sometimes underground activities of dogfighting and cockfighting where dogs and birds are bred and trained to fight to the death. This is done for the sheer enjoyment and illegal wagering of the animals' handlers and spectators.

These activities are reprehensible and despicable. Our States' laws reflect this sentiment. All 50 States have prohibited dogfighting. It is considered a felony in 46 States. Cockfighting is illegal in 47 States, and it is a felony in 26 States. In my home State of Nevada, both dogfighting and cockfighting are considered felonies. In fact, it is a felony to even attend a dogfighting or cockfighting match.

Unfortunately, in spite of public opposition to extreme animal suffering, these animal fighting industries thrive. There are 11 underground dogfighting publications, and several above-ground cockfighting magazines. These magazines advertise and sell animals and the materials associated with animal fighting. They also seek to legitimize this shocking practice.

During the consideration of the Farm Bill, a provision was included that closed loopholes in Section 26 of the Animal Welfare Act. Both the House and the Senate increased the maximum jail time for individuals who violate any provision of Section 26 of the Animal Welfare Act from one year to two years, making any violation a Federal felony. However, during the conference, the jail time increase was removed.

The legislation that I am introducing today seeks to do three things. First, it restores the jail time increase to treat the violations as a felony. I am informed by U.S. Attorneys that they are hesitant to pursue animal fighting cases with merely a misdemeanor penalty. To illustrate this, it is important to note that only three cases since 1976 have advanced, even though the USDA has received innumerable tips from informants and requests to assist with state and local prosecutions. Increased penalties will provide a greater incentive for federal authorities to pursue animal fighting cases.

Second, the bill prohibits the interstate shipment of cockfighting implements, such as razor-sharp knives and gaffs. The specific knives are commonly known as ''slashers.'' The slashers and ice-pick-like gaffs are attached to the legs of birds to make the cockfights more violent and to induce bleeding of the animals. These weapons are used only in cockfights. Since Congress has restricted shipment of birds for fighting, it should also restrict implements designed specifically for fights.

Finally, the bill updates language regarding the procedures that enforcement agents follow when they seize the animals. This regards the proper care and transportation of the animals that are seized. It also states that the court may order the convicted person to pay for the costs incurred in the housing, care, feeding, and treatment of the animals.

I appreciate the support of both Senators ALLARD and CANTWELL in this effort, and look forward to the overwhelming support of my other colleagues in the Senate. I also wish to recognize Representative ROBERT ANDREWS for his leadership on the House version of this bill. Surely, this is an issue that must be addressed as soon as possible. We cannot allow this barbaric practice to continue in our civilized society.

By Mr. GRAHAM (for himself and Mr. FITZGERALD):

S. 3119. A bill to amend the Public Health Service Act to ensure the guaranteed renewability of individual health insurance coverage regardless of the health status-related factors of an enrollee; to the Committee on Health, Education, Labor, and Pensions.

Mr. GRAHAM. Mr. President, I am pleased to introduce the ''Health Insurance Fairness Act of 2002'' and I am very pleased to have Senator FITZGERALD join me as an original cosponsor. This legislation would prohibit the insurance practice of reunderwriting at renewal, thereby protecting the millions of Americans relying on individual health insurance policies.

The need for this legislation was brought to my attention by an excellent April 9, 2002 article in the Wall Street Journal that documented the impact of reunderwriting on a married couple from Florida.

Shaneen Wahl of Port Charlotte, FL was diagnosed with breast cancer in 1996. At that time, she and her husband Tom were paying $417 a month for health insurance. In addition to coping with cancer, the Wahls began to face rapidly increasing premiums, and by August 2000 their insurer informed them that their new rate would be $1,881 a month. This premium increase wasn't due to non-payment of premiums or any other action of the Wahls. It was the result of reunderwriting conducted by the Wahl's insurance company.

Reunderwriting at renewal is a practice that forces people who have become ill to pay substantial premium increases or lose their health insurance. While most insurers evaluate an individual's medical history only at the outset, some have adopted the practice of reviewing customers' health status annually. The purpose of this review is to determine if the individual has developed a medical condition or has filed claims; if such a determination is made, the company raises the individual's premium. This practice contributes enormously to the instability of health insurance by making it difficult, it not impossible, for people who have paid insurance premiums for years to continue that health insurance at the very time they need it the most.

How does it work? Carriers reunderwriting at renewal charge substantially higher renewal premiums to policyholders who have been diagnosed with an illness or had medical claims than they charge other policyholders. The carriers do this by transferring a policyholder to a higher risk class than the policyholder was in when the policy was issued or in some cases by manually adjusting the policyholder's rate based on his or her medical claims. In either case, the individual's premium is based on his or her claims or health status during the policy year. For example, in another case from Florida, Bruce and Wanda Chambers of St. Augustine saw their rates increase from $300 per month to $780 per month in just one year after Wanda was diagnosed with diabetes.

Consumers purchase insurance so that they will have access to health care should they become ill, as in the example of Wanda Chambers. If carriers are allowed to increase premium rates based on health status at renewal, consumers face a choice between the very two outcomes they had

planned to avoid by purchasing insurance in the first place: they can drop the insurance policy and thus likely forgo access to health care in times of illness, or they can pay the grossly inflated premiums and thus face financial ruin.

The practice of reunderwriting at renewal violates the spirit of health insurance guaranteed renewability requirements under state and federal law. In the 1990's, the National Association of Insurance Commissioners, NAIC, developed model laws to prohibit insurance companies from canceling policies once an individual became sick. In 1997, the Health Insurance Portability and Accountability Act, HIPAA, applied this requirement to all health insurance policies subject to HIPAA. As a result, carriers can no longer cancel individuals because of their medical claims.

Reunderwriting is a way to circumvent these requirements, and has been justified as a means of holding down premiums, for the healthy. However, a July 17, 2002 memo to all NAIC Members from Steven B. Larsen, Chair of the Health Insurance & Managed Care (B) Committee clarifies that the practice of reunderwriting is illegal under NAIC Model Laws:

> The committee also noted that the practice is contrary to adopted NAIC policy, and is illegal under NAIC Model Laws governing the individual market. The Small Employer and Individual Health Insurance Availability Model Act (Model #35) provides for adjusted community rating, and health status is not one of the factors that can be used to set rates. The Individual Health Insurance Portability Model Act (Model #37) provides for the use of rating characteristics, and health status is not one of the listed characteristics. More specifically that model also provides that changes in health status after issue, and durational rating, are not to be used in setting premiums for individual policies.

Insurance companies should not be allowed to manage health-care costs by targeting individuals for premium increases because an individual was diagnosed with an illness or has had medical claims. Doubling or tripling premiums for only the individuals who have been diagnosed with an illness forces those individuals to drop their policies and is functionally the same as not renewing coverage.

Not only is reunderwriting bad for consumers, but it creates a competitive disadvantage to the many reputable insurance companies that agree that this practice is contrary to the public interest and undermines the theory behind insurance. Faced with the practice being used by some companies, the Wall Street Journal has reported that other carriers are ''closely watching'' this practice intending to adopt a similar practice either to avoid a competitive disadvantage or to improve their bottom line. While selective targeting improves the profitability of the reunderwriter, it shifts the responsibility for higher risk people to other insurers or employers or local and state government health programs.

The legislation we are introducing today would make health insurance more secure. The legislation would clarify that guaranteed renewal of health insurance means that insurers cannot target individuals for premium increases because the have had claims or a new disease diagnosis. The bill would ensure that individuals will not be priced out of the market for health insurance at the very time that they need it most.

The goals of this legislation are simple: 1. To strengthen HIPAA's promise of guaranteed renewable coverage and make private health insurance more secure for millions of Americans, and 2. to hold all insurers accountable to a level playing field of reasonable standards so they can compete fairly without dumping customers when they get sick.

The ''Health Insurance Fairness Act'' will help the many millions of people who rely on the individual health insurance market: those that are self-employed, those employed by small businesses unable to get group coverage, early retirees who rely disproportionately on individual health insurance if their COBRA runs out before Medicare begins, and others whose employers don't provide health benefits.

I urge my colleagues to cosponsor the ''Health Insurance Fairness Act'' and I thank the Chair.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, and Ms. COLLINS):

S. 3120. A bill to impose restrictions on the ability of officers and employees of the United States to enter into contracts with corporations or partnerships that move outside the United States while retaining substantially the same ownership; to the Committee on Governmental Affairs.

Mr. GRASSLEY. Mr. President, I rise today to offer a bill on behalf of Sen. BAUCUS and myself to address the issue of inverting corporations that are awarded contracts by the federal government. Our bill is the ''Reclaiming Expatriated Contracts and Profits'', RECAP, Act.

Inverting corporations set up a folder in a foreign filing cabinet or a mail box overseas and call that their new foreign ''headquarters.'' This allows companies to escape millions of dollars of Federal taxes every year. In April of this year, Sen. BAUCUS and I introduced the ''Reversing the Expatriation of Profits Offshore'', REPO, Act to shut down these phony corporate inversions. Today, our REPO bill sits in the Care Act, awaiting Senate passage.

You would think that the ''greed-grab'' of corporate inversions would satisfy most companies, but unfortunately it is not enough. After these corporations invert and save millions in taxes, they then come back into the United States to obtain juicy contracts with the Federal Government.

Imagine the nerve. They create phony foreign headquarters to escape taxes and then use other peoples' taxes to turn a profit. That's really something, something that needs to be stopped.

Let's look at some of the numbers. Tyco had over 1700 contracts in 2001, worth over $286 million dollars. Accenture had contracts worth nearly $279 million. Ingersoll Rand left the United States for Bermuda, where it reportedly pays less than $28,000 a year to register its phony headquarters and receives $40 million in U.S. tax savings. Ingersoll Rand had more than 200 government contracts in 2001, worth over $12 million.

I was the first member of Congress to disclose that inverting corporations were receiving Federal contracts, back in March of this year. Out of respect for the committee system, I have waited for the committees with jurisdiction over government contracts to act on this issue. They have not. Instead, we have seen a series of politically-inspired amendments offered in Congress, all of which are ineffective, easily evaded, and, if enacted, could cost thousands of Americans their jobs. I then read in the paper last week that the Defense Appropriations conferees dropped one of those amendments, rather than try to rewrite it. I decided enough is enough. It is time for serious legislation on this issue.

Chairman BAUCUS and I offer our bipartisan RECAP bill as a compliment to our earlier REPO bill on corporate inversions. For future corporate inversions, our RECAP bill will bar the inverting company from receiving Federal contracts. For the inversions that have already gotten out before the REPO bill can be enacted, our RECAP bill will make them send back their ill-gotten tax savings by forcing them to lower their bids in order to obtain government contracts. The RECAP bill does not unwind Federal contracts that were legal when they were entered into. Therefore, unlike the other proposals, our RECAP bill will not throw thousands of Americans out of a job. The bill we submit today has only one objective: to permanently place corporate inversions on the endangered species list.

I am aware that many of my colleagues believe this measure is unnecessary because inverting corporations pay U.S. taxes on their profits from Federal contracts. It is generally true that profits earned from a Federal contract are taxable in the United States, but those profits are easily reduced when an inverter creates phony deductions through its inversion structure. For example, most inverted companies create phony interest deductions for interest that is fictitiously paid to the ''file folder'' foreign headquarters. Objections to this bill simply overlook the real insult to the American people: these inverted companies take other peoples' tax dollars to make a profit, but they won't pay their share of taxes to keep America strong. And that's just wrong.

So let me be clear to everyone developing or contemplating one of these inversion deals, you proceed at your own peril. We are not only going after the

corporate expatriation abuse, but also the abusers who seek big government contracts while skirting their U.S. tax obligations. I intend to pursue this issue throughout the remainder of this Congress and into the next.

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. 3120

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 ''Reclaiming Expatriated Contracts and Profits Act''.

SEC. 2. RESTRICTIONS ON FEDERAL CONTRACTS WITH CERTAIN INVERTED ENTITIES.

(a) RESTRICTIONS.—

(1) BAN ON CERTAIN INVERTED ENTITIES.—Notwithstanding any other provision of law—

(A) no officer or employee of the United States may enter into, extend, or modify a contract with a foreign incorporated entity treated as an inverted domestic corporation under subsection (c) during the restriction period for the entity, and

(B) any officer or employee of the United States entering into a contract after the date of the enactment of this Act shall include in the contract a prohibition on the subcontracting of any portion of the contract to any foreign incorporated entity treated as an inverted domestic corporation under subsection (c) during the restriction period for the entity.

(2) MANDATORY REDUCTION IN CONTRACT EVALUATION OF CERTAIN ENTITIES.—

(A) IN GENERAL.—If, during the restriction period for an acquired entity to which this section applies, the entity makes an offer in response to a solicitation of offers for a contract with the United States, any officer or employee of the United States evaluating the offer shall, solely for purposes of awarding the contract, adjust the evaluation as follows:

(i) In the case of a contract to be entered into with an offeror selected solely on the basis of price, the price offered by such acquired entity shall be deemed to be equal to 110 percent of the price actually offered.

(ii) In the case of a contract to be entered into with an offeror on the basis of two or more evaluation factors, the quantitative evaluation of the offer made by such acquired entity shall be deemed to be reduced by 10 percent.

(B) APPLICATION TO CERTAIN CONTRACTORS.—If a person other than an entity to which this paragraph applies makes an offer for a contract with the United States, and it is reasonable to assume at the time of the offer that any portion of the work will be subcontracted to such an entity, subparagraph (A) shall be applied to such offer in the same manner as if the person making the offer were such an entity.

(3) APPLICATION TO RELATED ENTITIES.—Paragraphs (1) and (2) shall also apply during the restriction period for an entity to—

(A) a member of an expanded affiliated group which includes the entity, and

(B) any other related person with respect to the entity.

(b) EXCEPTIONS.—

(1) PRESIDENTIAL WAIVER.—The President of the United States may waive the application of subsection (a) with respect to any contract if the President determines that the waiver is necessary in the interest of national security.

(2) EXCEPTION WHERE NO TAX AVOIDANCE PURPOSE.—

(A) IN GENERAL.—This section shall not apply to a foreign incorporated entity or an acquired entity if the entity requests, and the Secretary of the Treasury issues, a determination letter that the acquisition described in subsection (c)(1)(A) with respect to the entity did not have as one of its principal purposes the avoidance of Federal income taxation.

(B) PROCEDURES.—The Secretary of the Treasury shall prescribe the time and manner of filing a request under this paragraph.

(C) STAY OF RESTRICTION PERIOD.—

(i) IN GENERAL.—The restriction period with respect to an entity filing a request under this paragraph shall not begin until the Secretary of the Treasury notifies the entity that it will not issue a determination letter with respect to the request.

(ii) NO ACTION.—If the Secretary takes no action with respect to a request during the 1-year period beginning on the date of the request (or such longer period as the Secretary and the entity may agree upon), the Secretary shall be treated as having issued a determination letter described in subparagraph (A). This clause shall not apply to a request if the entity does not submit the request in proper form or the entity does not provide the information the Secretary requests to process the request.

(c) INVERTED DOMESTIC CORPORATION.—For purposes of this section—

(1) IN GENERAL.—A foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(A) the entity completes after the date of the enactment of this Act the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(2) RULES FOR APPLICATION OF SUBSECTION.—In applying this subsection, the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of paragraph (1)(B)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in paragraph (1)(A).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of paragraph (1)(B) are met with respect to such corporation or partnership, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying this subsection to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as 1 partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary of the Treasury shall prescribe such regulations as may be necessary—

(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

(ii) to treat stock as not stock.

(d) ACQUIRED ENTITY TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to an acquired entity if a foreign incorporated entity would be treated as an inverted domestic corporation with respect to the acquired entity if subsection (c)(1)(B) were applied by substituting ''50 percent'' for ''80 percent''.

(2) APPLICATION TO CERTAIN ACQUISITIONS BEFORE ENACTMENT.—This section shall apply to an acquired entity if a foreign incorporated entity would be treated as an inverted domestic corporation if subsection (c)(1) were applied—

(A) by substituting ''after December 31, 1996, and on or before the date of the enactment of this Act,'' for ''after the date of the enactment of this Act'' in subparagraph (A), and

(B) by substituting ''50 percent'' for ''80 percent'' in subparagraph (B).

(3) ACQUIRED ENTITY.—For purposes of this section—

(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (c)(1)(A) to which this subsection applies.

(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) of the Internal Revenue Code of 1986 to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

(e) DEFINITIONS.—For purposes of this section—

(1) EXPANDED AFFILIATED GROUP.—The term ''expanded affiliated group'' means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b)(3) of such Code), except that section 1504(a) of such Code shall be applied by substituting ''more than 50 percent'' for ''at least 80 percent'' each place it appears.

(2) FOREIGN INCORPORATED ENTITY.—The term ''foreign incorporated entity'' means any entity which is treated as a foreign corporation for purposes of such Code.

(3) RELATED PERSON.—The term ''related person'' means, with respect to any entity, a person which—

(A) bears a relationship to such entity described in section 267(b) or 707(b) of such Code, or

(B) is under the same common control (within the meaning of section 482 of such Code) as such entity.

(4) RESTRICTION PERIOD.—

(A) IN GENERAL.—The term ''restriction period'' means, with respect to any entity, the period—

(i) beginning on the date substantially all of the properties to be acquired as part of the acquisition described in subsection (c)(1)(A) are acquired, and

(ii) to the extent provided by the Secretary of the Treasury, ending on the date the income and gain from such properties is subject to United States taxation in the same manner as if such properties were held by a United States person.

(B) SPECIAL RULES FOR ACQUIRED ENTITIES.—

(i) 10-YEAR LIMIT.—In the case of an acquired entity to which subsection (a)(2) applies, the restriction period shall end no later than the date which is 10 years from the date described in subparagraph (A)(i) (or, if later, the date of the enactment of this Act).

(ii) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

(I) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary of the Treasury may prescribe, if, after an acquisition described in subsection (c)(1)(A) to which subsection (a)(2) applies, a domestic corporation the stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities, then the restriction period for any such acquired entity with respect to which the requirements of clause (ii) are met shall end immediately after such acquisition.

(II) REQUIREMENTS.—The requirements of this subclause are met with respect to a transaction involving any acquisition described in subclause (I) if—

(aa) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b) of such Code, and was not under common control (within the meaning of section 482 of such Code), with the acquired entity, or any member of an expanded affiliated group including such entity, and

(bb) after such transaction, such acquired entity is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

(5) OTHER DEFINITIONS.—The terms ''person'', ''domestic'', and ''foreign'' have the same meanings given such terms by section 7701(a) of such Code.

(f) ASSISTANCE.—The Secretary of the Treasury or his delegate shall assist officers and employees of the United States in carrying out the provisions of this section, including providing assistance in identifying entities to which this section applies.

Mr. BAUCUS. Mr. President, I join the Ranking Republican Member of the Finance Committee, Senator GRASSLEY, in introducing bipartisan legislation to further address the increasing problem of U.S. corporations reincorporating to tax haven countries to avoid taxes, a practice also known as a corporate inversion. I am pleased to cosponsor the Reclaiming Expatriated Contracts and Profits, RECAP, Act which prohibits the most egregious inverted corporations from receiving Federal Government contracts.

Last March, Senator GRASSLEY and I announced our intention to introduce legislation to curb the proliferation of U.S. corporations changing their Articles of Incorporation to become a corporation of a foreign tax haven country. On April 11, 2002, we introduced legislation to address this problem. S. 2119, the Reversing the Expatriation of Profits Offshore, REPO, Act, was designed to put the brakes on the potential rush to move U.S. corporate headquarters to tax haven countries. On June 18, 2002, the Senate Finance Committee sent a strong message to corporate America by passing S. 2119 by unanimous vote.

But the REPO Act was just the first step to curb inversions. Senator WELLSTONE led the effort to eliminate another incentive for these corporations by restricting them from qualification for government contracts. The idea is simple. If a corporation wants to, in essence, renounce their U.S. citizenship, then they shouldn't be entitled to compete for U.S. government contracts. I applaud Senator WELLSTONE for his leadership and willingness to press ahead with restricting inverted corporations from winning government contracts.

Today, Senator CHUCK GRASSLEY and I cosponsor legislation focused on the same goal as that of Senator WELLSTONE. The legislation we introduce today will prevent the most egregious of these inverted corporations from receiving any U.S. government contracts. These companies have placed tax avoidance as their first priority and their U.S. identity as their second priority. The reduction in taxes for inverted corporations allows them to underbid those corporations that choose to remain U.S. corporations. This is wrong.

I welcome the opportunity to support RECAP and I urge Congress to act quickly on this legislation, as it will go a long way toward restoring public confidence in corporate America.

By Mr. BIDEN (for himself, Mr. LUGAR, Mr. DOMENICI, Mrs. CLINTON, Mr. GREGG, and Mr. SCHUMER):

S. 3121. A bill to authorize the Secretary of State to undertake measures in support of international programs to detect and prevent acts of nuclear or radiological terrorism, to authorize appropriations to the Department of State to carry out those measures, and for other purposes; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, today I am introducing the ''Nuclear and Radiological Terrorism Threat Reduction Act of 2002.'' This is a bill to strengthen the efforts of the world community to gain control over the vast amounts of radioactive materials that, left uncontrolled, could cause economic disruption and sow terror in American cities.

In the Senate Foreign Relations Committee's hearing on March 6 of this year, experts testified that an amount of ground up radioactive cobalt-60 the size of the ball in your ball point pen could contaminate an area of Manhattan greater than the footprint of the World Trade Center. The damage and risk would be so great that buildings in the affected area might have to be abandoned, destroyed, and trucked away as radioactive waste.

We learned that if a terrorist dispersed a few hundred curies of radioactive material, the resulting public panic could make much of downtown Washington, DC uninhabitable without a difficult and expensive clean-up. Decontamination is a serious and poorly understood problem because many of the radioactive isotopes a terrorist might choose will bind chemically to construction materials such as marble and stone used in our most precious buildings.

One curie of radioactive cesium-137, strontium-90, cobalt-60 or iridium-192 poses a significant risk. But sources as strong as several hundred curies are used every day in world-wide commerce. They serve to estimate the oil in active oil wells, to provide a compact and convenient source of x-rays to check the quality of welds in the field, and to provide pencil beams of radiation to measure the amount of soda or beer in an aluminum can.

Hospitals, primarily in poorer countries, but also in the United States, use cesium-137 or cobalt-60 sources as strong as several thousand curies to provide radiation therapy in cancer treatment. Some of these sources are used in Southern California in mobile treatment centers mounted in trucks. These rolling radioactive sources move on the highways and through the streets of our country and perhaps of other countries, where they are vulnerable to accident or foul play.

Each year many radioactive sources, world wide, are abandoned or stolen and leak out of the existing control system. They become ''orphan'' sources, unwanted and with nobody to care for them or keep them out of trouble. Sometimes industrial sources are abandoned in place when their owners go out of business. They can then find their way into the scrap metal pool, and may arrive on the doorstep of a steel mill.

That happened shortly before our March 6 hearing. A 2-curie cesium-137 source turned up on the conveyor belt of the Nucor Steel Mill in Hertford, NC. Caught just before it would have gone into the furnace, it was identified, removed, and taken into safe custody by the North Carolina radiation protection authorities. Where did it come from? A bankrupt chemical company in the Baltimore area whose equipment was sold for scrap. But when the records were traced it was found that the company had bought not one, but four, such sources. Fortunately, two more were traced and recovered, but one of those ''gauge sources'' still is missing.

If the source found at Nucor had gone into the molten steel, the clean-up would have cost the company millions of dollars. If it had gotten into the

hands of a terrorist who could disperse it with high explosives, it could have contaminated many square blocks of an American city and the recovery might have run into the billions.

Far more intense radioactive sources turn up in strange places from time to time.

In 1987, two junk collectors in Brazil broke open an abandoned gamma ray cancer treatment machine containing 1,400 curies of Cesium-137. Inside they found about 2/3 of an ounce of softly glowing powder. Several people were delighted at the idea of glowing in the dark and they rubbed the powder on their bodies. They contaminated not only themselves, but their homes and families. The toll: 5 people dead, 21 requiring intensive care, 49 requiring some hospitalization, 249 contaminated, and 111,800 people tested in improvised medical facilities at a local soccer stadium.

And that was an accident. A deliberate attack using the same 20 grams of material could have had far greater consequences, as our witnesses told the Committee.

''Dirty bombs'' do not even need to explode. Murders have been committed by the simple act of inserting a small radioactive source in the victim's desk chair and simply waiting until radiation sickness and death followed. If a terrorist is willing to die, he could merely fling finely powdered material from the window of a tall building and allow the wind to spread his poison.

Finally, I worry that other terrorist groups, not just Al Qaeda, could make a radiological dispersion device. Radioactive material is out there for the taking, especially in the former Soviet Union.

In January of this year, three hunters gathering firewood in a forest in the former Soviet republic of Georgia found two abandoned cans of strontium-90, each containing 40,000 curies of material. Because the heat from these sources melted the snow for yards around, the hunters were delighted to find free warmth for their tent. They picked up and carried off the sources in their backpacks. All three woodsmen were critically injured, but since they did not break open the two cans, environmental contamination was limited.

A team from the government of Georgia, assisted by the International Atomic Energy Agency, recovered the sources, but several more are apparently missing and unaccounted for. The nuclear industry of the former Soviet Union made hundreds of similar devices.

In fact, 40,000 curies of strontium-90 represents a small source by Soviet standards. A string of 131 arctic sites in Russia is powered by radioisotope thermal generators—portable power plants that draw energy from the heat liberated by the decay of radioactive nuclei. Each site uses a 300,000-curie source. That raises the maximum damage that a terrorist dirty bomb could do by a factor of ten beyond anything the Committee heard at our March hearing.

There once were 136 sites in this chain, but the Norwegian government replaced five with solar-powered installations. The remaining 131 should be replaced as soon as possible so as to remove a potential source of truly destructive dirty bombs.

We must, and we can, raise significant and sensible barriers to protect against terrorists who would use the power of the atom to do us harm. To that end, Senators LUGAR, DOMENICI, CLINTON, GREGG and SCHUMER join me today in introducing the ''Nuclear and Radiological Terrorism Threat Reduction Act of 2002.''

The bill's principal cosponsors, Senators LUGAR and DOMENICI, have been among the Senate's long-time leaders in the causes of non-proliferation, threat reduction and counter-terrorism, and I welcome their support. Senator GREGG's position on the Appropriations Committee has sensitized him to the need to protect our embassies. And both of the Senators from New York, Mr. SCHUMER and Mrs. CLINTON, attended the Foreign Relations Committee's classified session where we learned some of the specifics regarding the threat of nuclear and radiological terrorism.

Our bill takes the initiative in several significant areas:

One, it creates a new program to establish a network of five regional shelters around the globe to provide secure, temporary storage of unwanted, unused, obsolete and orphaned radioactive sources. The bill authorizes $5 million to get started in Fiscal Year 2003, and up to $20 million a year for construction and operation of the facilities in the future. We envision accomplishing our goals through bilateral negotiations with the host nations or, when advantageous to the United States, through special contributions to the International Atomic Energy Agency, the IAEA. Regional storage facilities can remove some of the most dangerous material from circulation.

Two, to round up the sources to be stored in the regional facilities, we propose an accelerated program—in cooperation with the IAEA—to discover, inventory, and recover unwanted radioactive material from around the world. This would be similar to the Department of Energy's Off-site Source Recovery Program, but aimed at material outside our borders. This bill will make a modest start by authorizing $5 million a year in special voluntary contributions to the IAEA.

Three, recognizing the threat posed by the very intense radioactive sources packaged by the former Soviet Union to provide electric power to very remote locations, such as lighthouses, weather stations, communications nets, and other measuring equipment, the bill authorizes funding to replace that equipment with non-nuclear technologies. We believe that $10 million a year over the next three years should not merely make a dent in this problem; it should largely solve it.

Four, other bills this year have provided funding to train American first responders to handle a radiological emergency. The bill we introduce today authorizes $5 million a year for the next three years to train responders abroad. This is a matter of self-protection for the United States: we have diplomatic missions at risk around the world, and we will be funding the construction and operation of temporary storage sites for radioactive material. Should accidents or incidents occur, we would like to be able to rely upon competent responses by our host countries.

Five, this bill requires the Secretary of State to conduct a global assessment of the radiological threat to U.S. missions overseas and to provide the results to the appropriate committees of the Congress in an unclassified form, but with a classified annex giving details if he deems necessary. We hope the Secretary will take into account the locations of the interim storage facilities and also the results of this threat assessment in choosing where first to provide the overseas first responder training authorized by this bill.

Six, the Customs Service is charged with preventing illicit shipments of radioactive material and fissile material from reaching our shores. Inspection of today's large cargo containers for fissile material, in particular, is a technologically challenging task, one performed most safely and easily before the containers are loaded aboard ship. Customs has agreements to permit U.S. inspectors to do their jobs in ports of embarkation. In order to assist the Service, the Nuclear and Radiological Threat Prevention Act establishes a special representative with the rank of ambassador within the State Department for negotiation of international agreements that ensure inspection of cargoes of nuclear material at ports of embarkation. This special representative will work in close cooperation with the Customs Service to make certain that the agreements meet the Service's needs.

Seven, we could diminish the threat of Dirty bombs by reducing use of radioactive material where other technologies could be substituted. This bill mandates a study by the National Academy of Sciences to tell us how and where safe sources of radiation can replace dangerous ones. Some substitutions are well known: for many applications, X-ray machines powered by the electric grid are almost as convenient as the gamma ray ''cameras'' that use intense iridium-178 sources. Powered radiation sources can replace radioactive sources in some oil well logging work. Linear accelerators are replacing radioactive cobalt and cesium in cancer therapy. All of the substitute sources have one thing in common: a switch. When that switch is turned ''off,'' the radiation source is safe. There may be many more applications

in which a switchable source can replace a radioactive one and be at least as economical, particularly when the risks of dirty bombs are accounted for properly.

Fissile material is the indispensable element of a true nuclear weapon. At our March 6, 2002, hearing experts from the Department of Energy weapons laboratories told the Committee that terrorists in possession of highly enriched uranium or plutonium could assemble a crude ''improvised nuclear device'' with a yield large enough to smash Washington from the White House to the Capitol. Such an improvised nuclear device would not require a Manhattan Project. In a study done in the 1970s, the Congressional Office of Technology Assessment wrote that a group of two or three technically competent individuals in possession of enriched uranium or weapons-grade plutonium could probably build a one-kiloton device in a few months.

For that reason, one provision of this bill deals specifically with developing the tools to guard against illicit traffic in highly enriched uranium and plutonium.

Last summer, a meeting in Washington to discuss ''nuclear science and Homeland Security'' was sponsored by the Department of Energy, the National Science Foundation, NSF, and other Federal science funding agencies. It brought together some of the best scientists in our universities and colleges, all of whom were willing to put aside their normal research to help strengthen our security at home. But few of those scientists can use the research money they already have for this work. Research support given for one purpose usually may not be channeled into other uses.

Therefore, this bill establishes a small program within the NSF to support researchers at colleges and universities who will work on the detection of fissile materials—the hardest and most critical task or on real-time identification of radioisotopes and decontamination of buildings after a dirty bomb goes off.

The Department of Energy has a special role to play in this program: we expect that Department and its national laboratories to work in cooperation with NSF to transition laboratory apparatus into field-ready operational hardware. This bill authorizes $10 million a year for research funded by the NSF and an additional $5 million a year for the Department of Energy to accomplish the transition.

The threat of radiological terrorism, and even of true nuclear terror attacks, is real. We know that most radiological attacks will kill few Americans, but there is little doubt they will lead to economic crimes of the greatest consequence. The radioactive source that killed only a few people in Brazil cost hundreds of millions of dollars to clean up. And nobody tried to cause that destruction.

We must do something to head off the nuclear and radiological terrorist threat where it will most likely first appear: in foreign countries.

The ''Nuclear and Radiological Terrorism Threat Reduction Act'' gives us a good start at doing just that.

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. 3121

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 ''Nuclear and Radiological Terrorism Threat Reduction Act of 2002''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) It is feasible for terrorists to obtain and to disseminate radioactive material using a radiological dispersion device (RDD), or by emplacing discrete radioactive sources in major public places.

(2) It is not difficult for terrorists to improvise a nuclear explosive device of significant yield once they have acquired the fissile material, highly enriched uranium, or plutonium, to fuel the weapon.

(3) An attack by terrorists using a radiological dispersion device, lumped radioactive sources, an improvised nuclear device (IND), or a stolen nuclear weapon is a plausible event.

(4) Such an attack could cause catastrophic economic and social damage and could kill large numbers of Americans.

(5) The first line of defense against both nuclear and radiological terrorism is preventing the acquisition of radioactive sources, special nuclear material, or nuclear weapons by terrorists.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) BYPRODUCT MATERIAL.—The term ''byproduct material'' has the same meaning given the term in section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

(3) IAEA.—The term ''IAEA'' means the International Atomic Energy Agency.

(4) INDEPENDENT STATES OF THE FORMER SOVIET UNION.—The term ''independent states of the former Soviet Union'' has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(5) NUCLEAR EXPLOSIVE DEVICE.—The term ''nuclear explosive device'' means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT).

(6) RADIOLOGICAL DISPERSION DEVICE.—The term ''radiological dispersion device'' is any device meant to spread or disperse radioactive material by the use of explosives or otherwise.

(7) RADIOACTIVE MATERIAL.—The term ''radioactive material'' means—

(A) source material and special nuclear material, but does not include natural or depleted uranium;

(B) nuclear by-product material;

(C) material made radioactive by bombardment in an accelerator; and

(D) all refined isotopes of radium.

(8) RADIOACTIVE SOURCE.—The term ''radioactive source'' means radioactive material that is permanently sealed in a capsule or closely bonded and includes any radioactive material released if the source is leaking or stolen, but does not include any material within the nuclear fuel cycle of a research or power reactor.

(9) RADIOISOTOPE THERMAL GENERATOR.—The term ''radioisotope thermal generator'' or ''RTG'' means an electrical generator which derives its power from the heat produced by the decay of a radioactive source by the emission of alpha, beta, or gamma radiation. The term does not include nuclear reactors deriving their energy from the fission or fusion of atomic nuclei.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of State.

(11) SOURCE MATERIAL.—The term ''source material'' has the meaning given that term in section 11 z. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

(12) SPECIAL NUCLEAR MATERIAL.—The term ''special nuclear material'' has the meaning given that term in section 11 aa. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

SEC. 4. INTERNATIONAL REPOSITORIES.

(a) AUTHORITY.—The Secretary, acting through the United States Permanent Representative to the IAEA, is authorized to propose that the IAEA conclude agreements with up to five countries under which each country would provide temporary secure storage for orphaned, unused, surplus, or other radioactive sources other than special nuclear material, nuclear fuel, or spent nuclear fuel.

(b) VOLUNTARY CONTRIBUTIONS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to make a voluntary contribution to the IAEA to fund the United States share of the program authorized by subsection (a) if the IAEA agrees to protect sources under the standards of the United States or IAEA code of conduct, whichever is stricter.

(2) FISCAL YEAR 2003.—The United States share of the costs of the program described in subsection (a) is authorized to be 100 percent for fiscal year 2003.

(c) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide the IAEA, through contracts with the Department of Energy or the Nuclear Regulatory Commission, with technical assistance to carry out the program described in subsection (a).

(d) NONAPPLICABILITY OF NEPA.—The National Environmental Policy Act shall not apply to any activity conducted under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for the Department of State $5,000,000 for fiscal year 2003 and $20,000,000 for each fiscal year thereafter to carry out this section.

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

SEC. 5. RADIOACTIVE SOURCE DISCOVERY, INVENTORY, AND RECOVERY.

(a) AUTHORITY.—The Secretary is authorized to make United States voluntary contributions to the IAEA to support a program to promote radioactive source discovery, inventory, and recovery.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Department of State $5,000,000 for each of the fiscal years 2003 through 2012 to carry out subsection (a).

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

SEC. 6. RADIOISOTOPE THERMAL GENERATOR-POWERED FACILITIES IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

(a) RTG POWER UNITS.—The Secretary is authorized to assist the Government of the Russian Federation to substitute solar (or other non-nuclear) power sources to replace RTG power units operated by the Russian Federation and other independent states of the former Soviet Union in applications such as lighthouses in the Arctic, remote weather stations, unattended sensors, and for providing electricity in remote locations. Any replacement shall, to the maximum extent practicable, be based upon tested technologies that have operated for at least one full year in the environment where the replacement will be used.

(b) ALLOCATION OF FUNDS.—Of the funds made available to carry out this section, the Secretary may use not more than 20 percent of the funds in any fiscal year to replace dangerous RTG facilities that are similar to those described in subsection (a) in countries other than the independent states of the former Soviet Union.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Department of State $10,000,000 for each of the fiscal years 2003, 2004, and 2005 to carry out this section.

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

SEC. 7. FOREIGN FIRST RESPONDERS.

(a) IN GENERAL.—The Secretary is authorized to conclude an agreement with a foreign country, or, acting through the United States Permanent Representative to the IAEA, to propose that the IAEA conclude an agreement with that country, under which that country will carry out a program to train first responders to—

(1) detect, identify, and characterize radioactive material;

(2) understand the hazards posed by radioactive contamination;

(3) understand the risks encountered at various dose rates;

(4) enter contaminated areas safely and speedily; and

(5) evacuate persons within a contaminated area.

(b) UNITED STATES PARTICIPATION.—The Department of State is hereby designated as the lead Federal entity for cooperation with the IAEA in implementing subsection (a) within the United States. In carrying out activities under this subsection the Secretary of State shall take into account the findings of the threat assessment report required by section 8 and the location of the interim storage facilities under section 4.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of State $2,000,000 for fiscal year 2003, $5,000,000 for fiscal year 2004, and $5,000,000 for fiscal year 2005 to carry out this section.

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

SEC. 8. THREAT ASSESSMENT REPORT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit a report to the appropriate congressional committees—

(1) detailing the preparations made at United States diplomatic missions abroad to detect and mitigate a radiological attack on United States missions and other United States facilities under the control of the Secretary; and

(2) setting forth a rank-ordered list of the Secretary's priorities for improving radiological security and consequence management at United States missions, including a rank-ordered list of the missions where such improvement is most important.

(b) BUDGET REQUEST.—The report shall also include a proposed budget for the improvements described in subsection (a)(2).

(c) FORM OF SUBMISSION.—The report shall be unclassified with a classified annex if necessary.

SEC. 9. SPECIAL REPRESENTATIVE FOR INSPECTIONS OF NUCLEAR AND RADIOLOGICAL MATERIALS.

Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a) is amended by adding at the end the following new subsection:

''(h) SPECIAL REPRESENTATIVE FOR INSPECTIONS OF NUCLEAR AND RADIOLOGICAL MATERIALS.—

''(1) ESTABLISHMENT OF POSITION.—There shall be within the Bureau of the Department of State primarily responsible for nonproliferation matters a Special Representative for Inspections of Nuclear and Radiological Materials (in this subsection referred to as the 'Special Representative'), who shall be appointed by the President, by and with the advice and consent of the Senate. The Special Representative shall have the rank and status of ambassador.

''(2) RESPONSIBILITIES.—The Special Representative shall have the primary responsibility within the Department of State for assisting the Secretary of State in negotiating international agreements that ensure inspection of cargoes of nuclear and radiological materials destined for the United States at ports of embarkation, and such other agreements as may control radioactive materials.

''(3) COOPERATION WITH UNITED STATES CUSTOMS SERVICE.—In carrying out the negotiations described in paragraph (2), the Special Representative shall cooperate with, and accept the assistance and participation of, appropriate officials of the United States Customs Service.''.

SEC. 10. RESEARCH AND DEVELOPMENT GRANTS.

(a) IN GENERAL.—Subject to the availability of appropriations, there is established a program under which the Director of the National Science Foundation shall award grants for university-based research into the detection of fissile materials, identification of radioactive isotopes in real time, the protection of sites from attack by radiological dispersion device, mitigation of consequences of such an attack, and attribution of materials used in attacks by radiological dispersion device or by improvised nuclear devices. Such grants shall be available only to investigators at baccalaureate and doctoral degree granting academic institutions. In carrying out the program, the Director of the National Science Foundation shall consult about this program with the Secretary of Energy in order to minimize duplication and increase synergies. The consultation shall also include consideration of the use of the Department of Energy to develop promising basic ideas into field-ready hardware. The Secretary of Energy shall work with the national laboratories and industry to develop field-ready prototype detectors.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the National Science Foundation $10,000,000, and to the Department of Energy $5,000,000, to carry out this section in fiscal years 2003 through 2008.

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

SEC. 11. STUDY AND REPORTS BY THE NATIONAL ACADEMY OF SCIENCES.

(a) STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Chairman of the Nuclear Regulatory Commission, acting through a contract with the National Academy of Sciences, shall conduct a study of the use of radioactive sources in industry and of potential substitutes for those sources.

(b) REPORTS.—Not later than six months after entry into the contract referred to in subsection (a), the National Academy of Sciences shall submit an initial report to the Secretary and the appropriate congressional committees and, not later than three months after submission of the initial report, shall submit to the Secretary and those committees a final report.

Mr. DOMENICI. Mr. President, I'm pleased to join Senator BIDEN and Senator LUGAR in sponsoring the Nuclear and Radiological Terrorism Threat Reduction Act of 2002.

Only a few months ago, I introduced the Nuclear Nonproliferation Act of 2002 with these same Senators and many others as co-sponsors. It's being called the Domenici-Biden-Lugar bill. I am pleased to learn that most provisions of that Act are being incorporated in the Conference on the Armed Services bill.

The current bill and the Domenici-Biden-Lugar bill are highly complementary. The first bill focused entirely on the contributions that the Department of Energy should be authorized to make to minimize risks of nuclear and radiological risks to our citizens. The current bill focuses on the contributions that the Department of State should make in that same arena. And in both cases, there is careful recognition of the importance of a tight partnership between those two Departments in accomplishing this vital mission.

I'm particularly pleased with this bill's focus on assisting in the creation of a number of international repositories that can be used to store radioactive sources safely, while ensuring that they don't become ''orphaned'' sources that might fuel a terrorist's dirty bomb. Other provisions to assist the IAEA in promoting source inventory and recovery are also critical.

One important application of this new bill must be to help the Russian Federation address the large number of Radio-isotope Thermal Generators that rely on large quantities of radioactive material to power many remote installations, especially lighthouses. These large radioactive sources, in isolated locations, are very vulnerable to compromise. With this bill, we can assist other nations, like Norway, in shifting the power for these lighthouses away from radioactive materials to other means of power.

Another important aspect of the bill involves the authorization for the State Department to help other nations in developing their own First Responder program for response to dirty bomb or nuclear threats. In this country, we now have a First Responder program that grows stronger each year, thanks to the Nunn-Lugar-Domenici bill that created the effort. Now we need to share the lessons we have been learning with others.

This new bill is another important contribution to our nation's efforts to ensure that terrorists will never threaten the United States or other nations with radiological or nuclear weapons.

By Mr. BROWNBACK (for himself and Mr. HELMS):

S. 3122. A bill to allow North Korean's to apply for refugee status or asylum; to the Committee on the Judiciary.

Mr. BROWNBACK. Mr. President, I rise today to introduce legislation that will clarify the status of North Korean refugees.

As a Nation, the United States is the world's leader in the protection of refugees. The world takes its lead from the United States when reacting to asylum-seekers, and the example we set have far-reaching implications for those who flee persecution. For this reason, we have stood firm against excuses for the denial of basic human rights and life's basic liberties.

The tenuous status of North Korean refugees in China is well documented. As we all know from news reports, including several news programs, that few North Koreans are able to seek asylum and refuge, be it in China or elsewhere. The few that do, however, are functionally barred from seeking asylum in the United States or being admitted to the United States as refugees. As I understand it, the State Department has expressed concerns that the legal hurdle to admitting North Koreans refugees is the fact that South Korea automatically conveys its citizenship to any escapee from North Korea who makes it to South Korea. In short, the State Department claims it cannot, as a matter of law, consider any North Korean to be a refugee.

I am not persuaded that this is the case, but even if we assume that to be true, we must stand firm for the proposition that the moral obligation that we have for refugees everywhere seeking basic human liberties should not be laid aside because of that legal technicality and it should not preclude the United State from providing refugee protections to North Korean refugees.

The bill I am introducing today clarifies and fixes that technicality. It says quite simply that, for asylum and refugee purposes, a North Korean is a North Korean. This bill in no way detracts from the generosity of the South Korean government or the South Korean people. It does not encourage refugees to choose the United States over South Korea as a safe haven. Far from it, since those refugees who are able to reach South Korea will go there and will be afforded the rights that refugees escaping from persecution rightfully deserve whether under various international conventions or the South Korean Constitution. Instead, this bill recognizes the physical obstacles facing North Korean refugees and removes the technicality that compromises our ability to help them.

The bill I am introducing today has the support of the Lawyers Committee on Human Rights, Amnesty International, the International Rescue Committee, the U.S. Committee on Refugees, Immigration and Refugee Services of America, among others.

By Mr. DEWINE:

S. 3123. A bill to expand certain preferential trade treatment of Haiti; to the Committee on Finance.

Mr. DEWINE. Mr. President, I have many long-standing concerns about the dire situation, political, economic, and humanitarian, in Haiti. As one who has witnessed the unbelievable poverty and despair in that tiny nation, I believe we must pay closer attention to what is happening there. We must be engaged.

That is why I am introducing the ''Haiti Economic Recovery Opportunity Act of 2002.'' This bill would help improve the economic and political situation in Haiti through an important tool of our foreign policy, and that is trade. I would like to thank Representatives Gilman and others for introducing a similar measure in the House.

The situation in Haiti is bleak. Haiti is the poorest country in our Hemisphere, with approximately 70 percent of its population out of work and 80 percent living in abject poverty. Less than one-half of Haiti's 8.2 million people can read or write. Haiti's infant mortality rate is the highest in our hemisphere. And, one in four children under the age of five are malnourished.

Roughly one in 12 Haitians has HIV/AIDS, and, according to the Centers for Disease Control projections, Haiti will experience up to 44,000 new HIV/AIDS cases this year, that's 4,000 more than the number expected here in the United States, where our population is 35 times that of Haiti's. AIDS already has orphaned over 163,000 children, and this number is expected to skyrocket to between 323,000 and 393,000 over the next ten years.

The violence, corruption, and instability caused by the flow of drugs through Haiti cannot be overstated. An estimated 15 percent of all cocaine entering the United States passes through Haiti, the Dominican Republic, or both.

Haiti still lacks democracy and political stability. The U.S. policy of not providing assistance directly to the Haitian Government is based on President Aristide's failure to enact necessary reforms to uphold democracy and help the people of his own country.

All of this creates an environment where the logical course of action for many Haitians is simply to flee. We have seen this in the past, and we may see it again. So far this fiscal year, the Coast Guard has interdicted and rescued over 1,485 Haitian migrants at sea, compared to 1,113 during the entire fiscal year 2000. And, according to the State Department, migrants recently interdicted and repatriated to Haiti have cited economic conditions as their reason for attempting to migrate by sea. I do not think that a mass exodus is imminent, but we cannot ignore any increase in migrant departures from Haiti. In addition to being an immigration issue for the United States, these migrant departures frequently result in the loss of life at sea.

The bill I am introducing today attempts to change this situation by granting limited duty-free treatment on certain Haitian apparel articles if, and only if, the President is able to certify that the Haitian government is making serious market, political, and social reforms. The bill would correct a glitch or oversight in U.S. trade law that recognized the special economic needs of least developed countries in Africa, but did not recognize those needs for the least developed country in the Western Hemisphere, Haiti.

Specifically, the bill would allow duty-free entry of Haitian apparel articles assembled from fabrics from countries with which the U.S. has a free trade or a regional trade agreement. It also would grant duty-free status on articles, regardless of the origin of the fabrics and yarns, if the fabrics and yarns were not commercially available in the United States.

The bill would cap duty-free apparel imports made of fabrics and yarns from the designated countries at 1.5 percent of total U.S. apparel imports. This limit grows modestly over time to 3.5 percent.

The enactment of this legislation would promote employment in Haitian industry by allowing the country to become a garment production center. While the benefits of this bill would be modest by U.S. standards, in Haiti they are substantial. It is estimated that the bill could create thousands of jobs, thereby reducing the unemployment rate and breaking the shackles of poverty. Before the 1991 coup, Haiti was one of the largest apparel suppliers in the Caribbean. But today, Haitian apparel accounts for less than one percent of all apparel imports into the United States.

The type of assembly carried out in Haiti would have minimal impact on employment in the United States. In fact, it would encourage the emigration of jobs from the Far East back to our hemisphere, including the United States, because most Haitian foreign exchange earnings, unlike in the Far East, are utilized to purchase American products. And, the ''Trade and Development Act'' already includes strong safeguards against transshipment.

In order for Haiti to be eligible for the trade benefits under the bill, the President must certify that Haiti is making progress on matters like the rule of law. This will not be an easy task for the Haitian government. However, I believe that because of the incentives provided in the bill, it would be more and more apparent to them that it is in their interest to reform.

During my most recent trip to Haiti, I met with President Aristide and raised many concerns. I explained that it is essential that he call for peace and domestic order, and that he take the necessary measures to bring an end to the political impasse. I explained the need to cooperate with the opposition, and to work with the Organization of American States, OAS.

I also met with leaders of the opposition and told them that they, too, must be willing to compromise and cooperate. I am pleased to see that the OAS Special Mission in Haiti is up and running, but I remain cautious about the prospects for resolving the political crisis. In the meantime, the United States must take responsibility by continuing and increasing our humanitarian and trade efforts in Haiti. This is in our own best interest, and we have a moral obligation to remain committed to the people of Haiti.

Adopting the Haiti Economic Recovery Opportunity Act of 2002 would be a powerful demonstration of that commitment. I encourage my colleagues to join in support of this legislation.

By Mr. McCAIN (for himself, Mr. FEINGOLD, and Mr. DURBIN):

S. 3124. A bill to amend the Communications Act of 1934 to revise and expand the lowest unit cost provision applicable to political campaign broadcasts, to establish commercial broadcasting station minimum airtime requirements for candidate-centered and issue-centered programming before primary and general elections, to establish a voucher system for the purchase of commercial broadcast airtime for political advertisements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Mr. President, today we begin another chapter in the effort to reform our political campaign system. I am proud to be joined by Senator RUSS FEINGOLD, my longtime colleague on campaign finance reform, and Senator RICHARD DURBIN, in introducing the Political Campaign Broadcast Activity Improvements Act.

The bill establishes a program to provide candidates and national committees of political parties, with vouchers that they may use for political advertisements on radio and television broadcast stations. An annual spectrum use fee paid by broadcasters would fund the voucher system. In addition, the bill requires broadcast television and radio stations to provide candidates and parties with the lowest rate provided to any other advertiser in the previous 120 days, and in most cases, would prohibit states from preempting advertisements purchased by candidates or parties. Finally, the bill requires these stations to air a minimum of two hours per week of candidate-centered or issue-centered programming before a primary or general federal election.

This legislation builds on the long history of requiring broadcasters to serve the public interest in exchange for the privilege of obtaining an exclusive license to use a scarce public resource: the electromagnetic spectrum. The burden imposed on broadcasters pales in comparison to the enormous value of this spectrum, which recent estimates suggest is worth as much as $367 billion.

The purpose of the legislation is to increase the flow of political information in broadcast media and to reduce the cost to candidates of reaching voters. Our democracy is stronger when a candidate's success is achieved by ideas, and not by dollars. The benefits of free airtime are not only for candidates, however. By increasing the flow of political information, free airtime can better inform the public about candidates and invite viewers to become more engaged in their government by learning more about the individuals seeking to represent them.

We recognize that the bill will not be considered during the 107th Congress. We look forward, however, to hearing how we might improve the approach when we reintroduce it in the future.

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. 3124

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 ''Political Campaign Broadcast Activity Improvements Act.''

SEC. 2. MEDIA RATES.

(a) LOWEST UNIT CHARGE; NATIONAL COMMITTEES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking ''to such office'' in paragraph (1) and inserting ''to such office, or by a national committee of a political party on behalf of such candidate in connection with such campaign,''; and

(2) by inserting ''(at any time during the 120-day period preceding the date of the use)'' in subparagraph (A) of paragraph (1) after ''charge''.

(b) PREEMPTION; AUDITS.—

(1) IN GENERAL.—Section 315 of such Act (47 U.S.C. 315) is amended—

(A) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively and moving them to follow the existing subsection (e);

(B) by redesignating the existing subsection (e) as subsection (c); and

(B) by inserting after subsection (c) the following:

''(d) PREEMPTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a license shall not preempt the use of a broadcasting station by an eligible candidate or political committee of a political party who has purchased and paid for such use.

''(2) CIRCUMSTANCES BEYOND CONTROL OF LICENSEE.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the station, any candidate or party advertising spot scheduled to be broadcast during that program may also be preempted.

''(e) AUDITS.—During the 45-day period preceding a primary election and the 60-day period preceding a general election, the Commission shall conduct such audits as it deems necessary to ensure that each broadcaster to which this section applies is allocating television broadcast advertising time in accordance with this section and section 312.''

(2) CONFORMING AMENDMENT.—Section 504 of the Bipartisan Campaign Reform Act of 2002 is amended by striking ''315), as amended by this Act, is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and'' and inserting ''315) is amended by''.

(c) STYLISTIC AMENDMENTS.—Section 315 of such Act (47 U.S.C. 315) is amended)—

(1) by striking ''For purposes of this section—'' in subsection (e), as redesignated by subsection (b)(1)(A) of this section, and inserting ''DEFINITIONS.—In this section:'';

(2) by striking ''the'' in paragraph (1) of that subsection and inserting ''BROADCASTING STATION.—The'';

(3) by striking ''the'' in paragraph (2) of that subsection and inserting ''LICENSEE; STATION LICENSEE.—The''; and

(4) by inserting ''REGULATIONS.—'' in subsection (f), as so redesignated, before ''The Commission''.

SEC. 3. MINIMUM TIME REQUIREMENTS FOR CANDIDATE-CENTERED OR ISSUE-CENTERED BROADCASTS BY BROADCASTING STATIONS.

(a) IN GENERAL.—

(1) PROGRAM CONTENT REQUIREMENTS.—In the administration of the Communications Act of 1934 (47 U.S.C. 151 et seq.), the Federal Communications Commission may not determine that a broadcasting station has met its obligation to operate in the public interest unless the station demonstrates to the satisfaction of the Commission that—

(A) it broadcast at least 2 hours per week of candidate-centered programming or issue-centered programming during each of the 6 weeks preceding a Federal election, including at least 4 of the weeks immediately preceding a general election; and

(B) not less than 1 hour of such programming was broadcast in each of those weeks during the period beginning at 5:00 p.m. and ending at 11:35 p.m. in the time zone in which the primary broadcast audience for the station is located.

(2) NIGHTOWL BROADCASTS NOT COUNTED.—For purposes of paragraph (1) any such programming broadcast between midnight and 6:00 a.m. in the time zone in which the primary broadcast audience for the station is located shall not be taken into account.

(b) DEFINITIONS.—In this section:

(1) BROADCASTING STATION.—The term ''broadcasting station''—

(A) has the meaning given that term by section 315(e)(1) of the Communications Act of 1934.

(2) CANDIDATE-CENTERED PROGRAMMING.—The term ''candidate-centered programming''—

(A) includes debates, interviews, candidate statements, and other program formats that provide for a discussion of issues by the candidate; but

(B) does not include paid political advertisements.

(3) FEDERAL ELECTION.—The term ''Federal election'' has the meaning given that term in section 315A(g)(2) of the Communications Act of 1934.

(4) ISSUE-CENTERED PROGRAMMING.—The term ''issue-centered programming''—

(A) includes debates, interviews, statements, and other program formats that provide for a discussion of any ballot measure which appears on a ballot in a forthcoming election; but

(B) does not include paid political advertisements.

SEC. 4. POLITICAL ADVERTISEMENTS VOUCHER PROGRAM.

(a) IN GENERAL.—Title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by inserting after section 315 the following:

"SEC. 315A. POLITICAL ADVERTISEMENT VOUCHER PROGRAM.

''(a) IN GENERAL.—The Commission shall establish and administer a voucher program for the purchase of airtime on broadcast stations for political advertisements in accordance with the provisions of this section.

''(b) CANDIDATES.—

''(1) DISBURSEMENT OF VOUCHERS.—Beginning no earlier than January of each even-numbered year after 2002, the Commission shall disburse vouchers at least once each month for the purchase of radio or television broadcast airtime for political advertisements on broadcasting stations to each individual certified by the Federal Election Commission under paragraph (2) as an eligible candidate.

''(2) FEC TO CERTIFY ELIGIBLE CANDIDATES.—The Commission may not disburse vouchers under paragraph (1) to an individual, until the Federal Election Commission has made the following certifications with respect to that individual:

''(A) QUALIFICATION.—The individual is a legally-qualified candidate in a Federal election.

''(B) AGREEMENT.—The individual has agreed in writing—

''(i) to keep and furnish to the Federal Election Commission such records, books, and other information as it may require; and

''(ii) to repay to the Federal Communications Commission an amount equal to 150 percent of the dollar value of vouchers received from the Commission if the Federal Election Commission makes a final determination that the individual violated any term of the agreement.

''(C) HOUSE OF REPRESENTATIVES CANDIDATES.—For candidates for election to the House of Representatives, that—

''(i) the individual has received at least $25,000 in contributions from individuals, not counting any amount in excess of $250 received from any individual;

''(ii) the individual agrees not knowingly to make expenditures from the individual's personal funds, or the personal funds of the individual's immediate family, in connection with the campaign for election to the House of Representatives in excess of, in the aggregate, $125,000; and

''(iii) the individual faces opposition by at least 1 other candidate who has received contributions or made expenditures of, in the aggregate, at least $25,000 or who has been certified by the Federal Election Commission under this paragraph as eligible to receive vouchers under paragraph (1).

''(D) SENATE CANDIDATES.—For candidates for election to the Senate, that—

''(i) the individual has received at least $25,000 in contributions from individuals, not counting any amount in excess of $250 received from any individual, multiplied by the number of Representatives from the State in which the individual seeks election;

''(ii) the individual agrees not knowingly to make expenditures from the individual's personal funds, or the personal funds of the individual's immediate family, in connection with the campaign for election to the House of Representatives in excess of, in the aggregate, $500,000; and

''(iii) the individual faces opposition by at least 1 other candidate who has received contributions or made expenditures of, in the aggregate, at least $25,000 multiplied by the number of Representatives from the State in which the individual seeks election or who has been certified by the Federal Election Commission under this paragraph as eligible to receive vouchers under paragraph (1).

''(E) PRESIDENTIAL CANDIDATES.—For candidates for nomination for election, or election, to the Office of President—

''(i) the term 'Federal election' includes a primary election (as defined in section 9032(7) of the Internal Revenue Code of 1986 (26 U.S.C. 9032(7))); and

''(ii) in order to be eligible to receive vouchers under this section, the candidate shall execute the agreement described in subparagraph (B).

''(3) CERTIFICATION PROCESS.—In carrying out its duties under paragraph (2), the Federal Election Commission shall—

''(A) provide the requested certification, if the individual meets the requirements for certification, within 7 days after it receives the information necessary therefor; and

''(B) shall comply with the requirements of chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) and take other appropriate steps to minimize the paperwork burden on candidates seeking certification under this subsection.

''(c) POLITICAL PARTIES.—

''(1) DISBURSEMENT OF VOUCHERS.—In January, 2004, and January of each even-numbered year thereafter, the Commission shall disburse vouchers for the purchase of radio or television broadcast airtime for political advertisements on broadcasting stations to each political party committee certified by the Federal Election Commission under paragraph (2) as an eligible committee.

''(2) FEC TO CERTIFY ELIGIBLE COMMITTEES.—The Commission may not disburse vouchers under paragraph (1) to a political party committee, until the Federal Election Commission has made the following certifications with respect to that committee:

''(A) NATIONAL PARTY COMMITTEES.—The committee is the national committee of a political party or the national congressional campaign committee of a political party (as those terms are used in section 323(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441i(a)(1))).

''(B) MINOR PARTY COMMITTEES.—In the case of a political party committee that is not described in subparagraph (A), the committee meets the candidate base requirement of subparagraph (C).

''(C) CANDIDATE BASE.—The committee has candidates—

''(i) for election to the House of Representatives who have been certified by the Federal Election Commission under subsection (b)(2) as eligible candidates in at least 22 districts; or

''(ii) for election to the Senate in at least 5 States who have been certified by the Federal Election Commission under subsection (b)(2) as eligible candidates.

''(D) AGREEMENT.—The committee agrees in writing—

''(i) to keep and furnish to the Federal Election Commission such records, books, and other information as it may require; and

''(ii) to repay to the Federal Communications Commission an amount equal to 150 percent of the dollar value of vouchers received from the Commission if the Federal Election Commission makes a final determination that the committee violated any term of the agreement.

''(d) AMOUNTS.—

''(1) CALENDAR YEAR 2004 AGGREGATES.—For calendar year 2004, the Commission shall disburse vouchers in the aggregate amount of not more than $750,000,000, of which—

''(A) not more than $650,000,000 shall be available for disbursement to candidates under subsection (b); and

''(B) not more than $100,000,000 shall be available for disbursement to political parties under subsection (c).

''(2) PER-CANDIDATE AMOUNT.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the Commission shall disburse vouchers to an individual candidate under subsection (b)(1) with respect to a Federal election equal, in the aggregate, to $3 multiplied by the contributions received by that individual with respect to that election, not counting any amount in excess of $250 received from any individual.

''(B) MAXIMUM.—Except as provided in subparagraph (C), the Commission may not disburse vouchers to an individual candidate under subsection (b)(1) with respect to a Federal election of more than—

''(i) $375,000, for a candidate for election to the House of Representatives; or

''(ii) $375,000 multiplied by the number of Representatives from the State from which the individual seeks election, for a candidate for election to the Senate.

''(C) SPECIAL RULE FOR PRESIDENTIAL CANDIDATES.—The Commission shall disburse vouchers to a candidate for nomination for election, or election, to the Office of President who receives payments under section 9037 or 9006 of the Internal Revenue Code of 1986 (26 U.S.C. 9037 or 9006), respectively, equal to—

''(i) $1 for each dollar received under section 9037 of such Code; and

''(ii) 50 cents for each dollar received under section 9006 of such Code.

''(3) PER-COMMITTEE AMOUNT.—

''(A) IN GENERAL.—The $100,000,000 available to be disbursed to political parties shall disbursed as follows:

''(i) The Commission shall reserve a percentage, determined by the Commission, of the amount available for disbursement as provided in subparagraph (B) to political party committees described in subsection (C)(2)(B) that have been or will be certified by the Federal Election Commission as eligible political party committees.

''(ii) The Commission shall disburse the remainder of the amount available for disbursement in equal amounts among political party committees described in subsection (c)(2)(A) that have been or will be certified by the Federal Election Commission as eligible political party committees.

''(B) MINOR PARTY COMMITTEE AMOUNT.—From the amount reserved under subparagraph (A)(i), the Commission shall disburse to political party committees described in subsection (C)(2)(B) certified by the Federal Election Commission as eligible political party committees—

''(i) the same amount as the Commission disburses to each political party committee under subparagraph (A)(ii) if the political party with which the political committee is affiliated has—

''(I) candidates for election to the House of Representatives certified by the Federal Election Commission under subsection (b)(2) as eligible candidates in 218 or more districts; or

''(II) candidates for election to the Senate certified by the Federal Election Commission under subsection (b)(2) as eligible candidates in 17 or more of the States in which elections for United States Senator are being held; and

''(ii) a percentage of such amount, determined under subparagraph (C), if the political party with which the political committee is affiliated does not qualify for the full amount under clause (i).

''(C) PROPORTIONATE AMOUNT DETERMINATION.—The amount the Commission may disburse to a political party committee described in subparagraph (B)(ii) is a percentage of the amount disbursed to a political

party committee under subparagraph (A)(2) equal to the greater of the following percentages:

(i) A percentage—

''(I) the numerator of which is the number of districts in which the party has candidates for election to the House of Representatives certified by the Federal Election Commission under subsection (b)(2) as eligible candidates; and

''(II) the denominator of which is 435.

(ii) A percentage—

''(I) the numerator of which is the number of States in which the party has candidates for election to the Senate certified by the Federal Election Commission under subsection (b)(2) as eligible candidates; and

''(II) the denominator of which is 33 (or 34 in any year in which there are 34 Senators for election).

''(e) INFLATION ADJUSTMENT.—Each dollar amount in this section shall be adjusted for even-numbered years after 2002 in the same manner as the limitations in section 315(b) and (d) of the Federal Election Campaign Act of 1971 are adjusted under section 301(c) of that Act, except that, for the purpose of applying section 301(c)—

''(1) '(commencing in 2004)' shall be substituted for '(commencing in 1976)' in paragraph (1) of that section; and

''(2) '2002' shall be substituted for '1974' in paragraph (2)(B) of that section.

''(f) USE.—

''(1) EXCLUSIVE USE.—Vouchers disbursed by the Commission under this section may be used exclusively for the purpose described in subsection (b) by the candidate or political party committee to which the vouchers were disbursed, except that—

''(A) a candidate may exchange vouchers with a political party under paragraph (2); and

''(B) a political party may use vouchers to purchase broadcast airtime for political advertisements for its candidates in a general election for any Federal, State, or local office.

''(2) EXCHANGE WITH POLITICAL PARTY COMMITTEE.—

''(A) IN GENERAL.—A individual who receives a voucher under this section may transfer the right to use all or a portion of the value of the voucher to a committee, described in subsection (c)(2)(A), of the political party of which the individual is a candidate in exchange for money in an amount equal to the cash value of the voucher or portion exchanged.

''(B) CONTINUATION OF CANDIDATE OBLIGATIONS.—The transfer of a voucher, in whole or in part, to a political party committee under this paragraph does not release the candidate from any obligation under the agreement made under the agreement made under subsection (b)(2) or otherwise modify that agreement or its application to that candidate.

''(C) PARTY COMMITTEE OBLIGATIONS.—Any political party committee to which a voucher or portion thereof is transferred under subparagraph (A)—

''(i) shall account fully, in accordance with such requirements as the Commission may establish, for the receipt of the voucher; and

''(ii) may not use the transferred voucher or portion thereof for any purpose other than a purpose described in paragraph (1)(B).

''(D) VOUCHER AS A CONTRIBUTION UNDER FECA.—If a candidate transfers a voucher or any portion thereof to a political party committee under subparagraph (A)—

''(i) the value of the voucher or portion thereof transferred shall be treated as a contribution from the candidate to the committee for purposes of sections 302 and 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432 and 434);

''(ii) the committee may, in exchange, provide to the candidate only funds subject to the prohibitions, limitations, and reporting requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.);

''(iii) the money received in exchange by the candidate shall be treated as a contribution from the committee to the candidate for purposes of those sections; and

''(iv) the amount, if identified as a 'voucher exchange' shall not be considered a contribution for the purposes of section 315 of that Act (2 U.S.C. 441a).

''(g) VALUE; ACCEPTANCE; REDEMPTION.—

''(1) VOUCHER.—Each voucher disbursed by the Commission under this section shall have a value in dollars, redeemable upon presentation to the Commission, together with such documentation and other information as the Commission may require, for the purchase of broadcast airtime for political advertisements in accordance with this section.

''(2) ACCEPTANCE.—A broadcasting station shall accept vouchers in payment for the purchase of broadcast airtime for political advertisements in accordance with this section.

''(3) REDEMPTION.—The Commission shall redeem vouchers accepted by broadcasting stations under paragraph (2) upon presentation, subject to such documentation, verification, accounting, and application requirements as the Commission may impose to ensure the accuracy and integrity of the voucher redemption system. The Commission shall use amounts in the Political Advertising Voucher Account established under subsection (h) to redeem vouchers presented under this subsection.

''(4) EXPIRATION.—

''(A) CANDIDATES.—A voucher may only be used to pay for broadcast airtime for political advertisements to be broadcast before midnight on the day before the date of the Federal election in connection with which it was issued and shall be null and void for any other use or purpose.

''(B) EXEPTION FOR POLITICAL PARTY COMMITTEES.—A voucher held by a political party committee may be used to pay for broadcast airtime for political advertisements to be broadcast before midnight on December 31st of the odd-numbered year following the year in which the voucher was issued by the Commission.

''(5) VOUCHER AS EXPENDITURE UNDER FECA.—

''(A) CONGRESSIONAL CAMPAIGNS.—Except as provided in subparagraph (B), for purposes of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), the use of a voucher to purchase broadcast airtime constitutes an expenditure as defined in section 301(9)(A) of that Act (2 U.S.C. 431(9)(A)).

''(B) PRESIDENTIAL CAMPAIGNS.—Notwithstanding any provision of the Federal Election Campaign Act of 1971 or chapter 95 or 96 of the Internal Revenue Code of 1986 to the contrary, the use of a voucher by a candidate for nomination for election, or election, to the Office of President does not constitute an expenditure for purposes of that Act or chapter.

''(h) POLITICAL ADVERTISING VOUCHER ACCOUNT.—

''(1) IN GENERAL.—The Commission shall establish an account to be known as the Political Advertising Voucher Account, which shall be credited with commercial television spectrum use fees assessed under this subsection, together with any amounts repaid or otherwise reimbursed under this section.

''(2) SPECTRUM USE FEE.—

''(A) IN GENERAL.—The Commission shall assess, and collect annually, a spectrum use fee based on a percentage of a broadcasting station's gross revenues in an amount necessary to carry out the provisions of this section.

''(B) LIMITATIONS.—The percentage under subparagraph (A) may not be—

''(i) greater than 1 percent; nor

''(ii) less than .05 percent.

''(C) AVAILABILITY.—Any amount assessed and collected under this paragraph shall be retained by the Commission as an offsetting collection for the purposes of making disbursements under this section, except that—

''(i) the salaries and expenses account of the Commission shall be credited with such sums as are necessary from those amounts for the costs of developing and implementing the program established by this section; and

''(ii) the Commission may reimburse the Federal Election Commission for any expenses incurred by the Commission under this section.

''(D) FEE DOES NOT APPLY TO PUBLIC BROADCASTING STATIONS.—Subparagraph (A) does not apply to a public telecommunications entity (as defined in section 397(12) of this Act).

''(3) ADMINISTRATIVE PROVISIONS.—Except as otherwise provided in this subsection, section 9 applies to the assessment and collection of fees under this subsection to the same extent as if those fees were regulatory fees imposed under section 9.

''(i) DEFINITIONS.—In this section:

''(1) BROADCASTING STATION.—The term 'broadcasting station' has the meaning given that term by section 315(e)(1).

''(2) FEDERAL ELECTION.—The term 'Federal election' means any regularly-scheduled, primary, runoff, or special election held to nominate or elect a candidate to Federal office.

''(3) FEDERAL OFFICE.—The term 'Federal office' has the meaning given that term by section 101(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)).

''(4) LEGALLY-QUALIFIED CANDIDATE.—The term 'legally-qualified candidate' means a legally qualified candidate within the meaning of section 315.

''(5) POLITICAL PARTY.—The term 'political party' means a major party or a minor party as defined in section 9002(3) or (4) of the Internal Revenue Code of 1986 (26 U.S.C. 9002(3) or (4)).

''(6) OTHER TERMS.—Except as otherwise provided in this section, any term used in this section that is defined in section 301 of the Federal Election Campaign of 1971 (2 U.S.C. 431) has the meaning given that term by section 301 of that Act.

''(j) REGULATIONS.—The Commission shall prescribe such regulations as may be necessary to carry out the provisions of this section. In developing the regulations, the Commission shall consult with the Federal Elections Commission.''.

(b) DELAYED EFFECTIVE DATE FOR PRESIDENTIAL CANDIDATES.—The provisions of subsections (b)(2)(E) and (d)(2)(C) of section 315A of the Commissions Act of 1934, as added by subsection (a), shall take effect on January 1, 2008.

Mr. FEINGOLD. Mr. President, I am pleased to join with the Senator from Arizona, Senator MCCAIN, in introducing legislation that we believe will significantly improve media coverage of elections and reduce the negative impact that skyrocketing TV advertising costs have on Federal campaigns. And I am very glad that the Senator from Illinois, Senator DURBIN, has joined us as an original cosponsor of this bill.

Although broadcast advertising is one of the most effective forms of communication in our democracy, it also diminishes the quality of our electoral process in two ways. First, broadcasters often fail to provide adequate coverage to the issues in elections, focusing instead on the horse race, if they cover elections at all. Second, the extraordinarily high cost of advertising time fuels the insatiable need for candidates to spend more and more time fundraising instead of talking with voters. These two problems interact to undermine the great promise that television has for promoting democratic discourse in our country.

It need not be this way. The public owns the airwaves and licenses them to broadcasters. Broadcasters pay nothing for their use of this scarce and very valuable public resource. Their only ''payment'' is a promise to meet public interest standards, a promise that often goes unfulfilled. A recent study by the Committee for the Study of the American Electorate found that only 18

percent of gubernatorial, senatorial and congressional debates held in 2000 were televised by network TV and an additional 18 percent were covered by PBS or small independent TV stations. More than 63 percent were not televised at all. This is shocking in a democracy that depends on information and open debate.

The bill we introduce today addresses these problems by requiring broadcast stations to devote a reasonable amount of air time to election programming. It would also direct the FCC to create a voucher system in which candidates and parties would receive vouchers they could use for paid radio or TV advertising time financed by a broadcast spectrum usage fee. Candidates would qualify for vouchers based on a ratio matched to the amount of small dollar donations they raise.

Our proposal would allow candidates to leverage their grassroots fundraising and would provide greater campaign resources to candidates without requiring them to become more beholden to special interests. The proposal would also make air time available to political parties, which could be directed to underfunded candidates and challengers who have a harder and harder time getting their message out under the current system as the costs of advertising continue to rise.

Senator MCCAIN and I remain devoted to improving the way our electoral process functions and reducing the impact of big money on our democracy. This new bill will advance that cause in a very significant and necessary way. We recognize, of course, that little will happen on this bill before the end of this session of Congress. We are introducing it now so that the public and our colleagues can review it and make suggestions on how to improve it. We hope to make significant progress on this legislation next year and look forward to working with our colleagues, as we did on campaign finance reform to make this bill even better and then enact it into law.

By Mr. BROWNBACK (for himself, Mr. NELSON of Florida, Mr. LIEBERMAN, Mr. MURKOWSKI, Mr. SESSIONS, and Mr. MILLER):

S. 3125. A bill to designate ''God Bless America'' as the national song of the United States; to the Committee on the Judiciary.

Mr. BROWNBACK. Mr. President, I rise today to introduce legislation, with Senators NELSON, LIEBERMAN, MURKOWSKI, SESSIONS and MILLER, to honor one of our Nation's most stirring songs, ''God Bless America.''

This patriotic masterpiece was written by Irving Berlin, a man whose background as an immigrant to our shores gave him a keen understanding and appreciation of our nation and how important its existence was. The United States has long been a symbol to peoples across the world, of opportunity, freedom, and the rule of law, but at the time of ''God Bless America,'' the US's importance was even more plain. This is because the song was originally written in 1918 during the height of the First World War, and then released for the first time in 1938 as the clouds of war again gathered over Europe.

When Berlin first wrote ''God Bless America'' in 1918, he intended it to be a solemn paean to his adopted nation as he looked across the ocean to a war-torn Europe. Unfortunately, its somber and serious tone made it incompatible with the musical revue he was working on at the time. When the drums of war again sounded on distant shores, Berlin realized his song had a purpose, and knew it was time to offer it to an anxious country. After revising the lyrics to reflect the difference twenty years and one Great War make, he introduced the song on Armistice Day 1938, a simple song of peace, yet one that reminded both Americans and people of all nations that our Nation was a great one.

This song accomplished exactly the author's intent—it so eloquently expressed his love for our country that it has provided for all of us a means to express our own love and feelings. It is why we have sung it so many times over the past year since those terrible events of September 11, and why we will continue to sing it for the years to come. It captures the feelings every citizen shares, of love, of pride, of patriotism, of sacrifice, and of freedom.

An instant sensation since its release, the power of this song to uplift and comfort us particularly in the dark days of this past year, reminds all of us of the strength of words to inspire. For that reason, the time has come to give this song its long overdue recognition. That is why today I propose legislation to designate ''God Bless America'' as our national ''song.''

This is not to replace our rousing national anthem, which is an unforgettable salute to our hard-fought and triumphant birth as a Nation, but to offer recognition to ''God Bless America.'' For ''God Bless America'' is truly the perfect tribute for a Nation rising from the ashes of September 11 to reclaim our firm and unwavering belief in the goodness of man and the universal rights of liberty.

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

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

S. 3125

SECTION 1. NATIONAL SONG.

(a) IN GENERAL.—The composition consisting of the words and music known as ''God Bless America'' is designated as the national song of the United States.

(b) RULE OF CONSTRUCTION.—The designation of a national song shall not be construed as affecting the national anthem.

GOD BLESS AMERICA

WORDS AND LYRICS BY IRVING BERLIN—COPYRIGHT 1939

While the storm clouds gather far across the sea,
Let us swear allegiance to a land that's free,
Let us all be grateful for a land so fair,
As we raise our voices in a solemn prayer:
God Bless America.
Land that I love
Stand beside her, and guide her
Thru the night with a light from above,
From the mountains, to the prairies,
To the oceans, white with foam,
God bless America,
My home sweet home.
God Bless America,
Land that I love,
Stand beside her,
And guide her,
Through the night,
With the light from above.
From the mountains,
To the prairies,
To the ocean,
White with foam,
God bless America,
My home sweet home.
God bless America,
My home sweet home.

By Mr. KERRY (for himself, Mr. SANTORUM, and Mr. SARBANES):

S. 3126. A bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes, to the Committee on Finance.

Mr. KERRY. Mr. President, owning your own home is the foundation of the American dream. It encourages personal responsibility, provides economic security and gives families a greater stake in the development of their communities. Families who own their home are more civic-minded and more willing to help develop the communities where they live. Communities where homeownership rates are highest have lower crime rates, better schools and provide a better quality of life for families to raise their children. However, too many working families and minorities have not been able to share in the dream of homeownership due to the cost or lack of available housing.

That is why I am introducing the Community Development Tax Credit Act, along with Senators RICK SANTORUM and PAUL SARBANES, which will create a new homeownership tax credit program, based on the Low Income Housing Tax Credit program, to encourage the construction and substantial rehabilitation of homes for low and moderate-income families in economically distressed areas. I believe this legislation will increase the supply of affordable homes for sale in inner-cities, rural areas and low and moderate-income neighborhoods across the United States. The tax credit will bridge the gap that exists between the cost of developing affordable housing and the price at which these homes can be sold in many low-income neighborhoods by providing investors with a tax credit of up to 50 percent of the cost of home construction or rehabilitation.

Over the past decade, we have made substantial progress in increasing the homeownership rate in the United States. In 2000, the U.S. homeownership rate reached a record high of 67.1

percent with some 71 million U.S. Households owning their own home. However, too many working families in low- and moderate-income neighborhoods and minorities across our Nation have not been able to share in this piece of the American Dream due to the high cost or lack of available housing.

According to Census data for the second quarter of 2002, non-Hispanic whites have a 74.3 percent homeownership rate while minority groups have just a 53.7 percent homeownership rate. African-Americans have only a 48 percent homeownership rate and Hispanics have a mere 47.6 percent homeownership rate in the same study. These numbers are unacceptable.

Many middle-income working families increasingly struggle to either find or afford a median-priced home in our Nation's cities. Over the past two generations, many families have moved out of cities and into the suburbs, which has had a negative effect on the development of housing in the inner-city. In 1999, the homeownership rate in the central-city areas was 50.4 percent, this is 23.2 percent lower than the suburban homeownership rate of 73.6 percent. Today, developers are unlikely to invest in any new housing development in inner-cities and rural areas that may not be sold for the cost of construction. This is especially true in low-income areas. There is a lack of affordable single-family housing in areas where a majority of residents are minority families. Properties will sit vacant and neighborhoods will remain undeveloped unless the gap between development costs and market prices can be filled.

Working families in this country are increasingly finding themselves unable to afford housing. A person trying to live in Boston would have to make more than $35,000, annually, just to rent a two-bedroom apartment. This means teachers, janitors, social workers, police officers and other full-time workers are having trouble affording even a modest two-bedroom apartment when they should have a chance to buy a home.

The story of Benjamin and Rita Okafor show how working families in Massachusetts have great difficulty obtaining a decent home of their own. For many years, the Okafor's and their two young children were forced to live in a one-bedroom apartment. Benjamin Okafor, who worked full time as a cab driver in Boston, spent days and months looking for a bigger apartment for his family. However, the lack of affordable housing in the Boston area made it impossible for him to find appropriate housing for his family. When his wife Rita became pregnant with their third child, the Okafor's knew something had to change in their living situation. Luckily, Ben was accepted into the Habitat for Humanity program and worked for 300 sweat equity hours constructing a house. In August 2000, the Okafor family moved into a new home of their own in Dorchester. Ben says that this new home gives them the hope and stability they need. There are still too many working families living in substandard housing and many more families that desperately need assistance from Habitat for Humanity or from the Federal government to become a homeowner.

Today, our Nation is facing an affordable rental housing crisis. Thousands of low-income families with children, the disabled, and the elderly are finding it difficult to obtain or afford privately owned affordable rental housing units. Recent changes in the housing market have limited the availability of affordable housing across the country, while the growth in our economy in the last decade has dramatically increased the cost of the housing that remains. Moving thousands of working families from apartments to homes each year will help ease our rental housing crisis and help many families now living in substandard housing increase their quality of life.

By facing the mounting challenge of affordable housing we can dramatically assist in the economic development low- and moderate-income communities across our country. The production of new homes will create millions of jobs in the inner city and rural areas where unemployment has been for too long fact of life. The production of housing has always been considered a driver of economic growth in our economy. New housing production can turn many low income communities around and help end the spiral of unemployment and crime which plague too many of our inner cities today.

For these reasons, we need a new tax incentive for developers to build affordable homes in distressed areas to allow working families to buy their first home at a reasonable rate.

The Community Development Tax Credit Act, which I am introducing today, bridges the gap between development costs and market value to enable the development of new or refurbished homes in these areas to blossom. The tax credit would be available to developers or investors that build or substantially rehabilitate homes for sale to low- or moderate-income buyers in low-income areas. The credit would generate equity investment sufficient to cover the gap between the cost of development and the price at which the home can be sold to an eligible buyer

The tax credit volume would be limited to $1.75 per capita for each State and allocated by the States themselves. Credits would be claimed over five years, starting when homes are sold. This legislation will result in approximately 50,000 homes built or refurbished annually, assuming about $40,000 per home.

The maximum tax credit equals 50 percent of the cost of construction, substantial rehabilitation, and building acquisition. The eligible cost may not exceed the Federal Housing Administration single-family mortgage limits. The minimum rehabilitation cost is $25,000. Eligible building acquisition costs are limited to one-half of rehabilitation costs. States will allocate only the level of tax credits necessary for financial feasibility. Ten percent of the available credit will be set aside for nonprofit organizations.

The eligible areas for the tax credit are defined as Census Tracts with median income below 80 percent of the area or state median. Rural areas that are currently eligible for USDA housing programs will be eligible for the tax credit. Indian tribal lands will be eligible for the tax credit. State-identified areas of chronic economic distress will be eligible for the tax credit, subject to disapproval by the Department of Housing and Urban Development

Those eligible to buy homes built or refurbished using the tax credit include: individuals with incomes up to 80 percent of the area or state median and up to 100 percent of area median income in low-income/high-poverty Census Tracts.

Individual states will write plans for allocating the tax credits using the following selection criteria: contribution of the development to community stability and revitalization; community and local government support; need for homeownership development in the area; sponsor capability; and the long-term sustainability of the project as owner-occupied residences. Individual developers along with investors then can apply to the State to be awarded a tax credit for developing a property in a low- or moderate-income area. If chosen by the State, investors can start to claim the tax credits as the homes are sold to eligible buyers. They can continue to claim the tax credit over five years. Investors are not subject to recapture. If the home owner sold the residence within five years, a scale would determine the percentage of the gain would be recaptured by the Federal Government. In the first two years, 100 percent of the gain and 80, 70 and 60 percent in the third, fourth, and fifth years, respectively would be recaptured.

This legislation is supported by the U.S. Conference of Mayors, Fannie Mae, Freddie Mac, the Enterprise Foundation, Local Initiatives Support Coalition, Mortgage Bankers Association of America, National Association of Home Builders, National Low Income Housing Coalition, National Association of Local Housing Finance Agencies, National Association of Realtors, National Council of La Raza, National Hispanic Housing Conference, Habitat for Humanity International and others.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 342—COMMEMORATING THE LIFE AND WORK OF STEPHEN E. AMBROSE

Ms. LANDRIEU (for herself, Mr. STEVENS, Mr. BREAUX, Mr. KOHL, Mr. LOTT,