about how and where to add flexibility to the No Child Left Behind law. As we move forward, I welcome the advice of teachers, parents, and administrators on how best to help all students achieve.

By Mr. HATCH (for himself, Mr. SALAZAR, Mr. SMITH, and Mr. KERRY):

S. 2002. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts, and for other purposes; to the Committee on Finance.

Mr. HATCH: Mr. President, I rise today to introduce the REIT Investment Diversification and Empowerment Act of 2007, legislation which would make several important revisions to the current tax law governing real estate investment trusts, or REITs. I am particularly pleased to be joined by my good friend, the distinguished senator from Colorado, Senator SALAZAR, in sponsoring this bipartisan legislation. I am also very happy that Senators SMITH and KERRY are joining us as original cosponsors.

The development of real estate investment trusts is among the true success stories of American business. Moreover, REIT legislation enacted over the past 47 years presents a remarkable example of how Congress can create the legal framework to liberate entrepreneurs, small investors, and hard working men and women across the country to do what they do best—create wealth and, more importantly, build thriving communities.

When REITs were first created in 1960, small investors had almost no role in commercial real estate ventures. At that time, private partnerships and other groups closed to ordinary investors directed real estate investments, typically using debt, not equity, to finance their ventures. That model not only served small investors poorly, it resulted in the misallocation of capital, and contributed to significant market volatility.

Since that time, REITs have permitted small investors to participate in one of our country's greatest generators of wealth, income producing real estate, and REITs have greatly improved real estate markets by promoting transparency, liquidity, and stability. The growth in REITs has been particularly dramatic and beneficial in the past 15 years, as capital markets responded to a series of changes in the tax rules that modernized the original 1960 REIT legislation to adjust it to new realities of the marketplace.

I am proud of my role in sponsoring legislation that included many of these changes that modernized the REIT rules, and I remain committed to making every effort to ensure that the people of Utah and across our Nation continue to benefit from a dynamic and innovative REIT sector.

I have seen first hand what REITs have done for communities across my State. It is very much in Utah's interests, and in our country's interests, to make sure that REITs continue to work effectively and efficiently to carry out the mission which Congress intended.

As my colleagues know, Utah is known as the ''Beehive State'', a testament to the hard work and industriousness of its residents. REITs have proven again and again to be a particularly effective means through which Utahns can utilize those attributes, and aggregate needed capital, to create the thriving real estate sector which is essential to our State's economic well being.

Towards that end, I am pleased to report that REITs now account for well over a $1 billion of property in Utah alone, and afford an opportunity for many investors in my State to have an ownership stake in those properties in their communities. This is not an aberration. I believe that my colleagues will find a similarly impressive amount of REIT investment in their home States as well.

I am also pleased to report, that, in an era when companies must compete successfully on a global scale, our Nation's REITs have grown to be leaders in international real estate markets, and our REIT laws are proving to be a model for other countries around the globe. In fact, much of the bill I am introducing today is necessitated by the growing international presence of our domestic REITs. The international expansion of real estate investment trusts is something that could not have been contemplated when the first REIT laws were enacted decades ago.

The bill we are introducing today is based on S. 4030, which I introduced toward the end of the 109 Congress, and is very similar to H.R. 1147, which was introduced in the House this year. I note that H.R. 1147 enjoys the bipartisan sponsorship of more than two-thirds of the House Ways and Means Committee, and I hope that more of my colleagues on the Finance Committee will join us in supporting this bill.

Further, I am grateful that the distinguished Chairman of the Finance Committee stated at our recent markup of the Senate energy tax package that he was aware of my efforts to pass REIT reform legislation this year, and that he and his staff ''will continue to work with Senator GRASSLEY and you, Senator HATCH, to find a tax bill later this year in which to include this proposal.''

I urge my colleagues to review this bill and lend their support to it. In a small but important way, it will help Americans to better invest for their savings and retirement. I hope we can move this straightforward, bipartisan legislation through as quickly as possible.

I ask unanimous consent that a section-by-section description of the REIT Investment Diversification and Empowerment Act be included in the RECORD.

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

REIT INVESTMENT DIVERSIFICATION AND EMPOWERMENT ACT OF 2007

SECTION-BY-SECTION DESCRIPTION

The REIT Investment Diversification and Empowerment Act of 2007 (RIDEA) includes the following provisions to help modernize the tax rules governing Real Estate Investment Trusts to permit REITs to better meet the challenges of evolving market conditions and opportunities:

Title I: Foreign currency and other qualified activities

Title I addresses one specific issue and also equips the IRS to handle similar interpretative matters in the future without the need of legislation.

As globalization has accelerated in the past decade, REITs, as with other businesses, have followed their customers abroad and have accessed new opportunities in Canada, Mexico, Europe and Asia. The issue that Title I resolves is how foreign currency gains a REIT earns should be treated under the REIT income and asset tests. For example, if a REIT buys a shopping center in England for a million pounds, operates it for ten years and then sells it for a million pounds, that sale produces no gain (assuming that capital expenditures equal the tax depreciation accruing during that period). If during that 10-year period the U.S. dollar has declined compared to the English pound, U.S. tax law says that the appreciation of the pounds when they are converted back to dollars is a separate gain. Until recently, it wasn't clear how that currency gain should be treated under the REIT tax tests.

In May, 2007, the IRS released Revenue Ruling 2007–33 and Notice 2007–42 to clarify that in the overwhelming majority of cases a REIT's foreign currency gains earned while operating its real estate business qualify as ''good income'' under the REIT rules. Title I essentially reaches the same result on a more direct basis and also provides some conforming changes in other parts of the REIT rules.

Although the recent guidance was welcome, it took the IRS about four years to issue it because of questions about the extent of the government's regulatory authority in the area. To prevent similar delays in the future, Title I clearly provides the Secretary of the Treasury with the authority to determine what items of income can be treated either as ''good income'' or disregarded for purposes of the REIT income tests. Under this authority, it is expected that, for example, the IRS would conclude that dividend-like items such as Subpart F deemed dividends and PFIC income would be treated in the same manner as dividends for purposes of the 95 percent gross income test. Further, the IRS could convert many of its rulings it issued to individual taxpayers into public guidance, which could be a more efficient use of its resources.

Title II: Taxable REIT subsidiaries

In 1999, Congress materially changed the REIT rules to allow a REIT to own up to 20 percent of its assets in securities of one or more taxable REIT subsidiaries. The premise is straight-forward: a REIT should be able to engage in activities outside of the scope of renting and financing real estate as permitted by the REIT rules with a single level of tax, but only if the subsidiary is subject to a separate level of tax.

These ''TRS'' rules have worked quite well. REITs have been able to use their real estate expertise in a number of ways not available under the REIT rules so long as they subjected their profits from these activities to a corporate level of tax, as well as the shareholder level of tax once those profits are distributed to the REIT and its shareholders. Further, the IRS study on TRSs mandated by the 1999 law shows that TRSs formed after the bill was enacted are generating a substantial and increasing amount of tax revenues.

Since both the main asset and income tests are set at 75 percent, the dividing line normally used to demarcate between REIT and non-REIT activities is 25 percent. RIDEA would conform to this dividing line by increasing the limit on TRS size from 20 percent to 25 percent of a REIT's assets, thereby subjecting even more activities conducted by a REIT to two levels of tax.

Title III: Dealer sales

Congress has always wanted REITs to invest in real estate on behalf of their shareholders for the long term. Since the late 1970s, the mechanism to carry out these purposes has been a 100 percent excise tax on a REIT's gain from so-called ''dealer sales''. Because the 100 percent tax is so severe, Congress created a safe harbor under which a REIT can be certain that it is not acting as a dealer (and therefore not subject to the excise tax) if it meets a series of objective tests. This provision would update two of these safe harbor requirements.

The current safe harbor requires a REIT to own property for at least four years. This is simply too long a time in today's marketplace. Further, four years departs too much from the most common time requirement for long-term investment—the one-year holding period for an individual's long-term capital gains. Accordingly, this provision uses a more realistic two-year threshold.

Another test under the dealer sales safe harbor restricts the amount of real estate assets a REIT can sell in any taxable year to 10 percent of its portfolio. Current law measures the 10 percent level by reference to the REIT's tax basis in its assets. H.R. 1147 instead would measure the 10 percent level by using fair market value. To allow a REIT to maximize its sales under the safe harbor (and thereby generating more economic activity), RIDEA would allow a REIT to choose either method for any given year. Presumably, the IRS would develop instructions on Form 1120–REIT allowing a REIT to declare which method it selected when it files its tax return for the year in which the sales occur.

Title IV: Health care REITs

In 1999, Congress allowed a REIT to rent lodging facilities to its taxable REIT subsidiary (TRS) while treating the rental payments from the TRS as income that qualifies under the REIT income tests so long as the rents were in line with rents from unrelated third parties. Simultaneously, it required that the TRS use an independent contractor to manage or operate the lodging facilities. These complex rules were adopted because hotel management companies did not want to assume the leasing risk inherent in lodging facilities but rather wanted to be compensated purely for operating the facilities.

A similar situation has arisen with regard to health care properties such as assisted living facilities. Operators that now lease such facilities would rather have a REIT (through its TRS) assume any leasing risk and instead be hired purely to operate the facilities. Accordingly, this provision would extend the exception made in 1999 for lodging facilities to health care facilities. This change should make it easier for health care facilities to be provided to senior citizens and others in need of such services. As with the current rules for lodging facilities, a TRS would continue to need an independent contractor to manage or operate health care facilities.

Title V: Foreign REITs

Since imitation is the sincerest form of flattery, Congress should be proud that about 20 countries have enacted legislation paralleling the U.S. REIT rules after observing the benefits brought to the United States as a result of a vibrant REIT market. Just this year, Germany, Italy and the United Kingdom enacted REIT laws, and Canada codified its long-standing trust rules to adopt U.S.-like REIT tests. Although the tax code treats stock in a U.S. REIT as a real estate asset, so that it is a qualified asset that generates qualifying income, current law does not afford the same treatment to the stock of non-U.S. REITs.

Because of the many tests designed to focus a REIT on commercial real estate, since the original 1960 REIT law a stock interest in a U.S. REIT is treated as real estate when owned by another U.S. REIT. This provision would extend this treatment to a U.S. REIT's ownership in foreign REITs to the extent that the Treasury Department concludes that the rules or market requirements in another country are comparable to the basic tenets defining a U.S. REIT.

By Ms. COLLINS (for herself, Mr. WARNER, and Mr. VOINOVICH):

S. 2003. A bill to facilitate the part-time reemployment of annuitants, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise to introduce Senate Bill 2003, a measure that will enhance the Federal Government's ability to perform its duties capably and economically as it faces a wave of retirement of highly experienced Federal employees.

When we think about the coming demographic shock of millions of baby boomers reaching retirement age, we usually focus on the cash-flow implications for the Social Security and Medicare programs. But their aging will also have a profound effect on the Federal workforce.

On average, retirements from the Federal workforce have exceeded 50,000 a year for a decade. The numbers will certainly rise in the near future. The Office of Personnel Management calculates that 60 percent of the current Federal workforce, whose civilian component approaches 3 million people, will be eligible to retire during the coming 10 years.

Federal agencies, which already must hire more than 250,000 new employees each year, will need to work hard to replace those retirees, as the private sector and State and local governments will be facing the same problem and competing for qualified replacements.

The baby boom retirement wave will have another impact. It will cause a sudden acceleration in the loss of accumulated skills and mentoring capabilities that experienced workers uniquely possess.

Human-resources research has repeatedly shown that, in general, older workers equal or outperform younger workers in organizational knowledge, ability to work independently, commitment, productivity, flexibility, and mentoring ability.

Making good use of their talents is, therefore, not charity. It is common sense and sound management.

Federal agencies recognize the value of older workers, as witnessed by the fact that nearly 4,500 retirees have been allowed to return to full-time work on a waiver basis.

Agencies could make use of even more Federal annuitants for short-term projects or part-time work, but for a disincentive embedded in current law.

Title 5 of the United States Code currently mandates that annuitants who return to work for the Federal Government must have their salary reduced by the amount of their annuity during the period of reemployment. The bill I introduce today with the welcome cosponsorship of Senators WARNER and VOINOVICH would provide a limited but vital measure of relief to agencies who could benefit from the skills and knowledge of Federal retirees. It provides a limited opportunity for Federal agencies to reemploy retirees without requiring them to take pay cuts based on their annuity payment.

This simple but powerful reform is a priority item for the Federal Office of Personnel Management. As OPM Director Linda Springer has said, ''Modifying the rules to bring talented retirees back to the Government on a part-time basis without penalizing their annuity would allow Federal agencies to rehire recently retired employees to assist with short-term projects, fill critical skill gaps and train the next generation of Federal employees.''

Organizations endorsing the reform contemplated in my bill include the National Active and Retired Federal Employees Association, the Federal Managers Association, the Partnership for Public Service, and the Council for Excellence in Government.

I would note two important points about the bill.

First, it will not materially affect the necessary flow of younger workers into Federal agencies. The bill contemplates reemployment for part-time or project work of not more than 520 hours in the first 6 months following the start of annuity payments, not more than 1,040 hours in any 12-month period, and not more than 6,240 hours total for the annuitant's lifetime. In terms of 8-hour days, those figures are equivalent to 65, 130, and 780 days, respectively.

These limits will give agencies flexibility in assigning retirees to limited-time or limited-scope projects, including mentoring and collaboration, without evading or undermining the waiver requirement for substantial or full-time employment. of annuitants.

I would also note that this bill gives no cause for concern about financial impact. Reemployed annuitants would be performing work that the agencies needed to do in any case, but would not require any additional contributions to pension or savings plans. Meanwhile, their retiree health and life insurance benefits would be costs unaffected by their part-time work. Even without making any allowance for the positive