STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself and Mr. INOUYE):

S. 2357. A bill to amend title 38, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation; to the Committee on Veterans' Affairs.

ARMED FORCES CONCURRENT RETIREMENT AND DISABILITY PAYMENT ACT OF 2000

Mr. REID. Mr. President, I am pleased today to introduce legislation along with my esteemed colleague Senator INOUYE that will correct an inequity for veterans who have retired from our Armed Forces with a service-connected disability.

Our legislation will permit retired members of the Armed Forces who have a service connected disability to receive military retired pay concurrently with veterans' disability compensation.

Mr. President, disabled military retirees are only entitled to receive disability compensation if they agree to wave a portion of their retired pay equal to the amount of compensation. This requirement discriminates unfairly against disabled career soldiers by requiring them to essentially pay their own disability compensation.

Military retirement pay and disability compensation were earned and awarded for entirely different purposes. Current law ignores the distinction between these two entitlements. Members of our Armed Forces have dedicated 20 or more years to our country's defense earning their retirement for service. Whereas disability compensation is awarded to a veteran for injury incurred in the line of duty.

It is inequitable and unfair for our veterans not to receive both of these payments concurrently. We have an opportunity to show our gratitude to these remarkable men and women who have sacrificed so much for this great country of ours. I hope the Senate will seriously consider passing this legislation, to end at last, this disservice to our retired military men and women.

Mr. President, this legislation represents an honest attempt to correct an injustice that has existed for far too long. Allowing disabled veterans to receive military retired pay and veterans disability compensation concurrently will restore fairness to Federal retirement policy.

This legislation is supported by veterans service organizations, including the Disabled American Veterans, the American Legion, and Paralyzed Veterans of America. This is simply the right thing to do. Our veterans have earned this and now it is our chance to honor their service to our nation.

I ask unanimous consent that the text of the Armed Forces Concurrent Retirement Disability Payment Act of 2000 and attached documents be printed in the RECORD.

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

S. 2357

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 ''Armed Forces Concurrent Retirement and Disability Payment Act of 2000''.

SEC. 2. CONCURRENT PAYMENT OF RETIRED PAY AND COMPENSATION FOR RETIRED MEMBERS WITH SERVICE-CONNECTED DISABILITIES.

(a) CONCURRENT PAYMENT.—Section 5304(a) of title 38, United States Code, is amended by adding at the end the following new paragraph:

''(3) Notwithstanding the provisions of paragraph (1) and section 5305 of this title, compensation under chapter 11 of this title may be paid to a person entitled to receive retired or retirement pay described in such section 5305 concurrently with such person's receipt of such retired or retirement pay.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and apply with respect to payments of compensation for months beginning on or after that date.

(c) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits shall be paid to any person by virtue of the amendment made by subsection (a) for any period before the effective date of this Act as specified in subsection (b).

NEVADA PARALYZED VETERANS OF AMERICA,
Las Vegas, NV, April 4, 2000.

Senator HARRY REID,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR REID: Nevada Paralyzed Veterans of America is dedicated to all efforts that will support and enhance the quality of life of our members. We consider ourselves an important voice of reason and logic when issues of substance arise regarding legislation and health care. In the tradition of excellence that we acquired during our active military training we continue to strive to maintain the same in promoting quality of life post disability.

As President of Nevada Paralyzed Veterans of America (Nevada PVA), I would like to offer my support of your legislation to permit the concurrent receipt of service-connected disability compensation and retirement pay, without deductions. Nevada PVA has consistently supported legislation that would attempt to remedy the unjust disparity in benefits for the men and women who have served in our Armed Services.

While Nevada PVA supports these measures, as we have in the past, we must be assured that the other benefits currently being received by veterans are in no way compromised or reduced. VA has just recently begun getting the funding it needs to avoid the devastating effects of past flat-lined budgets. We hope that Congress will see the wisdom of providing concurrent receipts.

Thank you again for your continued support of our veterans and for your legislation. We look forward to the passage of your bill and the benefits it will bring to our deserving service-connected disabled veterans.

Sincerely,

LUPO A. QUITORIANO, Ph.D.,
President.

DISABLED AMERICAN VETERANS,
DEPARTMENT OF NEVADA,
Las Vegas, NV, April 4, 2000.

Senator HARRY REID.

DEAR SIR: It is our understanding that you are about to introduce legislation that would establish ''Concurrent Payments of Department of Veterans Affairs Disability Compensation and Military Retirement''.

The Department of Nevada DAV goes on record, with the National DAV, in supporting such legislation.

I submit, for your perusal, Resolution #30 from the DAV Legislative Program, approved at convention in 1999.

''Whereas, ex-service members who are retired from the military on length of service must waive a portion of their retired pay in order to receive disability compensation from the Department of Veterans Affairs (VA) and

''Whereas, it would be more equitable if the laws and regulations were changed to provide that in such cases the veteran would be entitled to receive both benefits concurrently since eligibility was established and earned under two entirely different sets of enabling laws and regulations: NOW

''Therefore be it resolved that the Disabled American Veterans in National Convention assembled in Orlando, Florida, August 21–25, 1999, supports legislation and changes in applicable regulations which would provide that a veteran who is retired for length of service and is later adjudicated as having service-connected disabilities, may receive concurrent benefits from the military department and from VA without deduction from either.''

Senator Reid, we thank you for introducing such legislation. As usual, where Veterans are concerned, you are right out front.

Sincerely yours,

WILLIAM D. BRZEZINSKI,
Adjutant.

AMERICAN LEGION,
DEPARTMENT OF NEVADA,
Carson City, NV, April 4, 2000.

Hon. HARRY REID,
Washington, DC.

DEAR SENATOR REID: It has come to my attention that you are in the process of drafting a bill (Armed Forces Concurrent Retirement and Disability Payment Act of 2000) that will eliminate the present practice of deducting disability compensation from the retired pay of military retired veterans. I have always felt this practice was not fair to our retired veterans. They are in fact funding their own disability compensation.

Commander Joe McDonnell and I, First Vice Commander of the American Legion Department of Nevada, support this bill. If I can be of assistance to you to get this bill passed feel free to call on me.

Sincerely,

RON GUTZMAN,
First Vice Commander.

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

S. 2358. A bill to amend the Public Health Service Act with respect to the operation by the National Institutes of Health of an experimental program to stimulate competitive research; to the Committee on Health, Education, Labor, and Pensions.

NATIONAL INSTITUTES OF HEALTH EPSCOR PROGRAM ACT OF 2000

Mr. INHOFE. Mr. President, I am pleased to introduce the National Institutes of Health EPSCoR Program Act of 2000 with my colleague, Senator LANDRIEU of Louisiana. This legislation we are introducing today, when passed, stands to make a major impact on the scope of biomedical research done in America today.

Small and medium sized states, like ours, have been unfairly discriminated

against in their competition for federal research dollars. In 1978, Congress created the EPSCoR program (Experimental Program to Stimulate Competitive Research), to make sure that all states would have the opportunity to compete for scientific research funds. Despite this intention, the EPSCoR program only served to exacerbate the exiting funding disparity. You may ask, how can this be so? The answer is really quite simple.

The EPSCoR program does not extend to one of the biggest sources of scientific research—the National Institutes of Health (NIH). We are all aware, the NIH budget is growing rapidly; NIH's FY 2000 budget is $17.9 billion—up 8.43 percent in the past 5 years. Yet, despite this tremendous boom, 24 states receive 93 percent of NIH research grants, while the other 26 states split the remaining 7 percent.

Although the NIH budget has resulted in great scientific gains, the research divide continues. One-half of the states have seen little benefit in the recent NIH increase. The time has come to correct this allocation program, but in a way that insures we have the best biomedical research in the world, and that those benefits are extended to the entire country. Research institutes provide a great opportunity to improve the health care delivery and quality in their home state, but only limited opportunity exists in half the states, because of the existing funding divide.

The legislation we are introducing will provide $200 million to NIH–EPSCoR states will enable states that currently receive historically low amounts of NIH grants to participate in two special funds.

The first fund is to finance new infrastructure needs in these states. Because of their continued lack of equitable funding, many EPSCoR states have fallen behind in their infrastructure needs and are unable to compete against non-EPSCoR states. Our legislation will allocate $3.5 million each year to every NIH–EPSCoR state, to be used for projects the state EPSCoR committee targets as meeting the state biomedical research committees' goals. Because the state is responsible for choosing its infrastructure needs, we may finally be able to get away from the yearly requests for special projects in our states and allow federal funds to be spent in the most efficient manner possible.

The second fund is dedicated toward research in the new NIH–EPSCoR. This research is for meritorious projects, cofunded by the NIH–EPSCoR fund and the NIH Institute or Center. These projects must meet existing NIH standards or merit and quality, but will not have to compete against proposals from the non-EPSCoR states, which already dominate the grant process.

Finally, this process will be self sustaining. Because research is typically less expensive to perform in NIH–EPSCoR states, the savings in administrative costs are recaptured to fund additional research. In FY 1999 we estimate these savings would have added up to $49 million, which would have flowed back to NIH–EPSCoR states for additional research projects.

In recent years, we have made great strides in biomedical research, however, that research has been limited to only a select few. I ask you to join us in resolving this discrepancy and restore equity to the NIH process and would invite my colleagues to join us in this effort.

By Mr. SHELBY:

S. 2360. A bill to amend the Gramm-Leach-Bliley Act to provide for a limitation on sharing of behavioral profiling information, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

FREEDOM FROM BEHAVIORAL PROFILING ACT OF 2000

Mr. SHELBY. Mr. President, I rise today to introduce the ''Freedom from Behavioral Profiling Act of 2000.'' This legislation would disallow financial institutions from buying and selling an individual's most personal and detailed buying habits without proper notification and without his or her permission. Put another way, financial institutions would only be allowed to buy, sell or otherwise share an individual's behavioral profile if the institution has disclosed to the consumer that such information may be shared and the institution has received the consumer's affirmative consent to do so.

Technology exists today that allows financial institutions to monitor and collect your personal buying and spending habits. According to the April 3 issue of Business Week magazine, Visa International is ''using neural networks to build up elaborate behavioral profiles. Over months, these systems . . . track a person's behavior online and off, then match it against models of similar personality and behavior types . . .''

What this means is that financial institutions have the ability to follow you to the grocery store to track your purchases—whether you are abiding by your doctors recommended diet—and then to the drug store to see what kind of drugs you are purchasing. The institution can also track where you go throughout the day and into the evening, and exactly what time you were there.

Business Week also reported that such ''far-flung threads'' as your ''taste in paperbacks, political discussion groups'' and clothing are being ''sewn into online profiles where they are increasingly intertwined with your data on health, your education loans and your credit history.'' What does this information have to do with getting a mortgage? More importantly, are these institutions sharing these behavioral profiles? Given the track record of some of the blue chip firms like Chase Manhattan Bank and U.S. Bancorp, I believe the risk is too great to assume otherwise.

Even more important, what happens when these behavioral profiles get into the wrong hands? That rarely happens you say. Guess again. A Russian teenager using the name ''Maxus'' stole 350,000 credit card numbers from CD Universe's Web site last December. He then told CD Universe that he would post the numbers on the Internet unless they paid him $100,000. When they refused to pay him he posted the credit cards numbers and thousands of visitors downloaded more than 25,000 account numbers between December 25 and January 7.

A similar case happened on March 24 of this year when two teens in a small Welsh village hacked into computers of several online merchants making off with more than 26,000 credit card numbers. The FBI says losses connected to the thefts could exceed $3 million.

Mr. President, if teenagers from around the world are gaining access to account numbers, there is no question they can steal data banks of behavioral profiles. In fact, they are. A front page article in the New York Times dated April 3, 2000, reports that ''Law enforcement authorities are becoming increasingly worried about a sudden, sharp rise in the incidence of identity theft, the outright pilfering of people's personal information and, with that information in hand, thieves can acquire credit, make purchases and even secure residences in someone else's name.''

Mr. President, an important point here is that potential criminals do not even have to steal the information. Due to the significant loopholes in the Gramm-Leach-Bliley Act passed last year, an individual's behavioral profile could legally be passed along without the affirmative consent of that individual. The unchecked growth of data banks and the business of profiling unquestionably facilitates identity theft.

Some may suggest that there is no harm in behavioral profiling. I disagree. Despite the fact that consumers are ''shielded'' in fraudulent cases, subject to only $50 maximum liability, the burden is on credit card owners to prove the fraudulent charges are not their own. If the fraudulent charge is not found immediately, continued purchases or applications for more cards by the criminal can wreak havoc on an individual's credit rating. In fact, one witness recently testified before the Senate Subcommittee on Terrorism, Technology and Government Information that she spent over 400 hours trying to clear her name and restore her good credit.

In ''card-not-present'' transactions, that is orders by mail, telephone or Internet where no signature is required, merchants are forced to cover the loss. Thus, identity theft and fraudulent purchases also take a toll on the small business man. Reports suggest that one out of every ten online purchases is fraudulent. My colleagues know that small businesses do not have the margins to eat the charge on one out of every 10 purchases.

Mr. President, the American people are only now becoming aware of the behavioral profiling practices of the industry. The more they find out, the more they do not like it. That is why I am offering this legislation . . . to give the consumer the ability to control his or her most personal behavioral profile. Where they go, who they see, what they buy and when they do it—all of these are personal decisions that the majority of Americans do not want monitored and recorded under the watchful eye of corporate America.

Mr. President, colleagues in the Senate, I hope you will join me in an effort to give the people what they want—the ability to control the indiscriminate sharing of their own personal, and private, consumption habits.

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

S. 2362. A bill to amend the Clean Air Act to direct the Administrator of the Environmental Protection Agency to consider risk assessments and cost-benefit analyses as part of the process of establishing a new or revised air quality standard; to the Committee on Environment and Public Works.

AIR QUALITY STANDARD IMPROVEMENT ACT OF 2000

• Mr. VOINOVICH. Mr. President, I rise today with my distinguished colleague from Louisiana, Senator BREAUX, to introduce a bill that will provide a commonsense approach to promulgating regulations under the Clean Air Act. We are pleased that Senators INHOFE and LANDRIEU have joined us as original cosponsors. We introduce this bill today in a bipartisan manner to increase public health, safety and environmental protection.

As a father and grandfather, I understand the importance of ensuring a clean environment for our future generations. Throughout my 33 years of public service, I have demonstrated a commitment to preserving our environment and the health and well-being of all Ohioans. I sponsored legislation to create the Ohio Environmental Protection Agency when I served in the state legislature, and I fought to end oil and gas drilling in the Lake Erie bed. As Governor, I increased funding for environmental protection by over 60 percent. While in the Ohio House of Representatives, I was responsible for creating the Environment and Natural Resources Committee and was honored to serve as the first vice chairman of that committee.

In addition, the state of Ohio has made significant improvements in air quality in recent years. When I first entered office as Governor in 1991, most of Ohio's urban areas were not attaining the 1-hour ozone standard. By the time I left, all but one city was in attainment. However, the Cincinnati community has worked together, through a variety of programs, to attain the 1-hour standard and is now awaiting final action by the EPA to redesignate it as in attainment.

Overall, the ozone pollution level in Ohio has gone down by 25%, and in many urban areas, it has gone down by more than 50% in the past 20 years. Ohio is doing its part to provide cleaner air. Nevertheless, over the years, I have become more and more concerned that just in order to comply with federal laws and regulations, our citizens, businesses and state and local governments must pay costs that can be inordinately burdensome or totally unnecessary.

In the 104th Congress, I worked closely with a coalition of state and local government officials and members of the House and Senate to pass effective safe drinking water reforms. The results of our efforts culminated in the Safe Drinking Water Act Amendments, legislation which was enacted with broad bipartisan support in 1996. In addition, the bill had the support of environmental organizations, and I was pleased to attend the President's bill-signing ceremony when these reforms were signed into law. In fact, at that time the President praised the bipartisan work and said, ''Today we helped ensure that every family in America will have safe, clean drinking water to drink every time they turn on a faucet or stop at a public water fountain. From now on our water will be safer and our country will be healthier for it.''

This cooperative effort is notable because it showed that a law could include commonsense reforms that make the government more accountable based on public awareness of risks, costs and benefits. I believe it set a key precedent for reform of other environmental regulations.

I specifically mention the drinking water program because it is the model for the bill we are introducing today. This bill includes the very same risk assessment and cost-benefit analysis provisions that govern our drinking water. This bill clarifies EPA's obligation to identify risks, consider costs and benefits of a proposed rule and consider incremental costs and benefits of alternative air quality standards. However, EPA would retain flexibility in making final regulatory decisions.

If we can agree these tools improve rulemakings for something as important as the water we drink, where a regulatory mistake could endanger millions of lives, they certainly must be good enough to protect the air that we breathe.

When I was Governor of Ohio, I became more and more concerned that the EPA was not taking into consideration sound science, costs and benefits during the rulemaking process. I was particularly concerned about the standards for ozone and particulate matter. In fact, I was very concerned that the costs to this country to implement the new National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter far outweighed the benefits to public health and the environment.

In fact, according to EPA's own estimates, the costs for implementing the NAAQS standard for ozone exceeded the benefits. The President's own Council of Economic Advisors predicted that the benefits would be small, while the costs of reaching full attainment could total $60 billion.

Just last spring, a U.S. appeals court remanded EPA's ozone and $PM_{2.5}$ standards, ruling that EPA did not justify its decision with sound scientific evidence. Ohio was a party to this lawsuit, which began when I was Governor. The court didn't say that EPA couldn't regulate at these levels, but that EPA didn't give sufficient justification for doing so.

That has been my point all along. I have argued that the NAAQS standards were going to be costly and that we didn't even know if making those investments was going to make a difference. I believe this bill would help us avoid some of the legal and legislative wrangling that has occurred in the past few years with respect to how we achieve clean air.

Federal agencies should not force businesses and consumers to throw billions of dollars at a problem without knowing if they're hitting the right target. Yet, the EPA is asking all of America to pay for these new regulations simply because the EPA said it is the right thing to do and that it has the authority to do so. However, they have failed to adequately determine the effects of changing the ozone and particulate matter standards.

The challenge facing public officials today is determining how best to protect the health of our citizens and our environment with limited resources. We need to do a much better job of ensuring that regulations' costs bear a reasonable relationship with their benefits, and we need to do a better job of setting priorities and spending our resources wisely.

I believe the bill we introduce today will help achieve these goals in air regulations. First, I believe this bill will increase the public's knowledge of how and why the EPA makes air regulations. In essence, this bill asks EPA to answer several simple, but vital questions:

What science is needed to help us make good decisions?

What is the nature of the risk being considered?

What are the benefits of the proposed regulation?

How much will it cost?

And, are there better, less burdensome ways to achieve the same goals?

It will also improve the quality of government decision-making by allowing the EPA to set priorities and focus on the worst risks first. Careful thought, reasonable assumptions, peer review and sound science will help target problems and find better solutions.

Mr. President, Executive Order 12866 already requires agencies to conduct risk assessment and cost benefit analysis. What this bill will do is clarify

that EPA must conduct risk assessment and cost benefit analysis. This bill does not mandate outcomes. In fact, it does nothing to circumscribe the EPA Administrator's ability to propose and implement regulations to protect public health. Quite simply, it imposes commonsense discipline and accountability in the rulemaking process by confirming that EPA has the flexibility to take risks and costs into consideration when setting standards that are going to affect public health or the environment.

I want to make very clear that this bill does not mandate how EPA sets standards. The Administrator will have discretion to set appropriate standards to protect human health. EPA would be required to conduct an analysis of incremental costs and benefits of alternative standards, but would have the flexibility to choose between a standard where the benefits justify its cost or, when health considerations dictate, the maximum feasible standard.

In addition, this bill does not keep information about air quality from the public. To the contrary, this bill is a public right-to-know bill that requires EPA to tell the public what information it considered before making a final decision.

Nor does the bill ''gut'' the Clean Air Act, as some contend. In fact, it strengthens it by asking EPA to tell the public what the risks are that warrant regulation and what options are available to most efficiently and effectively reduce those risks. This bill will ensure that the Agency sets priorities and it makes sure that our limited resources are being spent to address the real risks to public health and the environment. While many air regulations set by EPA are well intended, we want to ensure that these regulations are going to achieve their purpose and not unnecessarily pass significant burdens onto our citizens and state and local governments.

I strongly believe our challenge is to determine how best to meet our obligation of protecting the environment and health of our citizens with the limited financial resources we have available and with the scientific evidence to back up our actions. It should not be the government's policy to initiate or enact regulations simply because it sounds like a good idea. It should be because the evidence shows that it is the right thing to do.

I have spoken to my colleague and chairman of the Environment and Public Works Committee's Clean Air Subcommittee, Senator INHOFE, and he has agreed to include this bill in a package of bills that will be introduced in the near future to advance discussions on Clean Air Act reauthorization.

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. 2362

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 ''Air Quality Standard Improvement Act of 2000''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to establish more effective environmental standards to continue to safeguard public health and the environment;

(2) to promote better resource allocation to ensure that serious risks to air quality are addressed first;

(3) to improve the ability of the Administrator of the Environmental Protection Agency to use scientific and economic analysis in developing air quality standards;

(4) to yield increased public health and environmental benefits and more effective protections while minimizing costs;

(5) to require that relevant qualitative and quantitative information be considered in the process of evaluating the costs and benefits of air quality standards;

(6) to promote the right of the public to know about the costs and benefits of air standards, the risks addressed, the risks reduced, and the quality of scientific and economic analysis used to support decisions; and

(7) to require the Administrator of the Environmental Protection Agency to conduct risk assessments and cost-benefit analyses as part of the process of establishing a new or revised air quality standard.

SEC. 3. RISK ASSESSMENT AND COST-BENEFIT ANALYSIS.

The Clean Air Act (42 U.S.C. 7401 et seq.) is amended by adding at the end the following:

"TITLE VII—RISK ASSESSMENT AND COST-BENEFIT ANALYSIS

"SEC. 701. DEFINITION OF AIR QUALITY STANDARD.

''In this title, the term 'air quality standard' means—

''(1) a national ambient air quality standard established under section 109 (including the setting of any emissions budget for purposes of attaining or maintaining any national ambient air quality standard);

''(2) an increment or ceiling for the prevention of significant deterioration established under section 163;

''(3) regulations established under section 169A to address the regional haze or other impairment of visibility by manmade air pollution in a mandatory class I Federal area;

''(4) any finding or emission limitation determined under section 126;

''(5) any emission standard or requirement that applies to on-road and nonroad mobile sources (including aircraft engine standards) established under title II;

''(6) any requirement that imposes a limitation on the quality of fuel used in mobile sources;

''(7) any emission limitation or emission budget for sulfur dioxide or nitrogen oxides established under title IV;

''(8) any preconstruction review requirement that regulates new sources or major modifications of existing sources in attainment or nonattainment areas;

''(9) the setting of any emissions budget or other requirement for purposes of attaining or maintaining any national ambient air quality standard under section 110;

''(10) any new source performance standard, existing source performance standard, or design, equipment, work practice, or operational standard established or revised under section 111;

''(11) any standard to protect public health and the environment described in section 112(f);

''(12) any new regulation applicable to an electric utility steam generating unit under section 112(n);

''(13) the designation of a pollutant under section 115 as causing or contributing to air pollution that may reasonably be anticipated to endanger public health or welfare in a foreign country;

''(14) any air pollution control technique information, transportation planning guidelines, information on procedures and methods to reduce mobile source air pollution, or control technique guidelines issued under sections 108 and 183;

''(15) any identification of attainment dates for national ambient air quality standards under part D;

''(16) any identification of control measures for the reduction of interstate ozone air pollution under section 184; and

''(17) any identification of reasonably available control measures and best available control measures for particulate matter under section 190.

"SEC. 702. RISK ASSESSMENT, MANAGEMENT, AND COMMUNICATION.

''(a) USE OF SCIENCE IN DECISIONMAKING.—In carrying out this Act, (including establishing a new or revised air quality standard under this Act), the Administrator shall base any scientific or technical conclusions on—

''(1) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices;

''(2) data collected by accepted methods or the best available methods (if the reliability of the method and the nature of the decision justifies use of the data);

''(3) data (including the underlying research data) that have been made available to the public, subject to the exemptions under section 552 of title 5, United States Code.

''(b) PUBLIC INFORMATION.—

''(1) IN GENERAL.—In carrying out this section, the Administrator shall ensure, to the maximum extent practicable, that the presentation of information on public health effects concerning any new or revised air quality standard is comprehensive, informative, understandable, and conveniently available for public comment prior to the promulgation of any regulation under this Act.

''(2) SPECIFICATIONS.—The Administrator shall, in a document made available to the public in support of a regulation proposed or promulgated under this Act concerning an air quality standard, specify, to the maximum extent practicable—

''(A) each population addressed by any estimate of public health effects;

''(B) the expected risk or central estimate of risk for the specific populations or resources, where applicable, and each appropriate upper-bound or lower-bound estimate of risk;

''(C) each significant uncertainty identified in the process of the assessment of public health effects, and studies that would assist in resolving the uncertainty; and

''(D) peer-reviewed studies known to the Administrator that support, are directly relevant to, or fail to support any estimate of public health effects, and the methodologies used to reconcile inconsistencies in the scientific data.

''(3) HEALTH RISK REDUCTION AND COST ANALYSIS.—

''(A) IN GENERAL.—As part of the process of proposing a new or revised air quality standard, the Administrator shall publish in the Federal Register and seek public comment on an analysis of each of the following:

''(i) Quantifiable and nonquantifiable benefits for which there are factual bases in the rulemaking record to conclude that the benefits are likely to occur as the result of actions taken to comply with the new or revised air quality standard.

''(ii) Quantifiable and nonquantifiable health benefits for which there are factual bases in the rulemaking record to conclude that the benefits are likely to occur from reductions in other related pollutants that may be attributed to compliance with the new or revised air quality standard, excluding benefits resulting from compliance with other proposed or promulgated regulations.

''(iii) Quantifiable and nonquantifiable costs for which there is a factual basis in the rulemaking record to conclude that the costs are likely to occur as the result of actions taken to comply with or attain the new or revised air quality standard, which costs shall include monitoring, actions taken to comply with or attain the new or revised air quality standard, and other costs, and excluding costs resulting from compliance with other proposed or promulgated regulations.

''(iv) The incremental costs and benefits associated with each alternative new or revised air quality standard considered.

''(v) The effects of the air pollutant or pollutants for which a new or revised air quality standard is being considered on the general population, including, to the extent relevant and appropriate and where data are reasonably available, the effects on groups within the general population such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that are identified as likely to be at greater risk of adverse health effects due to exposure to an air pollutant than the general population.

''(vi) Any risk that may occur as the result of compliance with or attainment of the new or revised air quality standard, including risks associated with other related pollutants.

''(vii) Other relevant factors, including the quality and extent of the information available concerning the new or revised air quality standard, the uncertainties in the analysis supporting clauses (i) through (vi), and factors with respect to the degree, and quantitative and qualitative descriptions of the nature, of any risk.

''(B) APPROACHES TO MEASURE AND VALUE BENEFITS.—The Administrator may identify valid approaches for the measurement and valuation of benefits under this paragraph, including approaches to identify consumer willingness to pay for reductions in health risks from air pollutants.

''(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to conduct studies, assessments, and analyses described in this section $35,000,000 for each of fiscal years 2000 through 2003.

''SEC. 703. COST-BENEFIT ANALYSIS.

''(a) DEFINITIONS.—In this section:

''(1) BENEFIT.—The term 'benefit' means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, health, safety, environmental, and economic effects, that are expected to result from implementation of, or compliance with, a new or revised air quality standard.

''(2) COST.—The term 'cost' means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, health, safety, environmental, and economic effects, that are expected to result from implementation of, or compliance with, a new or revised air quality standard.

''(3) COST-BENEFIT ANALYSIS.—The term 'cost-benefit analysis' means an evaluation of the costs and benefits of a new or revised air quality standard, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this section at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration uncertainties, the significance and complexity of the decision, and the need to adequately inform the public.

''(b) ANALYSIS.—For each new or revised air quality standard proposed, the Administrator—

''(1) shall conduct and publish, for public comment, a cost-benefit analysis to determine whether the benefits of the new or revised air quality standard justify, or do not justify, the costs; and

''(2) may analyze the potential distributional effects of the new or revised air quality standard.

''(c) DETERMINATION OF HEALTH RISK REDUCTION AND COST CONSIDERATIONS.—

''(1) DETERMINATION OF NO JUSTIFICATION FOR COST.—

''(A) IN GENERAL.—Notwithstanding any other provision of this Act, if the Administrator determines, based on an analysis conducted under subsection (b), that the benefits of a new or revised air quality standard proposed or promulgated in accordance with this Act do not justify the costs, the Administrator may, after notice and opportunity for public comment, promulgate an alternative new or revised air quality standard at a cost that is justified by the benefits.

''(B) SCOPE OF CONSIDERATION.—In making a determination under subparagraph (A), the Administrator shall consider—

''(i) only public health benefits, with respect to a determination concerning a primary national ambient air quality standard; and

''(ii) public health and environmental benefits, with respect to a determination concerning any air quality standard other than a national ambient air quality standard.

''(2) JUDICIAL REVIEW.—A determination by the Administrator under paragraph (1)—

''(A) shall be reviewed by a court only as part of a review of a final regulation that has been promulgated based on the determination; and

''(B) shall be set aside by a court if the court finds that the determination is arbitrary and capricious.

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

By Mr. CRAPO:

S. 2363. A bill to subject the United States to imposition of fees and costs in proceedings relating to State water rights adjudications; to the Committee on Energy and Natural Resources.

WATER ADJUDICATION FEE FAIRNESS ACT OF 2000

● Mr. CRAPO. Mr. President, I rise to introduce the Water Adjudication Fee Fairness Act of 2000. This bill would require the federal government to pay the same filing fees and costs associated with state water rights' adjudications as is currently required of states and private parties.

To establish relative rights to water—water that is the lifeblood of many states, particularly in the west—states must conduct lengthy, complicated, and expensive proceedings in water rights' adjudications. In 1952, Congress recognized the necessity and benefit of requiring federal claims to be adjudicated in these state proceedings by adopting the McCarran Amendment. The McCarran Amendment waives the sovereign immunity of the United States and requires the federal government to submit to state court jurisdiction and to file water rights' claims in state general adjudication proceedings.

These federal claims are typically among the most complicated and largest of claims in state adjudications, and federal agencies are often the primary beneficiary of adjudication proceedings where states officially quantify and record their water rights. However, in 1992, the United States' Supreme Court held that, under existing law, the U.S. need not pay fees for processing federal claims.

When the United States does not pay a proportionate share of the costs associated with adjudications, the burden of funding the proceedings unfairly shifts to other water users and often delays completion of the adjudications by diminishing the resources necessary to complete them. Delays in completing adjudications result in the inability to protect private and public property interests or determine how much unappropriated water may remain to satisfy important environmental and economic development priorities.

Additionally, because they are not subject to fees and costs like other water users in the adjudication, federal agencies can file questionable claims without facing court costs, inflating the number of their claims for future negotiation purposes. This creates an unlevel playing field favoring the federal agencies and places a further financial and resources burden on the system.

For example, in the Snake River Basin Adjudication, which is in Idaho and is probably the largest water adjudication proceeding in the country, the United States Forest Service filed more than 3,700 federal claims. The Idaho Department of Water Resources expended thousands of dollars giving notice to all other claimants. Additionally the State of Idaho and private claimants spent over $800,000 preparing objections to the Forest Service's claims. On the eve of the objective deadline, the U.S. withdrew all but 71 of the claims—the Department of Justices' explanation: litigation strategy.

This example is not an isolated incident. At best, the taxpayers and states should not be forced to incur these costs simply because the agency does not take the time to seriously evaluate its claims. At worst, the taxpayers should not bear the brunt of the federal government's Machiavellian tactics.

I recognize that the federal government has a legitimate right to some reserved water rights; however, the federal government should play by the same rules as the states and other private users. The Water Adjudication Fee Fairness Act is legislation that remedies this situation by subjecting the

United States, when party to a general adjudication, to the same fees and costs as state and private users in water rights adjudications.

This measure has the full support of the Western States Water Council and the Western Governor's Association. I ask my colleagues to join me in supporting water users, taxpayers, the states, and welcome their co-sponsorship.

I ask unanimous consent that a copy 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. 2363

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 ''Water Adjudication Fee Fairness Act of 2000''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Generally, water allocation in the western United States is based upon the doctrine of prior appropriation, under which water users' rights are quantified under State law. Appropriative rights carry designated priority dates that establish the relative right of priority to use water from a source. Most States in the West have developed judicial and administrative proceedings, often called general adjudications, to quantify and document these relative rights, including the rights to water claimed by the United States Government under either State or Federal law.

(2) State general adjudications are typically complicated, expensive civil court and administrative actions that can involve hundreds or even thousands of claimants. Such adjudications give certainty to water rights, provide direction for water administration, and reduce conflict over water allocation and water usage. Those claiming and establishing rights to water are the primary beneficiaries of State general adjudication proceedings.

(3) The Congress has recognized the benefits of the State general adjudication system, and by enactment of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666; popularly known as the ''McCarran Amendment''), required the United States to submit to State court jurisdiction and to file claims in State general adjudication proceedings.

(4) Water rights claims by Federal agencies under either State or Federal law are often the largest or most complex claims in State general adjudications. However, the United States Supreme Court, in the case United States v. Idaho, 508 U.S. 1 (1992), determined that the McCarran Amendment does not require the United States to pay some filing fees simply because they were misconstrued or perceived to be the same as costs taxed against all parties.

(5) Since Federal agency water rights claims are among the most difficult to adjudicate, and since the United States is not required to pay some fees and costs paid by non-Federal claimants, the burden of funding adjudication proceedings unfairly shifts to private water users and State taxpayers.

(6) The lack of Federal Government funding to support State water rights adjudications in relation to the complexity of the claims involved has produced significant delays in completion of many State general adjudications. These delays inhibit the ability of both the States and Federal agencies to protect private and public property interests. Also, failure to complete the final adjudication of claims to water restricts the ability of resource managers to determine how much unappropriated water is available to satisfy environmental and economic development demands.

SEC. 3. LIABILITY OF UNITED STATES FOR FEES AND COSTS IN WATER USE RIGHTS PROCEEDINGS.

(a) IN GENERAL.—In any State administrative or judicial proceeding for the adjudication or administration of rights to the use of water in which the United States is a party, the United States shall be subject to the imposition of fees and costs on its claims to water rights under either State or Federal law to the same extent as a private party to the proceeding.

(b) APPLICATION.—Subsection (a) shall apply to proceedings pending on or initiated after the date of enactment of this Act, including with respect to fees and costs imposed in such a proceeding before the date of the enactment of this Act.

(c) REPORT TO CONGRESS.—The head of any Federal agency that files or has pending any water rights claim shall prepare and submit to the Congress, within 90 days after the end of each fiscal year, a report that identifies—

(1) each such claim filed by the agency that has not yet been decreed;

(2) all fees and costs imposed on the United States for each claim identified under paragraph (1);

(3) any portion of such fees and costs that has not been paid; and

(4) the source of funds used to pay such fees and costs.

(d) FEES AND COSTS DEFINED.—In this section, the term ''fees and costs'' means any administrative fee, administrative cost, claim fee, judicial fee, or judicial cost imposed by a State on a party claiming a right to the use of water under either State or Federal law in a State proceeding referred to in subsection (a).●

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

S. 2364. A bill to amend the Social Security Act to require Social Security Administration publications to highlight critical information relating to the future financing shortfalls of the social security program; to the Committee on Finance.

SOCIAL SECURITY RIGHT TO KNOW ACT

Mr. SANTORUM. Mr. President, today, I am pleased to join with my colleague, Senator JUDD GREGG of New Hampshire, in introducing the Social Security Right to Know Act of 2000.

This legislation is aimed at providing the American people with accurate and up-to-date information about the current and future financial operations of the Social Security program, so that they may be in a better position to understand the choices involved in putting our most vital social program on sound financial footing for the long term.

I would like to commend the Senator from New Hampshire for his instrumental role in promoting a similar proposal in the form of an amendment to the Social Security earnings test repeal legislation that this body recently considered and passed. Unfortunately, we did not take advantage of Senator GREGG's tireless efforts to reach across party lines to incorporate improved reporting to the public about the Social Security program as part of the earnings test repeal. This legislation is a complement to Senator GREGG's prior efforts, and I am pleased to be offering this legislation here today with his support.

As Congress continues to consider options to preserve and strengthen our Social Security system, it is increasingly important that Americans have access to certain salient information with respect to Social Security's current and future financial picture.

Why is this so important? As all of my colleagues will recall, in his State of the Union Address to Congress on January 27, 1998, President Clinton declared that it was time for the nation to begin a dialogue on the ''necessary measures to strengthen the Social Security system for the twenty-first century.'' He went on to say that the American people should be invited to join in this discussion, facing these issues squarely, and forming a true consensus on how we should proceed. In his address, the president announced a series of public policy forums to be held around the country, and also called for a White House Conference on Social Security to be held in December, 1998. The president indicated that early in 1999 he would convene the leaders of Congress to craft historic legislation that would re-create ''a Social Security system that is strong in the twenty-first century.''

I know that there was bipartisan support here in the Senate and in the House of Representatives for President Clinton's calling to make long-term Social Security reform our most important domestic policy priority. And two years ago I was optimistic about the prospects for enacting such historical legislation, particularly about the opportunity to engage the nation in an honest national discussion about the need to reform Social Security, and exchange ideas as to how we might best achieve this. But, as we all know, we held a national dialogue on Social Security, and the American people did participate in the policy forums which came to pass, and yet here we are today with little progress toward a bipartisan consensus on sustainable Social Security reform.

I believe that this is so partly because of the fact that there is a tremendous amount of misinformation and lack of understanding among the American public about Social Security's financing challenges, and this lack of understanding continues to harden popular resistance to long-term Social Security solutions.

Case in point: last week, we saw the release of the 2000 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, popularly referred to as the Social Security Trustees' Report. The Social Security Administration relayed that this Report revealed that the Social Security program's long-range financial picture has improved since last year. Specifically, the Board of Trustees announced

that the Social Security Trust Fund assets will not be depleted until 2037—three years later than reported in last year's report.

At first glance, this statistic might convey an air of reassurance to the public, such to the point in some minds that if we can just continue to grow our economy at its current rate, we will obviate the need for enacting fundamental reforms to Social Security. Or at least, such reporting of Social Security's finances might lead to the common conclusion that the program is perfectly fine for nearly 40 years.

This reliance on the paradigm of trust fund accounting is one of the main reasons that we have not been able to achieve bipartisan consensus on long-term Social Security reform. There is scarce mention in the Trustees' Report that the Social Security Trust Fund balances ''are available to finance future benefit payments . . . only in a bookkeeping sense. They do not consist of real economic assets that can be drawn down in the future to fund benefits. Instead, they are claims on the Treasury that, when redeemed, will have to be financed by raising taxes, borrowing from the public, or reducing benefits, or other expenditures. The existence of a large trust fund balance, therefore, does not have any impact on the Government's ability to pay benefits.''

Mr. President, if this description of the Trust Funds sounds familiar, it is because this is the exact wording contained in the Administration's budget up until its most recent submission for Fiscal Year 2001. What this means, in other words, is that the trust funds are merely claims on future government revenues, IOUs to be redeemed through higher taxation, lower spending on Social Security or other government obligations, or a return to deficit financing.

I think that this is a rather important piece of information for the American people to understand in assessing Social Security's future. But it should not be buried in some multi-hundred page budget document or 223-page Social Security Trustees' Report. Maybe if we made this information more accessible and apparent, then we would have more concern for the fact that Social Security's financing problems begin as soon as 2015—when Social Security dedicated payroll tax receipts are no longer sufficient to pay benefits—and not in 2037. The Social Security Trustees last week revealed it will cost $11.3 trillion in new money between 2015 and 2037 to convert into cash benefits the IOUs held by the Social Security Trust Fund. But we have no actual resources necessary to meet these benefit promises between 2015 to 2037.

Also not mentioned in the most recent Trustees' Report, Mr. President, is the fact that the system's unfunded obligations actually grew from the 1999 Report's release by about $1 trillion in constant 2000 dollars, according to analysis by the House Budget Committee. This is because the change in valuation period adds a new, expensive, underfunded 75th year and drops a year when benefit costs are relatively cheaper. This is a paradox of pay-as-you-go financing that is not known or understood by most of the public, and is rarely if ever referenced in the media. To be sure, the unfunded obligations of the United States government are measured and accounted for in some obscure Department of Treasury publications, but this data should be at the front and center of the Social Security reform discussion, in plain view for every American to access.

Another information gap which the Social Security Right to Know Act seeks to close relates to individual Social Security statements, formerly known as Personal and Earnings and Benefits Statements (PEBES). This document was conceived by our friend and venerable colleague, Senator DANIEL PATRICK MOYNIHAN of New York. In 1989, Senator MOYNIHAN persuaded Congress to adopt the requirement for the Social Security Administration to provide this document as a way ''to reassure Americans that Social Security will be there for them,'' and to help them adequately plan for retirement by indicating that Social Security doesn't fully replace wages or salaries.

Though well intentioned, the current Social Security statement falls short of its desired goal by glaringly omitting certain information critical to understanding the system's serious future funding problems, and the related implications for individual and family retirement planning. To be fair, the statements do make reference to such bland phrases as ''changed in the past,'' ''must do so again'' and ''we are working to resolve.'' But the truth is that by 2037, the program will collect sufficient revenues to pay only $0.72 for every dollar of promised benefits. Overall, Social Security's deficit that year will come to more than $1 trillion in today's dollars. Again, this is important information that should be made abundantly clear in order for the American public to assess Social Security's and their own financial futures.

This is why this legislation is so important. For too long, the nature and scope of Social Security's financing problems have been shrouded by inconsistent and incomplete information, which has yielded public confusion and has polarized the Social Security reform debate.

The Social Security Right to Know Act would improve the information contained in current Social Security Administration publications, and thereby enable Americans to better plan for their own retirement and to understand the benefits and costs that the current Social Security system will produce.

This legislation will do several things to shed more light on what lies ahead for Social Security. First, it will expand the Personal and Earnings and Benefits Statements (PEBES), now called ''Social Security Statements,'' to include information about the projected date of the program's first financing deficits as estimated by the Social Security Trustees, and also the percentage of promised benefits that can be funded under current law.

Second, it will require the Trustees' Report to include an estimate of Social Security's aggregate unfunded obligations—i.e., the difference between the program's promised benefit outlays and its cash income over the long-range 75-year evaluation period—and the change in such amount from the previous year's estimates.

Third, it calls on the Trustees to submit to Congress a separate summary publication that highlights salient data pertaining to Social Security's financing, identifying the first year that Social Security is projected to run a cash deficit, as well as the size of projected deficits.

Fourth, it will expand the PEBES or Social Security Statements and the annual Social Security Trustees' Report to include an explanation of the role of the Social Security Trust Funds as debt owed by the federal government, as opposed to an asset of the federal government.

Fifth, it will broaden the public accessibility of the economic modeling employed by the Office of the Chief Actuary.

Our bill would introduce no new information that is not already acknowledged somewhere in past publications of the Social Security Trustees or in previous Presidential budget submissions. However, it is our view that the importance of this information is so great that it should be displayed before every wage-earner and beneficiary of the Social Security system, and not buried in documentation that is now available only to policymakers.

Americans deserve ''straight talk''—clear and accessible information—about Social Security's long-term financing challenges in order that they might better understand the consequences of a rapidly growing aging population, and the reality of the choices before us. This is just what the Social Security Right to Know Act is designed to provide. And with these objectives in mind, this legislation is long overdue.

I presume that we are all in agreement that the federal government should be telling Americans the full truth about Social Security. It is my sincere hope that our colleagues will look at this legislation and join us in building on Senator GREGG's prior efforts and other bipartisan ideas to make sure that Americans have as much information as possible in our national discussion on how best to save and strengthen Social Security. The Social Security Right to Know Act is an effort to continue a process, based on the principle that ''knowledge is power,'' and I truly believe that the information that this legislation is seeking to provide Americans in a clear and

concise manner is essential for our moving forward toward sustainable solutions to Social Security's funding problems. Though some of our colleagues may have ideas and input as to how best to provide the American public with a better understanding of Social Security's future—and I am open to working with my colleagues to improve this bill's specific provisions as we continue this process toward Social Security reform—it is my firm belief that with the intent and principles contained in this legislation, we as a nation will be in a better position to cease assessing Social Security's future in terms of preconceived, fixed notions, and take heed of the demographic and economic realities which lie ahead.

Mr. President, I again thank Senator GREGG for working with me in this effort, and ask unanimous consent that the text of the bill be printed in the RECORD.

Mr. President, in closing, I would like to pay tribute to two of this Chamber's leaders on this issue: The Honorable DANIEL PATRICK MOYNIHAN of New York and The Honorable BOB KERREY of Nebraska. Both Senators MOYNIHAN and KERREY have been truly instrumental in advancing the cause of sustainable Social Security reform, and their presence and valued input on this issue will be sorely missed in the next session of Congress. I applaud both of them for their leadership in seeking to balance the interests and needs of younger and older Americans, and for their courage in working toward saving and strengthening Social Security in a manner that is fiscally responsible, actuarially sound and fair to all generations.

Mr. GREGG. Mr. President, I am pleased to be an original cosponsor of this legislation, and I thank Senator SANTORUM for his leadership in drafting it.

My colleagues in the Senate may recall that last week, I prepared an amendment to the earnings limit legislation that would have achieved many of the same objectives that are outlined by the Senator from Pennsylvania with respect to this bill. I believe that we have begun a process, an important dialogue involving many interested parties in both the executive and legislative branches, and that the result of this process will ultimately be improved information for the public and for Congress regarding the state of the Social Security program, and the benefits that it can finance.

I am pleased by the number of important individuals who have expressed interest in this effort. I am especially gratified by the interest of Senator ROTH and of Congressman ARCHER, the two members of Congress with principal jurisdiction over the Social Security program. They have each indicated that they are willing to explore these informational issues via various means, and to lend their considerable influence to the effort.

I am further pleased that various individuals within the administration have sought to work with us on our concerns, and to lay a groundwork for improved reporting to the public regarding the Social Security program.

In that context, I would stress that we are not at the end of this process, and that we do not have universal agreement on the best way to proceed. I do not believe that either Senator SANTORUM or I would say that the language in either this bill, or the one that I offered last week, is perfect, and cannot be improved upon. Senator SANTORUM's draft, like my original draft, would seek to include additional information in the annual Trustees' Reports. I do not know whether the Trustees' reports are necessarily the optimal place to report such information, and to the extent that individuals within the administration may have views as to how and where this information is best presented, I know that Senator SANTORUM and I would both be flexible as to how this is done. The important thing is that this information is routinely presented to Congress and to the public in a clear, understandable, helpful way, and the best time and format for this is certainly a matter where reasonable people can disagree.

I do, however, want to review the elements of Senator SANTORUM's legislation, and to express why I believe that they are so important.

First, it would add important new information to the Personal Earnings and Benefit Statements that individuals are now receiving from the Social Security Administration. Those statements currently tell individuals how much they are promised in terms of benefits, and about their earnings history. Taken literally, however, they could provide a misleading picture as to what current law can actually finance. It is a misnomer to say that ''current law'' would provide a certain amount of benefits, when legally, the Social Security Administration does not have the authority to send out checks without financing. What ''current law'' would literally mandate, according to GAO, according to CRS, and according to everyone else who has studied this closely, is that benefits would be effectively cut sharply beginning in 2037 because benefit checks would have to wait until the available funds came in to finance them.

Mr. President, it is unlikely that Congress would permit such a sharp and sudden set of benefit cuts to occur. Of course, neither we nor a future Congress would permit that. But it is also untrue to tell Americans that ''current law'' would provide them with all promised benefits. That is manifestly untrue by any definition. It is neither a true statement of current law, nor it is a true statement of how tax levels and benefit levels would look after necessary adjustments are made to the program to bring it into balance. Social Security beneficiaries certainly have a right to be told the truth about their benefits—the date through which they can currently be funded, the extent to which benefits could be provided under current estimates, as well as the additional revenues that must be collected through tax dollars, when the program first begins to experience cash flow deficits.

Currently, there is a great misperception regarding Social Security financing that too many individuals are willing to tacitly encourage—the idea that the existence of a positive Social Security Trust Fund balance enhances the ability of the federal government to pay Social Security benefits. It does not. The Social Security Trust Fund balance is actually a debt owed by the federal government, and it does not in any way finance benefits without requiring that the federal government turn to taxpayers to pay off that debt. Americans deserve to be told the truth about that, and Senator SANTORUM's language includes a statement that would explain the meaning of the Trust Fund, and the options before Congress when the program enters a phase of cash-flow deficits.

Many of the paragraphs in the Santorum language, regarding increased clarity in the annual Trustees' report, are somewhat similar to language that I sought to pursue last week. Again, I would simply reiterate that reasonable people can disagree as to the proper venue for the reporting of this information. I personally am of the view that the annual Trustees' Reports should provide to Congress the relevant information that Congress, as the body that must budget for the Social Security program, needs to budget for it in the appropriate way. Congress has a right to insist, in my view, not on how these evaluations should be made, but that all relevant information be presented clearly to the Congress when they are made. However, the most important thing is that we reach an agreement among interested parties with common goals as to how best to do this.

Currently, we receive 75-year actuarial estimates from the Trustees regarding the health of the Social Security Trust Fund. We only look at its impact on the overall federal budget over 10 years, through measurements by CBO and other bodies. We don't look out over the long term to judge the larger fiscal problems facing this long-term program and the unified federal budget. That is a problem. It tempts Congress and the Executive Branch to pursue ''solutions'' to Social Security's insolvency that improve the part of the picture that we see—the Trust Fund balance—heedless of the consequences for the part of the picture that we do not see—the impact on the unified federal budget. This is not an adequate method of approaching the problem of financing benefits over the long term. I believe that Congress should insist that portraits of the program's finances evaluate all scenarios on an absolutely level playing field, one that shows all costs borne by the system,

and one that judges all possible solutions in terms of what they would actually cost and what they could actually pay. I commend Senator SANTORUM for his effort here, even as my mind is open on the best way to achieve this objective.

Mr. President, I would simply close by saying that the Social Security program is too important to allow to operate in a fog of incomprehension and misunderstanding. There ought not to be resistance to efforts to bring additional ''sunshine'' upon the operations of the Social Security system as a whole. We currently operate, too often, in an atmosphere of selective information—one that measures only benefit promises, and current tax levels, without acknowledging the mismatch between the two, and what they mean for one another. A view that looks only at the Trust Fund balance, and not at the realities of the system's cost to future payers of both income and payroll taxes. This selective presentation of information encourages Congress to remain inactive, because it allows us to pretend that the consequences of current law are not actually worse than the choices that would be made in the course of reforming the program.

We can do better than this, and we must, if we are to meet our responsibilities of stewardship for the Social Security program. I commend Senator SANTORUM for his effort.

By Ms. COLLINS (for herself, Mr. BOND, Mr. BAUCUS, Mr. JEFFORDS, Mr. REED, Mr. SANTORUM, Mr. ABRAHAM, Mrs. MURRAY, Mr. COCHRAN, Mrs. FEINSTEIN, Mr. HOLLINGS, Ms. MIKULSKI, Mr. BINGAMAN, Mr. MURKOWSKI, Mrs. HUTCHISON, Mr. SCHUMER, Mr. TORRICELLI, Mr. EDWARDS, Mr. LEAHY, Mr. ENZI, Mr. LUGAR, Mr. CLELAND, Mr. HAGEL, Ms. SNOWE, Mr. BENNETT, Mr. GORTON, Mr. HUTCHINSON, Mr. HELMS, Mr. ALLARD, Mrs. LINCOLN, Mr. L. CHAFEE, Mr. DEWINE, Mr. ASHCROFT, Mr. SPECTER, Mr. ROBERTS, Mr. BROWNBACK, and Mr. VOINOVICH):

S. 2365. A bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services; to the Committee on Finance.

HOME HEALTH PAYMENT FAIRNESS ACT

Ms. COLLINS. Mr. President, I am pleased to join with 35 of my colleagues tonight to introduce the Home Health Payment Fairness Act to eliminate the automatic 15-percent reduction in Medicare payments to home health agencies that is currently scheduled to go into effect on October 1 of next year. The legislation we are introducing will provide a measure of financial relief for home health agencies across the country that are experiencing acute financial problems that are inhibiting their ability to deliver much needed care to some of the most vulnerable senior citizens in our country.

America's home health agencies provide invaluable services that have enabled a growing number of our most frail and vulnerable Medicare beneficiaries to avoid hospitals and nursing homes and stay where they want to be—in the comfort and security of their own home.

Unfortunately, due to cutbacks in the Medicare program, home health agencies in my State and others are having a very difficult time providing services, particularly to elderly people with complex health needs. One has only to look at the statistics from my home State of Maine to see the impact of these very onerous budget cuts, as well as burdensome regulations imposed by the Clinton administration.

In Maine, in just over 2 years' time, there has been a 30-percent reduction in home health visits, which has resulted in more than 7,470 senior citizens losing their home health services in my State. There has been a 26-percent reduction in the reimbursements that have been provided to home health agencies in Maine. Mr. President, this situation cannot continue. The home health industry has already made an important contribution to reducing the rate of growth in Medicare spending. In fact, the spending cuts have been far beyond what Congress intended and what the CBO estimated.

In 1996, home health was the fastest growing component of Medicare spending. The program grew at an average annual rate of more than 25 percent from 1990 to 1997. As a consequence, the number of home health beneficiaries more than doubled and Medicare home health increased soared from $2.5 billion in 1989 to $17.8 billion in 1997.

This rapid growth in home health spending understandably prompted Congress and the Administration, as part of the Balanced Budget Act of 1997, to initiate changes that were intended to slow this growth in spending and make the program more cost-effective and efficient. These measures, however, have produced cuts in home health spending far beyond what Congress intended. Home health spending dropped to $9.7 billion in FY 1999—just about half the 1997 amount. To cut payments by an additional 15 percent would put our already struggling home agencies at risk and would seriously jeopardize access to critical home health services for millions of our nation's seniors.

It is now clear that the savings goals set for home health in the Balanced Budget Act of 1997 have not only been met, but far surpassed. According to the March 2000 Congressional Budget Office (CBO) baseline, Medicare home health payments fell by almost 35 percent in FY 1999, and this was on top of a 15 percent drop in FY 1998. In fact, the CBO cites this ''larger than anticipated reduction in the use of home health services'' as the primary reason that total Medicare spending dropped by one percent last year. The CBO now projects that the post-Balanced Budget Act reductions in home health will be about $69 billion between fiscal years 1998 and 2002. This is over four times the $16 billion that the CBO originally estimated for that time period and is a clear indication that the Medicare home health cutbacks have been far deeper and wide-reaching than Congress ever intended.

Moreover, the financial problems that home health agencies have experienced have been exacerbated by a number of burdensome new regulatory requirements imposed by the Health Care Financing Administration, including the implementation of OASIS, the new outcome and assessment information data set; new requirements for surety bonds; IPS overpayment recoupment; and a new 15-minute increment reporting requirement.

As a consequence of these payment cuts coupled with overly burdensome new regulatory requirements, cost-efficient home health agencies across the country have experienced acute financial difficulties and cash-flow problems, which have inhibited their ability to deliver much-needed care, particularly to the very Medicare beneficiaries who need it the most—individuals with diabetes, wound care patients, stroke patients, and other chronically ill individuals with complex care needs. Over 2,500 agencies—about one quarter of all home health agencies nationwide—have either closed or stopped serving Medicare patients. Others have laid off staff or declined to accept new patients with more serious health problems. In addition, according to a study by the Lewin Group for the American Hospital Association, these cutbacks have resulted in a 30.5 percent reduction in hospital-based home health services.

The effect of these home health cuts has been particularly devastating in my state. The number of Medicare home health patients in Maine dropped from 48,740 in June of 1998 to 41,269 in June of 1999, a decline of 15 percent. This means that 7,471 fewer Maine seniors are receiving home health services. Moreover, there was a 30 percent drop in the number of visits, and a 26 percent cut in Medicare payments to home health agencies in Maine.

Keep in mind that Maine's home health agencies have historically been prudent in their use of resources and were low-cost to begin with. Ultimately, cuts of this magnitude degrade patient care. The real losers in this situation are our nation's seniors—particularly those sicker Medicare patients with complex, chronic care needs who are already experiencing difficulty in getting the home care services they need.

The Balanced Budget Refinement Act did provide a small measure of financial and regulatory relief for home health agencies. It did, for example, delay the automatic 15 percent reduction in Medicare home health payments for one year. I do not think that

this legislation went far enough, however: this automatic reduction should be eliminated entirely.

An additional 15 percent cut in Medicare home health payments would ring the death knell for the low-cost, efficient agencies which are currently struggling to hang on and would further reduce our seniors' access to critical home care services. Moreover, we have already far surpassed the savings targets set by the Balanced Budget Act. Further cuts are unnecessary. I therefore urge all of my colleagues to join with myself and Senators BOND, BAUCUS, JEFFORDS, REED, SANTORUM, ABRAHAM, MURRAY, COCHRAN, FEINSTEIN, HOLLINGS, MIKULSKI, BINGAMAN, MURKOWSKI, HUTCHISON, SCHUMER, TORRICELLI, EDWARDS, LEAHY, ENZI, LUGAR, CLELAND, HAGEL, SNOWE, BENNETT, GORTON, HUTCHINSON, HELMS, ALLARD, LINCOLN, DEWINE, CHAFEE, ASHCROFT, SPECTER, ROBERTS, BROWNBACK, and VOINOVICH in cosponsoring the Home Health Payment Fairness Act to eliminate this additional 15 percent cut in Medicare home health payments.

Mr. President, I hope my colleagues will join with me in providing much needed relief to America's home health agencies. Ultimately, if we don't act, the losers will be our senior citizens who depend so much on this important health care service.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Mr. President, I rise to compliment the Senator from Maine for this proposal. I am happy to join as a cosponsor of the legislation, as I have on previous efforts on her part to address the home health care issues.

I add my support to the legislation and compliment the Senator from Maine. I sincerely hope that as it moves forward with a variety of proposals before us, in the budget and elsewhere, to address Medicare issues we make sure we don't address those reform proposals without making sure our home health care programs are strong and of high quality.

I yield the floor.

Mr. BOND. Mr. President, I rise to join Senator COLLINS to offer a bill—the Medicare Home Health Payment Act—that will address the crisis in home health care.

The crisis is that far too many seniors and individuals with disabilities can't get the home health care they need. They either go without needed care, or are forced into a medical facility such as a nursing home. This is a travesty, because home health can serve an extremely valuable role—it helps seniors get needed medical care while retaining the comfort and dignity of living in their own home.

We have plenty of data that demonstrates the problem.

Over 2,000 agencies driven out of business or out of the Medicare program. In Missouri alone, over 100 of the 300 agencies that were around in 1997 are gone.

Independent studies that show that seniors and people with disabilities just can't get access to the home care they need—perhaps forcing them into nursing homes or other medical facilities.

Reports that home health agencies feel forced to refuse to care for seniors because they fear the Medicare reimbursements won't cover their costs.

Recent news from CBO that total Medicare home health spending has actually fallen by 45 percent in just two years—perhaps the largest reduction for a specific type of provider that we have ever seen in Medicare.

Of course, last year I was also talking about the home health crisis—and Senator COLLINS and I had a bill to address the issue then as well.

But I'm here to share bad news with my colleagues—Medicare home health is still in crisis.

While we did address home health in the Balanced Budget Refinement Act late last year—which helped—it didn't solve everything.

That's because all we did last year to the biggest threat that's out there for home health care providers—the 15-percent across-the-board cuts that are in addition to all of the other cuts made thus far—was postpone things.

What we did not do—except for one minor provision—is increase home health reimbursement rates. Keep in mind that we did provide relief in the form of increased payments for most other Medicare providers, like hospitals and nursing facilities.

So what we did is simply postpone further cuts in an already-devastated industry. That cannot be the end of the story.

So what should we do? Senator COLLINS and I—in the bill we are introducing today with 34 of our colleagues—propose to eliminate permanently the planned 15-percent home health cuts forever.

I think this initial show of support form my colleagues is tremendous—and I look forward to working with my colleagues to make sure this bill becomes law. The millions of Americans on Medicare—for whom the home health benefit is so important—deserve no less.

Mr. BAUCUS. Mr. President, I rise today to introduce the Home Health Payment Fairness Act. This bill will prevent a 15% cut to home health care agencies and allow them to continue their critical mission of caring for the chronically ill and the elderly.

During the first 15 years of the Medicare program, home health spending accounted for one to two percent of all Part A expenditures. In 1997, home health expenditures reached 14 percent of Part A payments. Congress needed to respond to this growth. And we did so in the Balanced Budget Act of 1997.

Congress decided to pay home health agencies under a Prospective Payment System. In the meantime, we established an interim payment system, or IPS, that would move agencies away from the old system.

Since then, home care agencies have undergone deep budget cuts. Recent CBO projections show that reductions in home health care will be about $69 billion between 1998 and 2002—over four times the original estimate for the same time period. Clearly, home health care agencies have had their budgets cut much more severely than Congress ever intended.

Congress has recognized the severity of the cuts and has twice postponed implementing the planned across-the-board 15% cut. Currently, the 15% cut is scheduled to take effect October 1, 2001.

So what does the legislation I am introducing do? Simply put, this bill takes the necessary step of not postponing the cut, but eliminating it altogether. The planned cut must be eliminated because we have achieved—in fact, far surpassed—the savings targets set by the Balanced Budget Act. Efficient home health agencies in Montana and across the country have experienced acute financial difficulties and cash flow problems, inhibiting their ability to deliver much needed care.

Over 2,500 home health agencies nationwide have closed or stopped serving Medicare patients, and, according to a study done by the Lewin Group for the American Hospital Association, these cutbacks have resulted in a 30.5 percent reduction in hospital-based home health services. Moreover, the Health Care Financing Administration estimates that 500,000 fewer home health patient received services in 1998 than in 1997 (the last year for which figures are available), which points to the most central and critical issue. The real losers in this situation are our seniors. Cuts of this magnitude simply cannot be sustained without ultimately affecting patient care.

While patient care across the nation will be impacted if the planned cuts are implemented, rural areas will be especially had hit. If the planned cuts are implemented, rural health care providers will be forced to find ways to further cut costs. Such cost-cutting measures could include closing branches or limiting services. This means that rural patients could face difficulties accessing quality health care. This is especially significant because a high percentage of seniors over the age of 65 live in rural areas; in Montana, that figure is 77%. Thus, any reduction in home health care will directly impact our nation's seniors.

Eliminating the 15% cut makes financial sense. If home health care budgets are cut further, costs will increase in other areas. If patients—especially in rural areas—are not receiving the care they need, they will turn to other resources, such as hospital emergency rooms, inpatient cares, and nursing homes. In the long run, this will be more expensive and less efficient. Above all, we must ensure that our nation's elderly and ill receive the care they need. We must not create a situation in which cash-strapped home

health agencies have strong incentives to limit- or even deny-care to the sickest.

This bill prevents such a scenario, while respecting Congress' original intention of reducing home health care spending, I think that most of us agree that our seniors and the ill deserve quality home health care. This is a common sense measure that will allow us to realize our original intention of reducing home health care spending, while at the same time protecting the right of our elderly and ill to quality care.

● Mr. JEFFORDS. Mr. President, I am here today to join in introducing the Home Health Payment Fairness Act of 2000. This important bill has been crafted to protect the Medicare home health services that our seniors depend upon. I want to recognize the leadership of Senators COLLINS, BOND, BAUCUS, REED, and the many others who are original cosponsors of this effort to protect access to home health services.

My own state of Vermont is a model for providing high-quality, comprehensive care with a low price tag. For most of the 1990's, the average Medicare expenditure for home health care in Vermont has been the lowest in the nation. Vermont's home care system was designed to efficiently meet the needs of frail and elderly citizens in our largely rural state, but it, like home care across the country, has been put under tremendous pressure.

Since the enactment of the Balanced Budget Act of 1997 (BBA) and imposition of the interim payment system (IPS), the Medicare home health benefit has been seriously eroded. The BBA failed to recognize how the new home health reimbursement would affect small, rural home health care providers. The IPS has caused such significant cash flow problems, that many agencies are struggling to make meet their payroll needs. Now, because of the BBA, agencies are facing the prospect of 15 % cut in Medicare funding in October of 2001. With providers already struggling to survive, any further cuts could spell disaster for low-cost, efficient providers, non-profit agencies, and patients.

That is why we are introducing the Home Health Payment Fairness Act to eliminate the 15% reduction. The original budget target for home health expenditures from the BBA has already been far exceeded. The Congressional Budget Office now estimates that the total home health cuts from BBA will total $69 billion in five years. That's more than four times what was originally estimated when BBA was passed.

The Balanced Budget Refinement Act of 1999 contained a provision requiring the Secretary of Health and Human Services to report to Congress in 2001 on whether the 15% reduction is still considered necessary. I think the answer is becoming more and more clear. We don't need it, and the Home Health Payment Fairness Act is designed to stop it.

Adequate home health care services cannot survive any further reductions. Seniors depend on the home health benefit offered by the Medicare program, and we must make sure it will be there for them. Once again, I want to thank all the cosponsors for giving this legislation such broad, bipartisan support. Our seniors are depending on that kind of support more than ever before.●

Mr. REED. Mr. President, I rise today to join Senator COLLINS, Senator BOND, Senator JEFFORDS and 32 others in introducing the Home Health Payment Fairness Act. The intent of this important legislation is quite simple—to eliminate the 15 percent reduction in home health payments that is scheduled to go into effect in October 2001. Last year, Senator JEFFORDS and I introduced a more broad home health bill, called the Preserve Access to Care in the Home, or PATCH Act, which among other things, would have eliminated this potentially devastating payment reduction. Although we were not able to get this provision included in the 1999 Balanced Budget Refinement Act (BBRA), we were successful in getting a delay in the implementation of this reduction. However, we must see to it that the 15 percent cut is eliminated—and I hope we can achieve that goal this year.

Over the past thirty years, there has been a tremendous shift in the location where health care is actually provided. Increasingly, older and sicker patients are able to receive care in the comfort of their own home, instead of a hospital or nursing home. This incredible change can be attributed to four primary causes: greater reliance on alternative care settings because of the growing cost of inpatient care; technological improvements that have enhanced the capacity to provide sophisticated medical treatments in the home setting; the growing aging population; and the increasing popularity of home- and community-based care as an alternative to the institutional care of a nursing home. Indeed, home health care is an integral part of the spectrum of long term care.

As a result, by the mid-1990's the average annual growth rate for Medicare home health spending was 5.3%. The 1997 Balanced Budget Act (BBA) sought to restrain the unbounded growth in outlays for this benefit. Originally, the Congressional Budget Office (CBO) anticipated that savings through changes in the benefit would total $16.1 billion over five years. In reality, we have saved a total of $19.7 billion in just two years, and are expected to reduce outlays by $69 billion over the five year period—four times what was originally projected. Not surprisingly, since the BBA's enactment, there has been a remarkable 48 percent decline in Medicare home health expenditures.

These dramatic reductions have all too often been borne on the backs of small, nonprofit home health agencies and the elderly and disabled beneficiaries they serve. Home health care agencies in my home state of Rhode Island have been especially hard hit by these changes. We have seen a significant decline in the number of beneficiaries served and access to care for more medically complex patients threatened by these cuts. These reductions have clearly had negative impact on patients who heavily rely on home health services. In one instance, a woman from Pawtucket, Rhode Island had to wait 112 days after being discharged from the hospital before getting home health services. In the wealthiest nation in the world, this kind of situation is simply unacceptable.

Mr. President, nationally, between 1997 and 1998, the number of Medicare beneficiaries receiving home health services has fallen 14 percent, while the total number of home health visits has fallen by 40 percent. We have seen a similar trend in Rhode Island, where over 3,000 fewer beneficiaries are receiving home health care—representing a decline of 16 percent—and the total number of visits has fallen 38 percent. These individuals are either being forced to turn to more expensive alternatives, such as institutional-based nursing homes and skilled nursing facilities for their care, or these individuals are simply going without care, which places an immeasurable burden on the family and friends of vulnerable beneficiaries.

I truly do not believe this is the path we want to remain on when it comes to home health care. In light of the impending ''senior boom'' that will be hitting our entitlement programs in a few short years, we should be doing what we can to preserve and strengthen the Medicare home health benefit. We can begin to do this by eliminating the 15 percent reduction in home health payments. By taking this step, we will alleviate an enormous burden that has been looming over financially strapped home health agencies and the frail and vulnerable Medicare beneficiaries who rely on these critical services.

I urge my colleagues to join us in enacting legislation that will repeal this unnecessary and inappropriate reduction. I look forward to working with Senator COLLINS, Senator JEFFORDS and my other colleagues on this critical issue.

By Mr. FRIST (for himself, Mr. JEFFORDS, Mr. GREGG, Mr. ENZI, Mr. HUTCHINSON, Ms. COLLINS, Mr. BROWNBACK, Mr. HAGEL, and Mr. SESSIONS):

S. 2366. A bill to amend the Public Health Service Act to revise and extend provisions relating to the Organ Procurement Transplantation Network; to the Committee on Health, Education, Labor, and Pensions.

THE ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK AMENDMENTS ACT OF 2000

● Mr. FRIST. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2366

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 ''Organ Procurement and Transplantation Network Amendments Act of 2000''.

SEC. 2. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

(a) IN GENERAL.—Section 372 of the Public Health Service Act (42 U.S.C. 274) is amended to read as follows:

''SEC. 372. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

''(a) ESTABLISHMENT OF NETWORK.—

''(1) IN GENERAL.—An Organ Procurement and Transplantation Network (in this section referred to as the 'Network' or the 'OPTN') is established as a private network and shall operate under this section.

''(2) REQUIREMENTS.—The Network shall—

''(A) in accordance with criteria developed under subsection (c)(1)(B), include as members of the Network qualified organ procurement organizations (as described in section 371(b)), transplant centers, and other entities that have a demonstrated interest in the fields of organ donation or transplantation (such members shall be referred to in this section as 'Network participants'); and

''(B) have a policy board (referred to in this section as the 'OPTN Board') that meets the requirements of subsection (b).

''(b) OPTN POLICY BOARD.—

''(1) COMPOSITION.—The OPTN Board shall be composed of not more than 36 voting members to be elected under paragraph (2) and 5 nonvoting, ex officio members appointed under paragraph (3).

''(2) ELECTED MEMBERS.—

''(A) IN GENERAL.—The voting members of the OPTN Board shall be elected by the members of the Network described in subsection (a)(2)(A), from among the nominees submitted under subparagraph (B), through a fair and open process.

''(B) NOMINATING COMMITTEE.—The nominating committee established under paragraph (5) shall, prior to each election of OPTN Board members under this paragraph, develop a list of nominees for such election. Such list shall reflect the diversity of Network members described in subsection (a)(2)(A), including factors such as program type and size and geographic location. Recommendations may be submitted to the nominating committee by the Secretary, the members of the Network described in subsection (a)(2)(A), or the general public.

''(C) QUALIFICATIONS.—The OPTN Board shall be composed of—

''(i) transplant surgeons and transplant physicians;

''(ii) representatives of qualified organ procurement organizations, transplant centers, voluntary health associations, or the general public, including patients awaiting a transplant or transplant recipients or individuals who have donated an organ, or the family members of such patients, recipients or donors; and

''(iii) individuals distinguished in the fields of ethics, basic, clinical and health services research, biostatistics, health care policy, or health care economics or financing.

''(D) REPRESENTATION REQUIREMENT.—The OPTN Board shall be structured to ensure that—

''(i) at least 50 but not more than 55 percent of the members elected under this paragraph are transplant surgeons and transplant physicians; and

''(ii) at least 20 but not more than 25 percent of the members elected under this paragraph are transplant candidates, transplant recipients, organ donors and family members of such individuals.

Nothing in this subparagraph shall be construed to preclude an individual voting member of the OPTN Board from being a representative described in each of clauses (i) and (iii) or (ii) and (iii) of subparagraph (C) so long as the limitation described in clause (i) of this subparagraph is complied with.

''(3) APPOINTED MEMBERS.—

''(A) IN GENERAL.—The Secretary shall appoint as ex officio, nonvoting members of the OPTN Board, 1 representative from each of the following:

''(i) The Health Resources and Services Administration.

''(ii) The National Institutes of Health.

''(iii) The Health Care Financing Administration.

''(iv) The Agency for Healthcare Research and Quality.

''(B) NETWORK ADMINISTRATOR.—The Network Administrator shall appoint an ex officio nonvoting member of the OPTN Board.

''(4) TERMS OF ELECTED MEMBERS.—

''(A) IN GENERAL.—Except as provided for in this paragraph, members of the OPTN Board elected under paragraph (2) shall serve for a term of 3 years and may be re-elected.

''(B) NEW MEMBERS.—To ensure the staggered rotation of ⅓ of the elected members of the OPTN Board each year, the initial members of the OPTN Board elected under paragraph (2) shall serve for terms of 1, 2, or 3 years respectively as designated by the nominating committee.

''(C) TRANSITION.—Consistent with subsection (c)(3), the voting members of the OPTN Board who are serving on the date of enactment of the Organ Procurement and Transplantation Network Amendments Act of 2000 may continue to serve until the expiration of their terms. Upon such termination, the nominating committee, in submitting nominations to fill such vacancies, shall ensure the staggered rotation of ⅓ of the members elected under paragraph (2) every 3 years.

''(D) CONTRACT STATUS.—A change in the status of a contract under subsection (f), or a change in the contractor, shall not affect the terms of the members of the OPTN Board.

''(5) CHAIRPERSON AND COMMITTEES.—The OPTN Board shall have a chairperson, an executive committee, a nominating committee, a membership committee, and such other committees as the OPTN Board determines to be appropriate.

''(c) GENERAL FUNCTIONS OF THE OPTN BOARD.—

''(1) ESTABLISHMENT OF NETWORK POLICIES AND CRITERIA.—The OPTN Board shall—

''(A) after consultation with Network participants and the Network Administrator, establish and carry out the policies and functions described in this section for the Network;

''(B) establish membership criteria for participating in the Network;

''(C) establish medical criteria for allocating organs and for listing and de-listing patients on the national lists maintained under paragraph (2); and

''(D) establish performance criteria for transplant programs.

''(2) NATIONAL SYSTEM.—The OPTN Board shall maintain a national system to match organs and individuals who need organ transplants. The national system shall—

''(A) have 1 or more lists of individuals who are in need of organ transplants; and

''(B) be operated in accordance with Network policies and criteria established under paragraph (1).

''(3) NO FIDUCIARY RESPONSIBILITY.—The OPTN Board shall have no voting member who has any fiduciary responsibility to the entity that holds the contract provided for under this section.

''(4) OPTN BOARD REQUIREMENTS.—The OPTN Board shall cooperate with the Network Administrator to ensure compliance with the requirements of this section including the contract entered into under subsection (f).

''(d) ORGAN TRANSPLANT POLICY.—The OPTN Board shall establish organ transplant policies, including organ allocation policies for potential organ recipients and policies that affect patient outcomes. Such policies shall—

''(1) be based on sound medical principles;

''(2) be based on valid scientific data;

''(3) be equitable;

''(4) seek to achieve the best use of donated organs;

''(5) be designed to avoid wasting organs, to avoid futile transplants and reduce the risk of retransplantation, to promote patient access to transplantation, and to promote the efficient management of organ placement;

''(6) be specific for each organ type or combination of organ types;

''(7) be based on standardized medical criteria for listing and de-listing candidates from organ transplant waiting lists;

''(8) determine priority rankings (within categories as appropriate) for candidates who are medically suitable for transplantation, such rankings shall be based on standardized medical criteria and ordered according to medical urgency and medical appropriateness;

''(9) seek distribution of organs as appropriate based on paragraphs (1) through (8);

''(10) develop and apply appropriate performance indicators, including patient-focused indicators, to assess transplant program performance and reduce inter-transplant program variance to improve program performance; and

''(11) seek to reduce disparities in transplantation resulting from socioeconomic status, race, ethnicity, or being medically underserved.

''(e) ENFORCEMENT OF ORGAN TRANSPLANT POLICY.—

''(1) IN GENERAL.—

''(A) PROPOSED POLICY.—This paragraph shall apply to any proposed transplant policy that is developed by the OPTN Board that the Board or the Secretary determines should be enforced under this section or under section 1138 of the Social Security Act.

''(B) SUBMISSION OF POLICY.—Not later than 60 days prior to the implementation of a proposed policy described in subparagraph (A), the OPTN Board shall submit such proposed policy to the Secretary.

''(C) PUBLICATION.—Upon receipt of a proposed policy under subparagraph (B), the Secretary shall publish the policy in the Federal Register for a 60-day public comment period.

''(D) ACTION BY SECRETARY.—Not later than 90 days after receipt of a proposed policy under subparagraph (B), the Secretary shall consider public comments received under subparagraph (C) and shall—

''(i) notify the OPTN Board that the policy is consistent with this section and therefore enforceable; or

''(ii) notify the OPTN Board that the policy is inconsistent with this section and direct the Board to reconsider and revise the policy consistent with the recommendations of the Secretary.

''(E) RECONSIDERATION.—

''(i) IN GENERAL.—Not later than 30 days after receiving a notice from the Secretary under subparagraph (D)(ii), the OPTN Board

shall reaffirm the proposed policy or revise and submit such revised policy to the Secretary.

''(ii) ACTION BY SECRETARY.—Not later than 30 days after receiving a revised policy under clause (i), the Secretary shall—

''(I) notify the OPTN Board that the revised policy is consistent with this section and therefore enforceable; or

''(II) notify the OPTN Board that the revised policy is inconsistent with this section and submit the revised policy, with the comments and proposed revisions of the Secretary, to the Scientific Advisory Committee on Organ Transplantation (referred to in this subsection as the 'Committee') established under paragraph (2).

''(iii) ACTION BY COMMITTEE.—Not later than 30 days after the submission of a revised policy to the Committee under clause (ii), the Committee may, by a majority vote, disapprove the comments or revision of the Secretary. If the Committee disapproves such comments or revisions, the revised policy shall not take effect until a majority of the Committee approves the policy or the revisions to such policy.

''(2) SCIENTIFIC ADVISORY COMMITTEE ON ORGAN TRANSPLANTATION.—

''(A) ESTABLISHMENT.—The Secretary shall establish an advisory committee to be known as the Scientific Advisory Committee on Organ Transplantation. Consistent with the requirements of sections 5 and 10 of the Federal Advisory Committee Act—

''(i) the deliberations of the Committee shall not be inappropriately influenced by the Secretary or by any special interest and shall only be the result of the independent judgment of the Committee; and

''(ii) the meetings of the Committee shall be open to the public, advance notice of meetings shall be published in the Federal Register, and records or minutes of meetings shall be made available to the public.

''(B) DUTIES.—The Committee shall make recommendations with respect to policy matters related to reviews conducted under paragraph (1)(E)(ii)(II).

''(C) MEMBERSHIP.—The Committee shall be composed of 15 members, of which—

''(i) five members shall be appointed by the Secretary from nominations submitted by the OPTN Board under subparagraph (D);

''(ii) five members shall be appointed by the Secretary from nominations submitted by the Institute of Medicine under subparagraph (D); and

''(iii) five members shall be appointed by the Secretary.

''(D) NOMINATIONS.—The OPTN Board and the Institute of Medicine shall each nominate, in an independent manner, 5 qualified individuals to serve on the Committee.

''(E) QUALIFICATIONS.—In appointing individuals to serve on the Committee under subparagraph (C), the Secretary shall ensure that—

''(i) nine members are transplant physicians or transplant surgeons of whom—

''(I) 3 shall be selected from the nominations submitted by the OPTN Board; and

''(II) 3 shall be selected from the nominations submitted by the Institute of Medicine; and

''(ii) the remaining members are individuals who are—

''(I) distinguished in the fields of ethics, basic, clinical or health services research, biostatistics, or health care policy, economics or financing; or

''(II) transplant candidates, transplant recipients, organ donors or family members of such individuals.

''(F) EXPERTS.—The Committee shall seek advice from appropriate experts, as needed, to evaluate the proposed policy and revisions under review.

''(G) CHAIRPERSON.—The members of the Committee shall elect a member to serve as the chairperson of the Committee.

''(H) TERMS.—Members of the Committee shall serve for a term of 5 years. Vacancies shall be filled in the same manner as the original appointment was made.

''(f) NETWORK ADMINISTRATION AND OPERATION.—The Secretary shall contract with a nonprofit private entity (referred to in this section as the 'Network Administrator') for the administration and operation of the Network. The Network Administrator shall administer and operate the OPTN Board in accordance with subsection (b). The Network Administrator shall, pursuant to the policies and criteria established by the OPTN Board—

''(1) maintain and operate a national system as established by the OPTN Board to match organs and individuals who need organ transplants;

''(2) operate in accordance with medical criteria established by the OPTN Board, and administer the national system established under subsection (c)(2);

''(3) maintain 1 or more lists of individuals who need organ transplants as provided for under subsection (c)(2)(A);

''(4) maintain a 24-hour communication service to facilitate matching organs with individuals included on the list or lists;

''(5) assist organ procurement organizations in obtaining and distributing organs in accordance with the policies established by the OPTN Board;

''(6) adopt and use standards of quality for the acquisition and transportation of donated organs, including standards regarding the transmission of infectious diseases;

''(7) prepare and distribute, on a regionalized basis (and, to the extent practicable, among regions or on a national basis), samples of blood sera from individuals who are included on the list in order to facilitate matching the compatibility of such individuals with organ donors;

''(8) coordinate, as appropriate, the transportation of organs from organ procurement organizations to transplant centers;

''(9) provide information to physicians, health care professionals, and the general public regarding organ donation;

''(10) carry out studies and demonstration projects for the purpose of improving procedures for organ procurement and allocation; and

''(11) work actively with organ procurement organizations, transplant centers, health care providers, and the public to increase the supply of donated organs.

''(g) DATA COLLECTION, ANALYSIS AND DISTRIBUTION.—

''(1) IN GENERAL.—The Network Administrator shall analyze, maintain, verify, make available and publish timely data to the extent necessary to—

''(A) enable the OPTN Board to fulfill its responsibilities under this section;

''(B) assess the compliance of members of the Network with performance and other criteria developed pursuant to subsection (c)(1);

''(C) evaluate the quality of care provided to transplant candidates and patients generally and in an individual program;

''(D) provide data needed by the Scientific Registry maintained pursuant to section 373;

''(E) provide transplant candidates and patients, physicians and others with information needed to evaluate or select a transplant program;

''(F) provide a member of the Network with data about the member, including results of analysis or other processing of data originally supplied by the member;

''(G) enable the OPTN Board, the Network Administrator and the Secretary to fulfill respective enforcement and oversight responsibilities under subsections (j) and (k); and

''(H) comply with the requirements under subsection (l).

''(2) TYPES OF DATA.—Data provided under paragraph (1) shall include—

''(A) data on transplant candidates, transplant recipients, organ donors, donated organs, and transplant programs; and

''(B) as appropriate, data, graft- and patient-survival rates (actual and adjusted to reflect program-specific population disease severity), program specific data, and aggregate data.

''(h) CONTRACT.—The contract under subsection (f) shall—

''(1) be awarded through a process of competitive bidding as determined by the Secretary; and

''(2) be awarded for a period of no longer than 5 years.

''(i) NETWORK MEMBERSHIP AND PATIENT REGISTRATION FEE.—

''(1) IN GENERAL.—The Network Administrator may assess a fee, to be collected by the Network Administrator, for membership in the Network (to be known as the 'Network membership fee'), and for the listing of each potential transplant recipient on the national organ matching system maintained by the Network Administrator (to be known as the 'patient registration fee'), in an amount determined under paragraph (2).

''(2) AMOUNT.—The amounts of the fees to be assessed under paragraph (1) shall be calculated so as to be—

''(A) reasonable and customary; and

''(B) sufficient to cover the Network's reasonable costs of operation in accordance with this section.

''(3) ANNUAL RECALCULATION.—

''(A) IN GENERAL.—The fees calculated under paragraph (2) shall be annually recalculated, based on—

''(i) changes in the level or cost of contract tasks and other activities related to organ procurement and transplantation; and

''(ii) changes in expected revenues from contract funds, Network membership fees and patient registration fees available to the Network Administrator.

''(B) PROCEDURE.—

''(i) PROPOSAL.—The Network Administrator shall submit to the Secretary a written proposal for, and justification of, a recalculated fee under subparagraph (A).

''(ii) DETERMINATION.—The proposal of the Network Administrator for a recalculated fee under clause (i) shall take effect unless the Secretary, within 60 days of receiving the proposal, provides the Network Administrator with a written determination, with justification, that the proposed fee level does not meet the requirement of subparagraph (A).

''(4) USE OF FEES.—

''(A) IN GENERAL.—All fees collected by the Network Administrator under this subsection shall be available to the Network, without fiscal year limitation, for use in carrying out the functions described in subsection (f).

''(B) RESTRICTION.—Fees collected under this subsection may not be used for any activity for which contract funds may not be used under this section.

''(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as prohibiting the Network Administrator from collecting or accepting other fees, donations or gifts or for using such other fees, donations or gifts to carry out activities other than those authorized under the contract under this section.

''(j) OVERSIGHT OF NETWORK PARTICIPANTS.—

''(1) MONITORING.—

''(A) IN GENERAL.—The OPTN Board and the Network Administrator shall, on an ongoing and periodic basis, or as requested by the Secretary, monitor the operations of Network participants to determine whether the participants are maintaining compliance with the criteria and policies established by the OPTN Board.

''(B) PROCEDURES.—

''(i) NOTICE.—In monitoring a Network participant under subparagraph (A), the OPTN Board or the Administrator—

''(I) shall inform the participant and the Secretary upon initiating a compliance review of a Network participant; and

''(II) shall inform the participant and the Secretary of any findings indicating noncompliance by the participant with such criteria and policies.

''(ii) APPEALS.—The Network Administrator shall establish procedures for appealing noncompliance determinations. Such procedures shall ensure due process and shall allow for corrective action.

''(2) PEER REVIEW PROCEEDINGS.—

''(A) IN GENERAL.—The OPTN Board shall establish a peer review system and conditions for the application of peer review requirements to ensure that members of the Network comply with policies and criteria established by the OPTN Board under this section. Such peer review system may include prospective reviews and shall be administered by the Network Administrator and overseen by the OPTN Board.

''(B) POLICIES, REVIEW AND EVALUATION.—As part of the peer review system established under subparagraph (A), the OPTN Board shall establish such policies, and the Network Administrator shall conduct such ongoing and periodic reviews and evaluations of members of the Network, as necessary to ensure compliance with the policies and criteria established by the OPTN Board under this section.

''(C) EMERGING ISSUES.—As part of such peer review system established under subparagraph (A), the OPTN Board shall establish policies to work with and direct the Network Administrator to respond to emerging issues and problems.

''(k) ENFORCEMENT.—

''(1) RECOMMENDATIONS.—The OPTN Board or the Network Administrator shall provide advice, and make recommendations for appropriate action, to the Secretary concerning the results of any reviews or evaluations that, in the opinion of the OPTN Board or the Network Administrator, indicate—

''(A) noncompliance by Network participants with—

''(i) the policies or criteria established by the OPTN Board; or

''(ii) the operating procedures of the Network Administrator; or

''(B) a risk to the health of organ transplant patients or to public safety.

''(2) ENFORCEMENT BY NETWORK.—

''(A) IN GENERAL.—If the OPTN Board determines that one of the members of the network has violated a requirement established by this section or by the Network, the OPTN Board may impose on the member 1 or more of the sanctions described in subparagraph (B), or may recommend that the Secretary take enforcement action under paragraph (3).

''(B) TYPES OF SANCTIONS.—The sanctions described in this subparagraph may include—

''(i) the loss of any or all privileges of membership in good standing in the Network;

''(ii) the imposition upon the member of additional or more frequent reviews or evaluations under subsection (j)(1)(A), and assessments of the reasonable costs of such additional or more frequent reviews or evaluations; and

''(iii) such other sanctions as the Secretary may permit the OPTN Board to impose.

''(3) ENFORCEMENT BY THE SECRETARY.—

''(A) IN GENERAL.—If the Secretary, after consultation with the OPTN Board or Network Administrator, determines that a member of the Network has violated a requirement established by this section or a requirement of a policy that is enforceable under subsection (f), the Secretary may impose on the member 1 or more of the sanctions described in subparagraph (B).

''(B) TYPES OF SANCTIONS.—The sanctions described in this subparagraph shall include—

''(i) requiring the member to follow a directed plan of correction;

''(ii) imposing upon the member a monetary assessment (to be paid to the General Fund of the Treasury) in an amount not to exceed $10,000 for each violation or for each day of violation;

''(iii) requiring the member to pay to the Network Administrator the costs of onsite monitoring of the member;

''(iv) the loss of any or all privileges of membership in the Network; and

''(v) in cases where the violation creates a risk to patient health or to public health, such other action as the Secretary determines to be necessary.

''(C) PROCEDURES.—The Secretary shall develop and implement procedures for the imposition of sanctions under clauses (i) through (v) of subparagraph (B). Such procedures shall include—

''(i) the provision of reasonable notice to the Network member and the OPTN Board that the Secretary is considering imposing a sanction;

''(ii) affording the member a reasonable opportunity to be heard in response to the notice;

''(iii) the provision of notice to the member that the Secretary has decided to impose a sanction; and

''(iv) the opportunity for the Network member to appeal such sanction.

''(l) ANNUAL REPORT.—

''(1) IN GENERAL.—Not later than September 30 of each year, the Network Administrator shall prepare and submit to the Secretary an annual report on the performance and policies of the Network. The report shall include additional items as specified in the contract under this section or requested in a timely manner by the Secretary.

''(2) REQUIREMENT OF OPTN BOARD APPROVAL.—The OPTN Board shall review and approve the report required under paragraph (1) prior to the submission of such report to the Secretary.

''(3) SUBMISSION TO CONGRESS.—

''(A) IN GENERAL.—Not later than December 31 of each year, the Secretary shall transmit the report submitted under paragraph (1) and the comments of the Secretary concerning such report, to the appropriate committees of Congress.

''(B) CLARIFYING INFORMATION.—The Secretary may, upon the receipt of the report under paragraph (1), but prior to transmission of the report to Congress under subparagraph (A), request that the Network Administrator submit clarifying information or an addenda as needed to fulfill the requirements of this subsection.

''(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2001 through 2005.''.

SEC. 3. SCIENTIFIC REGISTRY

Section 373 of the Public Health Service Act (42 U.S.C. 274a) is amended to read as follows:

''SEC. 373. SCIENTIFIC REGISTRY.

''The Secretary shall by contract, develop and maintain a scientific registry of the recipients of organ transplants. The registry shall include information, with respect to organ transplant patients and transplant procedures, as the Secretary determines to be necessary to an ongoing evaluation of the scientific and clinical status of organ transplantation.''.

SEC. 4. ORGAN DONATION.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended—

(1) by redesignating section 378 (42 U.S.C. 274g) as section 379; and

(2) by inserting after section 377 (42 U.S.C. 274f) the following:

''SEC. 378. ORGAN DONATION AND RESEARCH.

''(a) INTER-AGENCY TASK FORCE ON ORGAN DONATION AND RESEARCH.—

''(1) IN GENERAL.—The Secretary shall establish an inter-agency task force on organ donation and research (referred to in this section as the 'task force') to improve the coordination and evaluation of—

''(A) federally supported or conducted organ donation efforts and policies; and

''(B) federally supported or conducted basic, clinical and health services research (including research on preservation techniques and organ rejection and compatibility).

''(2) COMPOSITION.—The task force shall be composed of—

''(A) the Surgeon General, who shall serve as the chairperson;

''(B) representatives to be appointed by the Secretary from relevant agencies within the Department of Health and Human Services (including the Health Resources and Services Administration, Health Care Financing Administration, National Institutes of Health, and Agency for Healthcare Research and Quality);

''(C) a representative from the Department of Transportation;

''(D) a representative from the Department of Defense;

''(E) a representative from the Department of Veterans Affairs;

''(F) a representative from the Office of Personnel Management; and

''(G) representatives of other Federal agencies or departments as determined to be appropriate by the Secretary.

''(3) ANNUAL REPORT.—In addition to activities carried out under paragraph (1), the task force shall support the development of the annual report under subsection (d)(2).

''(4) TERMINATION.—The task force may be terminated at the discretion of the Secretary following the completion of at least 2 annual reports under subsection (d). Upon such termination, the Secretary shall provide for the on-going coordination of federally supported or conducted organ donation and research activities.

''(b) EDUCATION.—

''(1) PUBLIC EDUCATION AND AWARENESS.—The Secretary shall, directly or through grants or contracts, carry out a comprehensive and effective national public education program to increase organ donation, including living donation.

''(2) DEVELOPMENT OF CURRICULA AND OTHER EDUCATION ACTIVITIES.—

''(A) IN GENERAL.—The Secretary shall support the development and dissemination of model curricula to train health care professionals and other appropriate professionals (including religious leaders in the community and law enforcement officials) in issues surrounding organ donation, including methods to approach patients and their families, cultural sensitivities, and other relevant issues.

''(B) HEALTH CARE PROFESSIONALS.—For purposes of subparagraph (A), the term 'health care professionals' includes—

''(i) medical students, residents and fellows, attending physicians (through continuing medical education courses and other methods), nurses, social workers, and other allied health professionals; and

''(ii) hospital- or other health care-facility based chaplains; and

''(iii) emergency medical personnel.

''(c) GRANTS.—The Secretary shall award peer-reviewed grants to public and non-profit private entities, including States, to carry out studies and demonstration projects to increase organ donation rates, including living donation. The Secretary shall ensure that activities carried out by grantees under this subsection are evaluated for effectiveness and that such findings are disseminated.

''(d) REPORTS.—

''(1) IOM REPORT ON BEST PRACTICES.—

''(A) IN GENERAL.—The Secretary shall enter into a contract with the Institute of Medicine to conduct an evaluation of the organ donation practices of organ procurement organizations, States, other countries, and other appropriate organizations that have achieved a higher than average organ donation rate.

''(B) BARRIERS.—In conducting the evaluation under subparagraph (A), the Institute of Medicine shall examine existing barriers to organ donation.

''(C) REPORT.—Not later than 18 months after the date of enactment of this section, the Institute of Medicine shall submit to the Secretary a report concerning the evaluation conducted under this paragraph. Such report shall include recommendations for administrative actions and, if necessary, legislation in order to replicate the best practices identified in the evaluation and to otherwise increase organ donation and procurement rates.

''(2) ANNUAL REPORT ON DONATION.—

''(A) IN GENERAL.—Not later than 1 year after the date on which the report is submitted under paragraph (1)(C), and annually thereafter, the Secretary shall prepare and submit to Congress a report concerning federally supported or conducted organ donation and procurement activities, including donation and procurement activities evaluated or conducted under subsection (a) to increase organ donation.

''(B) REQUIREMENTS.—To the extent practicable, each annual report under subparagraph (A) shall—

''(i) evaluate the effectiveness of activities, identify best practices, and make recommendations regarding broader adoption of best practices with respect to organ donation and procurement;

''(ii) assess organ donation and procurement activities that are recently completed, current or planned.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $15,000,000 for fiscal year 2001, and such sums as may be necessary for each of fiscal years 2002 through 2005.''.●

By Mr. ABRAHAM (for himself, Mr. KENNEDY, Mr. LEAHY, Mr. DEWINE, Mr. JEFFORDS, Mr. AKAKA, Mr. GRAHAM, and Mr. INOUYE):

S. 2367. A bill to amend the Immigration and Nationality Act to make improvements to, and permanently authorize, the visa waiver pilot program under the Act; to the Committee on the Judiciary.

TRAVEL, TOURISM, AND JOBS PRESERVATION ACT

Mr. ABRAHAM. Mr. President, I rise today to introduce the Travel, Tourism, and Jobs Preservation Act. This bill makes the Visa Waiver Pilot Program permanent and strengthens the documentation and reporting requirements established under the pilot program.

This legislation is important not only because it facilitates travel and tourism in the United States, thereby creating many American jobs, but also because it benefits American tourists who wish to travel abroad, since visa requirements are generally waived on a reciprocal basis.

The Visa Waiver Pilot Program authorizes the Attorney General to waive visa requirements for foreign nationals traveling from certain designated countries as temporary visitors for business or pleasure. Aliens from the participating countries complete an admission form prior to arrival and are admitted to stay for up to 90 days.

The criteria for being designated as a Visa Waiver country are as follows: First, the country must extend reciprocal visa-free travel for U.S. citizens. Second, they must have a non-immigrant refusal rate for B–1/B–2 visitor visas at U.S. consulates that is low, averaging less than 2 percent the previous two full fiscal years, with the refusal rate less than 2.5 percent in either year, or less than 3 percent the previous full fiscal year. Third, the countries must have or be in the process of developing a machine-readable passport program. Finally, the Attorney General must conclude that entry into the Visa Waiver Pilot Program will not compromise U.S. law enforcement interests.

Countries are designated by the Attorney General in consultation with the Secretary of State. Nations currently designated as Visa Waiver participants are Andorra, Argentina, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, United Kingdom, and Uruguay. Greece has been proposed for participation in the program.

The Visa Waiver Pilot Program was established by law in 1986 and became effective in 1988, with 8 countries participating for a period of three years. The program has been considered successful and as such has been expanded to include 29 participating countries. Since 1986, Visa Waiver has been reauthorized on 6 different occasions for periods of one, two, or three years at a time.

The time has come to make the Visa Waiver Pilot Program permanent, and, in the process, to strengthen further current requirements. Its status is no longer truly experimental. No serious disagreement exists that the program should continue in place for the foreseeable future, and no significant problems have been raised with the fundamentals of how it has been operating for the past 14 years. To the contrary, failure to continue the program would cause enormous staffing problems at U.S. consulates, which would have to be suddenly increased substantially to resume issuance of visitor visas. It would also be extremely detrimental to American travelers, who would most certainly find that, given reciprocity, they now would be compelled to obtain visas to travel to Europe and elsewhere. Finally, there are costs to continuing to reauthorize the program on a short-term rather than a permanent basis, as it periodically creates considerable uncertainty in the United States and around the world about what documents travelers planning their foreign travel have to obtain.

Accordingly, I am today introducing the Travel, Tourism, and Jobs Preservation Act. This legislation eliminates the need for frequent extensions of Visa Waiver by making the program permanent. I am pleased to see that the House bill on Visa Waiver also makes the program permanent. Second, the current requirement that countries be in the process of developing a program for issuing machine-readable passports will be replaced with a stricter requirement that all countries in the program as of May 1, 2000 certify by October 1, 2001 that they will have an operational machine-readable passport program by 2003 and that new countries have a machine-readable passport program in place before becoming eligible for designation as a Visa Waiver country. The bill also establishes a deadline of October 1, 2008 by which time all travelers must have machine-readable passports to come to the United States under Visa Waiver. The judgment of everyone involved in these issues is that the technology is now sufficient that it is time for everyone to move from the concept and planning to the prompt implementation of these requirements.

Finally, under the Travel, Tourism, and Jobs Preservation Act, the Attorney General must submit a written report at least once every five years evaluating ''the effect of each program country's continued designation on the law enforcement and national security interests of the United States.'' This will ensure that the operation of the program is periodically reviewed. I should note that under current law the Attorney General, in consultation with the Secretary of State, may for any reason (including national security) refrain from waiving the visa requirement in respect to nationals of any country which may otherwise qualify for designation or may, at any time, rescind any waiver or designation previously granted'' under Visa Waiver.

I think the additions in the bill strengthen the program while preserving the significant job creation benefits Americans gain from the Visa

Waiver program. International travel generates $95 billion in expenditures and created one million U.S. jobs last year, according to the Travel Industry Association of America. An estimated half of all visitors to the United States enter the country under Visa Waiver.

I would like to thank my cosponsors Senators KENNEDY, LEAHY, DEWINE, JEFFORDS, AKAKA, GRAHAM, and INOUYE for supporting this important legislation.

ADDITIONAL COSPONSORS

S. 510

At the request of Mr. CAMPBELL, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 510, a bill to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands.

S. 577

At the request of Mr. HATCH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 577, a bill to provide for injunctive relief in Federal district court to enforce State laws relating to the interstate transportation of intoxicating liquor.

S. 670

At the request of Mr. JEFFORDS, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 670, a bill to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualifying placement agencies, and for other purposes.

S. 867

At the request of Mr. ROTH, the name of the Senator from Rhode Island (Mr. L. CHAFEE) was added as a cosponsor of S. 867, a bill to designate a portion of the Arctic National Wildlife Refuge as wilderness.

S. 1419

At the request of Mr. MCCAIN, the names of the Senator from New Hampshire (Mr. SMITH), the Senator from Indiana (Mr. LUGAR), and the Senator from Georgia (Mr. COVERDELL) were added as cosponsors of S. 1419, a bill to amend title 36, United States Code, to designate May as ''National Military Appreciation Month.''

S. 1810

At the request of Mrs. MURRAY, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1810, a bill to amend title 38, United States Code, to clarify and improve veterans' claims and appellate procedures.

S. 1898

At the request of Mr. DORGAN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1898, a bill to provide protection against the risks to the public that are inherent in the interstate transportation of violent prisoners.

S. 1921

At the request of Mr. CAMPBELL, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 1921, a bill to authorize the placement within the site of the Vietnam Veterans Memorial of a plaque to honor Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service.

S. 1957

At the request of Mr. SCHUMER, the names of the Senator from Connecticut (Mr. DODD), the Senator from New York (Mr. MOYNIHAN), and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 1957, a bill to provide for the payment of compensation to the families of the Federal employees who were killed in the crash of a United States Air Force CT–43A aircraft on April 3, 1996, near Dubrovnik, Croatia, carrying Secretary of Commerce Ronald H. Brown and 34 others.

S. 1988

At the request of Mr. DASCHLE, the names of the Senator from Illinois (Mr. FITZGERALD) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1988, a bill to reform the State inspection of meat and poultry in the United States, and for other purposes.

S. 2004

At the request of Mrs. MURRAY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2004, a bill to amend title 49 of the United States Code to expand State authority with respect to pipeline safety, to establish new Federal requirements to improve pipeline safety, to authorize appropriations under chapter 601 of that title for fiscal years 2001 through 2005, and for other purposes.

S. 2021

At the request of Mr. BROWNBACK, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 2021, a bill to prohibit high school and college sports gambling in all States including States where such gambling was permitted prior to 1991.

S. 2078

At the request of Mr. BUNNING, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 2078, a bill to authorize the President to award a gold medal on behalf of Congress to Muhammad Ali in recognition of his outstanding athletic accomplishments and enduring contributions to humanity, and for other purposes.

S. 2107

At the request of Mr. GRAMM, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2107, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes.

S. 2183

At the request of Mr. CRAPO, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2183, a bill to ensure the availability of spectrum to amateur radio operators.

S. 2277

At the request of Mr. ROTH, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. 2277, a bill to terminate the application of title IV of the Trade Act of 1974 with respect to the People's Republic of China.

S. 2308

At the request of Mr. MOYNIHAN, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2308, a bill to amend title XIX of the Social Security Act to assure preservation of safety net hospitals through maintenance of the Medicaid disproportionate share hospital program.

S. 2314

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2314, a bill for the relief of Elian Gonzalez and other family members.

S. 2323

At the request of Mr. MCCONNELL, the names of the Senator from Ohio (Mr. DEWINE), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Tennessee (Mr. FRIST) were added as cosponsors of S. 2323, a bill to amend the Fair Labor Standards Act of 1938 to clarify the treatment of stock options under the Act.

S. 2344

At the request of Mr. BROWNBACK, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 2344, a bill to amend the Internal Revenue Code of 1986 to treat payments under the Conservation Reserve Program as rentals from real estate.

S. CON. RES. 32

At the request of Mr. CONRAD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Con. Res. 32, a concurrent resolution expressing the sense of Congress regarding the guaranteed coverage of chiropractic services under the Medicare+Choice program.

S. CON. RES. 54

At the request of Mrs. BOXER, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. Con. Res. 54, a concurrent resolution expressing the sense of Congress that the Auschwitz-Birkenau state museum in Poland should release seven paintings by Auschwitz survivor Dina Babbitt made while she was imprisoned