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BIPARTISAN PATIENT PROTECTION ACT

(Continued)

Who are jurors? Jurors are our neighbors, our voters. They are the American people. Trust them. When it comes to understanding what it costs to be deprived of a full and healthy life, jurors know what it means. They have more wisdom than lawyers, than doctors, and I dare say than Members of Congress.

Mr. STARK. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Chairman, I was listening to my colleagues on the other side of the aisle talk about what this bill does. The Ganske-Dingell bill provides real patient protection, whether it is access to emergency care, specialists, whether it is primary care.

The Norwood amendment takes away those rights because there is no enforcement. There is no reason why HMOs will provide these particular protections. It is the opponents of the Ganske-Dingell bill that are telling Members that this Norwood amendment will perfect it.

What it does is take away the protections in the underlying bill. We should reject the Norwood amendment.

Mr. STARK. Mr. Chairman, I yield 45 seconds to the gentleman from Wisconsin (Mr. KIND).

(Mr. KIND asked and was given permission to revise and extend his remarks.)

Mr. KIND. Mr. Chairman, the debate today is not about the technicalities of a complicated piece of legislation: who has the rebuttal presumption, what the standard of care should be, whether patients are going to be suing in Federal court for this issue or State court for that.

This issue boils down to one simple proposition. If someone is in the business of making medical decisions that affect the health, welfare and lives of patients, that individual should be held to the same standard of responsibility as anyone else involved in that process, period. No exceptions. No carve-outs. No special treatments based on political contributions made in this place. That is what is at stake at the end of today's debate.

Mr. Chairman, I urge my colleagues to reject the Norwood special treatment amendment and instead pass a fair Patients' Bill of Rights.

Mr. STARK. Mr. Chairman, I yield 30 seconds to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Chairman, here is what two law professors from New Jersey say:

''In preempting State law, the Norwood amendment goes beyond conduct that involves negligent medical judgment to a particular patient's case. The amendment may, by virtue of the words 'based on,' stipulate that State malpractice law does not apply to any treatment decision made by a managed care organization, whether it be negligent, reckless, willful or wanton.

''For example, no State cause of action can be maintained against a designated decision-maker for his decision to discharge a patient early from a hospital even if the likely result of that discharge would be the patient's death. In short, all forms of vicarious liability under State law would be preempted under the Norwood amendment.''

Mr. STARK. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I will conclude by saying that we are in a sad state of affairs when we have dentists writing law and lawyers practicing medicine, and Congressmen trying to run HMOs. I have a list of 704 organizations that support the original Ganske-Dingell bill without the poison pill amendments.

There is not a health care professional organization in this country that does not support this bill, and the dental organization of the gentleman from Georgia (Mr. NORWOOD) supports the original bill. Why should we vote against those people that give us medical care? Do we know better? Is there somebody in this audience who would tell me of any medical profession that does not support the original bill and oppose the Norwood amendment?

If we are going to legislate to protect patients, let us make sure that we do it right and support the original Ganske-Dingell bill.

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Ganske-Dingell bill would subject employers and unions, including many small businesses that voluntarily provide health benefits to their employees, to new lawsuits with unlimited damages and no protection from frivolous lawsuits.

I think it is pretty clear that Americans want a Patients' Bill of Rights. I think they have made it very clear, as well, that they do not want unlimited lawsuits. Expanding liability for small employers and unions who voluntarily offer health plans is wrong-headed and dangerous, and in my view, will cause millions of Americans to lose their coverage.

Mr. Chairman, all of us who serve in this body come from different walks of life. We have doctors that serve in the House. They happen to be split on both sides of this particular issue. We have our share of lawyers that occupy this body as our colleagues, and we have lawyers on both sides of this particular issue.

In my own case, I come to the halls of Congress as a small business person, someone who has in fact hired people, someone who has had to run a business, and someone who offered a health plan to my employees. I can tell my colleagues, as I have said year after year, debate after debate on this particular subject that if the underlying bill were

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to pass as is and to become law, immediately I, as an employer, would eliminate the health benefits for my employees. Why? Because I would be subject to more increased litigation.

Every employer in America, and most of their employees as well, understand all of the litigation that is occurring in this country is causing prices to go up, and in many cases, causing businesses to go out of business.

One little lawsuit under that underlying bill that would be allowed could put under many, many small employers. Today, when new employers are the lifeblood of our economy, why would we want to increase the liability that we put on them?

Mr. Chairman, I think that we need to find a balanced approach, and I think the President, working with the gentleman from Georgia (Mr. NORWOOD), deserves an enormous amount of credit from all of us. The President put his prestige out on the line. He worked hard to come to some compromise that he would be willing to sign into law.

I am a little surprised at my colleagues across the aisle who have rejected the hand of the President over the last 6 months, and then today continue to reject the idea of trying to find some common ground and moving ahead.

What do they want to do? Do what we have done for the last 6 years, and we are going to get the same result. Nothing. I think the President deserves an awful lot of credit for ending the legislative gridlock on this issue. What do we have to fear? Nothing, because we are going to go to conference with the Senate which has a different bill. We have an opportunity to try to resolve the differences between the two bodies. That is the nature of our institution.

What we ought to do today is get behind the compromise bill that is going to be before us, support the Norwood amendment, support the bill on final passage, and let us work out our differences with the Senate. As we do, not only will Congress be winners, but more importantly, the American people will be great winners because they will have better access to health care, more patient protections; and regardless of which version of liability becomes law, they will have greater remedies in the law than they have today.

Even the amendment of the gentleman from Georgia (Mr. NORWOOD), which is being criticized here as being inadequate, goes far beyond what we have in law today. If Members want to help patients, why not accept his amendment? Give patients additional remedies and help them get the kind of quality health care that the American people want.

Ms. SOLIS. Mr. Chairman, this body has a chance to enact a real patient's bill of rights to protect people from the harmful decisions made by their health insurance plans.

All of us have heard from constituents who are fed up at being told by their health plans that they can't have access to the health care they need even through they pay their insurance premiums for this care in the first place!

So you would think all of us could agree that it's time to do something.

Instead, my Republican colleagues want to pass a bill that does nothing.

In fact, the bill supported by President Bush would roll back important patient protections already in place in my home state of California.

In California, we enacted a law that says to consumers—if your health plan interferes with the quality of the medical care you receive, you have a legal right to stop them through the courts.

If you are injured because your health insurance company delays or refuses you health care—you have a legal right to sue them through the courts.

It's just that simple.

But President Bush wants to take away my constituents' right to have protection from the bad decisions of their health insurance companies.

And he wants to call that managed care reform, I call it an HMO Protection Bill.

Well that's not right.

I urge my colleagues to reject any attempt to weaken the patient's bill of rights and to support real reform of health insurance companies.

Mrs. MCCARTHY of New York. Mr. Chairman, the last 24-hours of gameplaying with people's lives by the leadership has left a huge mark on the House of Representatives. I don't think our forefathers would be proud of the political games that have been played up here.

Let's look at the score of the game. This week, special interest groups have two wins, and the American people have zero.

Yesterday, with the Energy Bill, oil companies won.

Today, with the so-called Patient's Bill of Rights, insurance companies will win.

Under the House leadership deal on the so-called Patient's Bill of Rights, many of our constituents are going to have their health care needs compromised.

However, there are a few good things about the bill. Language that I've been working on to protect health care workers is included. I spent 30 years as a nurse, and I speak from experience.

When a health care worker blows the whistle on workplace abuses, they shouldn't have to fear retaliation,

For example, a nurse might be tempted to remain silent when they see a patient's quality of care being compromised.

Nurses should feel 100 percent confident that they can come forward without facing retaliation from their employer. No one should feel that their job is in jeopardy because they speak up for patient safety.

Also, my language ensuring hospitals get paid on time by HMOs is included.

Not only have HMOs been neglecting patient care, but they are also well-practiced in their denial and delay of payments to hospitals, medical group practices, doctors and other health care professionals.

Health care providers shouldn't be stuck in the middle for a bitter struggle between quality patient care and insurance company regulations.

But despite these good provisions, it's clear that special interests are the real winners in this deal.

How many more examples of special interest control must this esteemed body suffer through before doing something to change it?

I'm sure of one thing—we need campaign finance reform to get the special interests out of Congress.

Oppose the Norwood amendment.

Support the Ganske-Dingell bill. It puts patients' interests before special interests.

Ms. KILPATRICK. Mr. Chairman, I rise today to speak in favor of Representative GANSKE's Bipartisan Patients' Bill of Rights and to oppose the amendment substitute being offered. When we started this debate several years ago, we were trying to find a way to protect patients and help them to receive access to quality health care. Somehow we have strayed from our original purpose and have started trying to protect HMO's. There is something wrong with this picture.

The people of this country want security in knowing that the health care they receive is based on sound practice, not on an employer's or health care plan's bottom line. The people of this country deserve to have this assurance. I question whether or not those who oppose the Ganske bill would want for their families to face what so many of our constituents face everyday—uphill battles against HMO's in an attempt to receive the treatment their doctor has prescribed for them.

Several of my colleagues plan to offer amendments to the Ganske bill that will remove the very essence of the Patients' Bill of Rights. The amendments they plan to propose are being touted as ones that will make this a true compromise bill. It is not compromise in my eyes. If these amendments pass, the name of the bill will remain the same, but the substance of the bill will be worthless.

There are three ''poison pill amendments.'' The amendments being offered on the floor today will cost the American people millions of dollars. The underlying bill, as introduced by Representative GANSKE, includes ways to pay for the costs of this bill. The alternative plan does not pay for these costs. We are talking about costs that total over $20 million. Where is this money going to come from? Shall we just continue drawing down on the Medicare and Social Security Trust Funds?

The amendments being offered to this bill will also supersede the rights of the states. Thirty nine states, including Michigan, already have their own tort laws that work and work well. Under the alternative being offered, federal law will prevail. It will even preempt state remedies previously provided by the Supreme Court. In states that have no damage caps, they would be forced to accept the damage limitations provided by the alternative.

Under Representative GANSKE's bill, individuals have the right to have their case reviewed by an external review board. This makes sense. However, the alternative plan makes it almost impossible for a patient to prove his or her case in court. A patient must demonstrate the decision of the external review entity was completely unreasonable. It would not matter if the external reviewers were not familiar with the latest medical evidence, or if the reviewers did not consider all the facts of the patient's case. This review process is a medical one. It is vital that a patient have access to this review process, but it does not provide the due process protections that a court does. Patients should have access to the courts. To do otherwise is just

one more attempt to protect HMO's and insurers at the expense of patients.

I ask my colleagues to carefully consider the amendments and the final bill that we are being asked to vote on today. Vote against the ''poison pill amendments'' and support a true Patients' Bill of Rights. Make HMO's accountable for their actions, just as we hold doctors and hospitals accountable. Vote yes for Representative GANSKE's bill, a bill that will protect patients, not HMO's and the insurance industry.

Ms. BERKLEY. Mr. Chairman, I rise today in support of H.R. 2563, the Bipartisan Patient Protection Act.

This bill is important because it provides direct access to necessary medical care without administrative barriers for our nation's citizens. It allows doctors, not bureaucrats to make medical decisions.

The time has come in America to give doctors the right to make decisions about what kind of treatments their patients receive, how long they stay in the hospital, what type of care is given.

This bill will provide our constituents with the kind of medical care they need, when they need it and they won't have to jump through hoops to get it.

This legislation is long overdue. Let's do the right thing and pass this bill.

Mrs. MINK of Hawaii. Mr. Chairman, I rise today deeply disappointed in the total sellout of a meaningful patients' bill of rights.

For years, a bipartisan coalition of lawmakers have been working together to reform the managed care industry and develop a genuine patients' bill of rights.

A growing number of Americans get their health insurance through managed care plans. Although these plans enable many employers to provide affordable, high quality health benefits, various groups and individuals have expressed frustration with HMO's denial of necessary services and lack of an appeals process. A strong patients' bill of rights puts medical decision making back into the hands of doctors and patients and holds managed care plans accountable for failure to allow needed health care.

Today we are confronted by a compromise reached between Representative NORWOOD and the President, which no longer protects patients' health care rights.

A patients' bill of rights must allow a patient to sue their health plan for any injuries they receive if they were denied proper medical care. Of course, the lawsuit could only occur after an independent medical reviewer considers the patient's medical condition along with the most up-to-date medical knowledge and apply it to the individual's specific case.

A patients' bill of rights must close the loophole that allows HMOs to be the only industry that is protected from lawsuits.

But the agreement reached between President Bush and Representative NORWOOD does neither of these things.

Their agreement changes the external review process to prohibit the independent medical reviewer from modifying the health plans' decision. The reviewer will not even have access to the information they need in order to make a proper decision. The amendment also wipes away any current state laws relating to corporate liability of HMOs when they are acting as health care providers. This amendment preempts laws that states have passed in regards to patient protections. On the surface, the Norwood amendment allows consumers to sue in state court. But upon further examination, one realizes that consumers will never see state court. All cases will be brought to federal court because the amendment states that an action against an HMO may not be removed from federal court; only the action against an employer can be removed from federal court. Their amendment also sets unreasonably low caps on damages.

The Norwood amendment rips apart an otherwise good bill. The real Ganske-Norwood-Dingell-Berry bill would allow all insured Americans the option of seeing the doctor of their choice. This means women would have direct access to obstetric and gynecological care. Women desperately need ob-gyn care without first having to receive a referral and/or prior authorization.

The bipartisan Ganske-Dingell-Norwood bill would protect women who have mastectomies and lymph node dissections. After undergoing these procedures, women would be able to consult with their doctor on how long they need to stay in the hospital without the fear that their health plan will not cover their entire hospital stay.

The bill would also provide access to: emergency room care, without prior authorizations; guaranteed access to health care specialists; access to pediatric specialists; and access to approved FDA clinical trials for patients with life-threatening or serious illnesses.

But the liability provisions agreed to by the President and Representative NORWOOD overshadow all of these things. I simply cannot support a patients' bill of right that does not give individuals the full right to sue HMOs. The only way to hold HMOs fully accountable is to allow consumers a right of redress.

A bill of rights is an empty promise if it lacks the procedure necessary to enforce it.

This has become a bill of rights for HMO's!

This ''Compromise'' bill is a bitter retreat and forces me to vote No.

Ms. BALDWIN. Mr. Chairman, families in Wisconsin are anxious about the state of their health care. Too often, profit takes priority over patient need. Patients are losing faith that they can count on their health insurance plans to provide the care that they were promised when they enrolled and paid their premiums.

As Members of Congress, we have all tried to help our constituents who were denied care by HMOs. We have all heard their heartbreaking stories. Just this morning, I heard from a constituent of mine whose 12-year-old daughter, Francesca, has Cerebal Palsy. His daughter requires surgery to halt deterioration of her walking abilities so that she will not have to be dependent upon a wheelchair.

This father asked his HMO to allow his daughter to have surgery at a particular hospital that is not a provider in their plan because the hospital that is a provider in their plan no longer employs a specialist in this type of treatment. Instead of giving this father a referral, the HMO recommended that he switch plans. No one should fear that their insurance company would abandon them when they need it most.

I urge my colleagues to support the Ganske-Dingell bill and oppose these three amendments that will serve to deprive Americans of the patient protections they deserve.

Make no mistake about it, if these amendments pass, the bill should be renamed the HMO Bill of Rights.

Mr. UDALL of New Mexico. Mr. Chairman. The overwhelming majority of Americans view patients' rights legislation as a priority and strongly support meaningful patient protection legislation. This issue has been debated for many years now and the time for Congress to act is long overdue.

Today, however, we have the opportunity to make up for lost time and provide sound, responsible managed care reforms and meaningful protections for patients and their doctors. We can do this by passing the Ganske-Dingell Patients Protection bill.

This legislation ensures that physicians, not HMO bureaucrats, are making the medical decisions that affect patient's lives. This legislation provides for strong and effective internal and independent external review of claim denials. This legislation allows patients to hold their insurance companies and HMO's accountable for harm as a result of bureaucratic negligence, malfeasance, or incompetence.

This legislation, Mr. Chairman, has my strong support for all of these reasons that I just mentioned.

However, should this House pass the Norwood amendment or any of the other amendments later today, this legislation will be turned from the Patients Protection Act to the HMO Protection Act and will lose my support.

The Norwood Amendment carves out special protection for HMO's, rolls back patient protections and tramples states rights. I cannot support such an amendment, nor any bill that contains such an amendment.

The time for a meaningful patient's protection act is long overdue. Let's not waste the opportunity we have today by passing a bill that protects HMO's instead of patients. I urge my colleagues to support H.R. 2563, and oppose any amendments that would weaken critically important patient protections. The time for meaningful patient protection is now. Vote ''yes'' on H.R. 2563 and against weakening amendments.

Mr. PAUL. Mr. Chairman, I appreciate the opportunity to explain why I oppose all versions of the Patients' Bill of Rights. Once again Congress is staging a phony debate over which form of statism to embrace, instead of asking the fundamental question over whether Congress should be interfering in this area at all, much less examine how previous interferences in the health care market created the problems which these proposals claim to address.

The proper way to examine health care issues is to apply the same economic and constitutional principles that one would apply to every other issue. As an M.D., I know that when I advise on medical legislation that I may be tempted to allow my emotional experience as a physician to influence my views. But, nevertheless, I am acting in the role as legislator and politician.

The M.D. degree grants no wisdom as to the correct solution to our managed-care mess. The most efficient manner to deliver medical services, as it is with all goods and services, is through the free market. Economic principles determine efficiencies of markets, even the health care market, not our emotional experiences dealing with managed care.

The fundamental economic principle is that true competition assures that the consumer gets the best deal at the best price possible by putting pressure on the providers. This principle applies equally to health care as it

does to other goods and services. However, over the past fifty years, Congress has systematically destroyed the market in health care. HMOs themselves are the result of conscious government policy aimed at correcting distortions in the health care market caused by Congress. The story behind the creation of the HMOs is a classic illustration of how the unintended consequences of government policies provide a justification for further expansions of government power. During the early seventies, Congress embraced HMOs in order to address concerns about rapidly escalating health care costs.

However, it was previous Congressional action which caused health care costs to spiral by removing control over the health care dollar from consumers and thus eliminating any incentive for consumers to pay attention to prices when selecting health care. Because the consumer had the incentive to monitor health care prices stripped away and because politicians were unwilling to either give up power by giving individuals control over their health care or take responsibility for rationing care, a third way to control costs had to be created. Thus, the Nixon Administration, working with advocates of nationalized medicine, crafted legislation providing federal subsidies to HMOs and preempting state laws forbidding physicians to sign contracts to deny care to their patients. This legislation also mandated that health plans offer an HMO option in addition to traditional fee-for-service coverage. Federal subsidies, preemption of state law, and mandates on private business hardly sound like the workings of the free market. Instead, HMOs are the result of the same Nixon-era corporatist, big government mindset that produced wage-and-price controls.

I am sure many of my colleagues will think it ironic that many of the supporters of Nixon's plan to foist HMOs on the American public are today among the biggest supporters of the ''patients' rights'' legislation. However, this is not really surprising because both the legislation creating HMOs and the Patients' Bill of Rights reflect the belief that individuals are incapable of providing for their own health care needs and therefore government must control health care. The only real difference between our system of medicine and the Canadian ''single payer'' system is that in America, Congress contracted out the job of rationing health care resources to the HMOs.

No one can take a back seat to me regarding the disdain I hold for the HMO's role in managed care. This entire unnecessary level of corporatism that rakes off profits and undermines care is a creature of government interference in health care. These non-market institutions and government could have only gained control over medical care through a collusion of organized medicine, politicians, and the HMO profiteers in an effort to provide universal health care. No one suggests that we should have universal food, housing, TV, computer and automobile programs; and yet, many of the poor to much better getting these services through the marketplace as prices are driven down through competition.

We all should become suspicious when it is declared we need a new Bill of Rights, such as a Taxpayers' Bill of Rights, or now a Patients' Bill of Rights. Why do more Members not ask why the original Bill of Rights is not adequate in protecting all rights and enabling the market to provide all services? In fact, if Congress respected the Constitution we would not even be debating this bill, and we would have never passed any of the special-interest legislation that created and empowered the HMOs in the first place!

Mr. Chairman, the legislation before us is flawed not only in its effect but in the very premise that individuals have a federally-enforceable ''right'' to health care. Mixing the concept of rights with the delivery of services is dangerous. The whole notion that patient's ''rights'' can be enhanced by more edicts by the federal government is preposterous.

Disregard for constitutional limitations on government, ignorance of the basic principles of economics combined with the power of special interests influencing government policy has brought us this managed-care monster. If we pursue a course of more government management in an effort to balance things, we are destined to make the system much worse. If government mismanagement in an area that the government should not be managing at all is the problem, another level of bureaucracy, no matter how well intended, will not be helpful. The law of unintended consequences will prevail and the principle of government control over providing a service will be further entrenched in the Nation's psyche. The choice in actually is government-provided medical care and its inevitable mismanagement or medical care provided by a market economy.

Many members of Congress have convinced themselves that they can support a ''watered-down'' Patients' Bill of Rights which will allow them to appease the supporters of nationalized medicine without creating the negative consequences of the unmodified Patients' Bill of Rights, while even some supporters of the most extreme versions of this legislation say they will oppose any further steps to increase the power of government over health care. These well-intentioned members ignore the economic fact that partial government involvement is not possible. It inevitably leads to total government control. A vote for any version of a Patients' Bill of Rights is a 100 percent endorsement of the principle of government management of the health care system.

Those who doubt they are endorsing government control of medicine by voting for a modified Patients' Bill of Rights should consider that even after this legislation is ''watered-down'' it will still give the federal government the power to control the procedures for resolving disputes for every health plan in the country, as well as mandating a laundry list of services that health plans must offer to their patients. The new and improved Patients' Bill of Rights will still drive up the costs of health care, causing many to lose their insurance and lead to yet more cries for government control of health care to address the unintended consequences of this legislation.

Of course, the real power over health care will lie with the unelected bureaucrats who will implement and interpret these broad and vague mandates. Federal bureaucrats already have too much power over health care. Today, physicians struggle with over 132,000 pages of Medicare regulations. To put that in perspective, I ask my colleagues to consider that the IRS code is ''mere'' 17,000 pages. Many physicians pay attorneys as much as $7,000 for a compliance plan to guard against mistakes in filing government forms, a wise investment considering even an innocent mistake can result in fines of up to $25,000. In case doctors are not terrorized enough by the federal bureaucracy, HCFA has requested authority to carry guns on their audits!

In addition to the Medicare regulations, doctors must contend with FDA regulations (which delay the arrival and raise the costs of new drugs), insurance company paperwork, and the increasing criminalization of medicine through legislation such as the Health Insurance Portability Act (HIPPA) and the medical privacy regulations which could criminalize conversations between doctors and nurses.

Instead of this phony argument between those who believe their form of nationalized medicine is best for patients and those whose only objection to nationalized medicine is its effect on entrenched corporate interests, we ought to consider getting rid of the laws that created this medical management crisis. The ERISA law requiring businesses to provide particular programs for their employees should be repealed. The tax codes should give equal tax treatment to everyone whether working for a large corporation, small business, or self employed. Standards should be set by insurance companies, doctors, patients, and HMOs working out differences through voluntary contracts. For years it was known that some insurance policies excluded certain care. This was known up front and was considered an acceptable practice since it allowed certain patients to receive discounts. The federal government should defer to state governments to deal with the litigation crisis and the need for contract legislation between patients and medical providers. Health care providers should be free to combine their efforts to negotiate effectively with HMOs and insurance companies without running afoul of federal anti-trust laws—or being subject to regulation by the National Labor Relations Board (NLRB).

Of course, in a truly free market, HMOs and pre-paid care could and would exist—there would be no prohibition against it. The Kaiser system was not exactly a creature of the government as it the current unnatural HMO-government-created chaos we have today.

Congress should also remove all federally-imposed roadblocks to making pharmaceuticals available to physicians and patients. Government regulations are a major reason why many Americans find it difficult to afford prescription medicines. It is time to end the days when Americans suffer because the Food and Drug Administration (FDA) prevented them from getting access to medicines that where available and affordable in other parts of the world!

While none of the proposed ''Patients' Bill of Rights'' addresses the root cause of the problems in our nation's health care system, the amendment offered by the gentleman from Kentucky does expend individual control over health care by making Medical Savings Accounts (MSAs) available to everyone. This is the most important thing Congress can do to get market forces operating immediately and improve health care. When MSAs make patient motivation to save and shop a major force to reduce cost, physicians would once again negotiate fees downward with patients—unlike today where the reimbursement is never too high and hospital and MD bills are always at the maximum levels allowed. MSAs would help satisfy the American's people's desire to control their own health care and provide incentives for consumers to take more responsibility for their care.

There is nothing wrong with charity hospitals and possibly the churches once again providing care for the needy rather than through government paid programs which only maximizes costs. States can continue to introduce competition by allowing various trained individuals to provide the services that once were only provided by licensed MDs. We don't have to continue down the path of socialized medical care, especially in America where free markets have provided so much for so many.

In conclusion, Mr. Chairman, I urge my colleagues to reject the phony Patients' Bill of Rights which will only increase the power of the federal government, cause more Americans to lose their health care or receive substandard care, and thus set the groundwork for the next round of federal intervention. Instead. I ask my colleagues to embrace an agenda of returning control over health care to the American people by putting control over the health care dollar back into the hands of the individual and repealing those laws and regulations which distort the health care market. We should have more faith in freedom and more fear of the politicians and bureaucrats who think all can be made well by simply passing a Patients' Bill of Rights.

Mr. CUNNINGHAM. Mr. Chairman, I rise today to add my voice in support of the passage of a strong Patient's Bill of Rights. Congress has been working for several years to improve the delivery of health care to everyone in America. As a cancer survivor, I know how important it is to have good quality health care available when you need it.

I believe that for the most part, Americans who currently have health insurance are happy with their providers. Unfortunately, too many Americans can not afford the health care they need, and sadly, there are extreme cases where some Americans are the victims of fraud or abuse that prevent them from accessing the care that they are paying for.

I am committed to ensuring that America maintains the world's best health care system by enacting reforms giving people more choices, and more access to high quality health care. That is why I rise today in support of the Patients' Bill of Rights agreement reached by President George W. Bush and Congressman CHARLIE NORWOOD, as well as in support of an amendment to expand Medical Savings Accounts (MSA) and allow for the creation of Association Health Plans (AHP).

I am proud to support a Patients' Bill of Rights that will empower individuals and doctors to make health care choices, without the interference of government bureaucrats or trial lawyers. I support the Bush/Norwood agreement because it ensures that the American people will have swift recourse when an insurance company bean-counter decides to practice medicine.

There are a lot of people who say that when your insurance company denies coverage, you should be able to run them straight into court. Let's stop and think about that for a minute—when an individual is denied coverage by an insurance company, what is it that they really want? Coverage for life saving medical care! Lawsuits don't get you medical care. Lawsuits drag on in court for years, and line the pockets of trial lawyers. Lawsuits won't provide care for sick patients. The bottom line is that lawsuits don't save lives—but an independent medical review process will.

While we are working to improve health care for those who have insurance, we must also take action to bring this high quality care to those who cannot currently afford insurance. I support the inclusion of a provision to give millions of Americans the best patient protections of all—health care coverage. I hope that today an amendment will prevail to expand Medical Savings Accounts, and allow for the creation of Association Health Plans. Association Health Plans will allow small businesses and the self-employed the same purchasing clout and administrative savings that large, multi-state employers and labor unions currently enjoy. This provision will expand health care coverage for thousands of employees of small businesses who cannot currently afford to provide coverage to its employees.

I urge my colleagues to join me in supporting the passage of the Bush/Norwood agreement on Patients' Rights which balances the need for affordable health insurance with the need for real patient protections.

Mr. ETHERIDGE. Mr. Chairman, I rise today in support of H.R. 2563, the Patients Bill of Rights, and in opposition to all ''poison pill'' amendments and in particular the Norwood amendment.

Like many of my colleagues in this House, I strongly support the Patients Bill of Rights. In fact, the Ganske-Dingell Patients Bill of Rights provides strong patient protections. It ensures access to emergency room care, allows for clinical trials, provides for continuity of care, and holds managed care plans legally responsible for their actions. But, today we have been asked to consider a new amendment to this bill. This amendment, if passed, would gut the spirit of the Ganske-Dingell bill.

The Norwood amendment would give HMO's a rebuttable presumption in court, which means that if an HMO follows its procedures in the review process, the patient bringing a suit would be held to a higher standard of evidence that separates HMO's from any other industry, business, or individual in America. Mr. Speaker, that higher standard prevents a patient from making a case in court. That is unfair and it is wrong.

We must hold HMO's and health insurance companies accountable for their actions, and I will oppose any amendment that protects HMO's and prevents patients from getting the care they need. If this amendment passes, I will oppose the amended bill because it will become unenforceable and will let HMO's off the hook. A right that is unenforceable is no right at all.

Mr. Chairman, I have consistently supported a patient's bill of rights that is strong and enforceable. Today, I am afraid, the House majority is going to pass an insurance company's bill of rights. Maintaining health security is one of the primary challenges facing North Carolina's working families today. Families deserve to know that they can count on affordable high quality health care in their managed care plans. Making crucial decisions about a patient's health care should be the responsibility of the doctor and the patient—not some insurance company accountant.

Today's debate is about patients. They are the Americans we hear about in the news and in our communities who are sick and hurting. A real patients bill of rights provides these Americans with access to the care they need and holds managed care plans legally accountable for decisions that lead to serious injury or death. The Republican leadership supports the Norwood amendment because it will send this bill to a conference. And we all know what that means, Mr. Chairman. The Patient's Bill of Rights will die there.

America needs a Patients Bill of Rights. Our families are depending on us to give them that right today in this House. The only way we can ensure that they will get that right—the right to clinical trials, emergency room care, and to hold HMO's accountable for their decisions—is to oppose all of the ''poison pill'' amendments proposed today and support the real patient's bill of rights. The Republican bill is a fraud. It is a sham bill.

I urge all of my colleagues to support H.R. 2563, and ask that they join me in opposing the Norwood amendment and other poison pills that will kill a bill that America's patients desperately need.

Mr. COYNE. Mr. Chairman, it is time for Congress to enact a true patient protection bill. American families have already waited far too long for us to pass common-sense consumer protections.

Today, millions of Americans workers have no employer-provided health insurance, and over half of American Workers who do have employer-provided health insurance have no choice of health plan. The only health care coverage provided to those workers is a plan chosen by their employers. This plan may or may not address their health care needs and the health care needs of their families. Under current law, many of those workers and their families have no place to turn if they are harmed by decisions which are made by their insurance companies.

We need to pass a true consumer protection bill that would guarantee basic health rights for these workers. Families should be able to see specialists when they need to, appeal unfair denials, and seek emergency care when they experience severe pain. Doctors should be free to tell their patients all the options and to make medical decisions without fear of retribution from health plans. Health plans should be accountable if they make medical decisions, just as doctors are now.

Some would suggest that enacting true patient protection legislation undermines our long-held goal of health coverage for all Americans. They say that patient protection legislation could cause health insurance costs to rise and then families may become uninsured. They would have us believe that a health insurance plan that protects basic health care rights is out of reach for the average American. That is wrong. It is our responsibility to find a better way to help the uninsured than telling them to buy bad health coverage, coverage which may not be there when they need it.

Unfortunately, an unfair process to debate a meaningful patient protection bill has been set up by the Leadership of the House of Representatives today and this action effectively kills any chance of enacting a real patient protection bill. The bill being debated today contains numerous loopholes and fails to enact proper patient protections and rights. It fails to hold health plans accountable by the same standards that are applied to physicians for negligent decisions. All actions against health plans would be determined exclusively under a new federal law with no ability to apply state law. As well, when an injured patient does go to court to seek remedy, certain provisions in the legislation will tip the scales of justice in favor of the health plan. This bill also contains

week enforcement provisions that dramatically limits the ability of consumers to seek recourse for inadequate care, injury, or death. Furthermore, it forces patients to pursue remedies in an external appeals process that is neither independent or fair.

I would urge my colleagues to vote against all of the amendments. If any of the amendments are adopted, I would then urge a ''no'' vote on final passage. I hope that we can work together in the future to enact a true bipartisan patient protection bill.

Mr. TOWNS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Georgia. I strongly support the Ganske-Dingell-Berry Bipartisan Patient Protection Act without the Norwood-Bush ''COMPROMISE'' or any other poison pill amendments.

For the past five years, we have been fighting for true patient protection legislation only to be thwarted at every turn by a lethal combination of parliamentary maneuvers and political posturing. The Norwood-Bush Compromise is just another maneuver designed to water down real patient protection legislation.

Mr. Chairman, it is time that we return medical decisions to the people qualified to make them. It is time that we stop limiting the drugs available to patients based on an accountants' formula. It is time that we return to the American people the right to choose their own healthcare providers. The Ganske-Dingell-Berry Bipartisan Patient Protection Act stops protecting the HMO's and provides true patient protection. I support protecting patients while the amendments before us today will give all of the rights to HMO's at the expense of patients. The only thing that the Norwood-Bush ''Compromise'' compromises is a patient's access to quality care. I support the Ganske-Dingell-Berry Bipartisan Patient Protection Act because I believe that it offers patients the protection they need. Access and accountability must be the cornerstones of any true patient protection plan and Ganske-Dingell-Berry will ensure that accountability.

Don't fall for cheap imitations; the Ganske-Dingell-Berry Bipartisan Patient Protection Act is strong, enforceable patient protection legislation.

The American people are crying out for patient protection. We cannot continue to have a healthcare system that claims to offer the best healthcare in the world and yet allows business decision makers the right to limit access to top quality care. I urge my colleagues to provide true patient protection and vote for the Ganske-Dingell-Berry Bipartisan Patient Protection Act without amendments.

Mr. PASCRELL. Mr. Chairman, I stand before you to remind everyone here why we must pass the patients Bill of Rights today. It is because we must protect all Americans from the fate that befell Mr. Robert Frank Leone of Glen Ridge, N.J.—a constituent of mine.

Every year, Mr. Leone was denied a chest x-ray by his HMO despite his request. When he eventually displayed symptoms of illness, his Doctor acquiesced and his cancer was diagnosed.

Mr. Leone had non-small cell lung cancer that spread to his brain. His wife Victoria was told that he had only 2 months to live.

After successful treatment with radiation, Mr. Leone and his wife had to beg his doctors for a referral for physical therapy.

As a result of physical therapy, Mr. Leone regained much of his strength and quality of life.

But his HMO cut his physical therapy sessions as soon as he started to feel better. They said it was no longer necessary. They said it was ''preventative.''

As a result of losing his physical therapy, Mr. Leone's health began fading. Soon he could no longer walk without assistance.

Despite pleas form his wife, his HMO refused to restore Mr. Leon's physical therapy benefit. Instead, they suggested he join a health club. And that his wife Victoria should become his physical therapist! But Victoria is legally disabled!

Mr. Leone became depressed and was hospitalized and died in the hospital March 30, 1999.

I call him an HMO casualty.

If his doctor had given him a chest x-ray when he requested it, instead of denying the benefit to save money—his cancer would have been diagnosed before it had spread to his brain.

If the HMO had not limited Mr. Leone's access to physical therapy, he would have continued his improvement and would probably have not sunk into depression.

If an appeals process had been in effect, Mr. Leone and his wife could have appealed both of these denials of care.

Simply put, Mr. Leone died because the HMO was not liable for its actions. And because the HMO was not liable they could deny him care to save money and not be held accountable.

Today on the floor we are voting on H.R. 2563 to protect patients just like Mr. Leone.

But then there is this Norwood amendment.

Well, you don't have to be Columbo to recognize that the Norwood amendment is here to take the teeth out of this crucial legislation.

The Norwood amendment creates several roadblocks that would prevent patients form receiving benefits that already exist.

Additionally, the Norwood amendment supercedes state laws and forces state courts to apply federal tort law.

In fact, this amendment creates a federal cause of action for negligence where none exited before!

I am particularly interested in safeguarding strong state laws that protect patients because my state of New Jersey just recently instituted a strong patients' bill of rights that would be preempted by the Norwood amendment!

New Jersey's new patients' rights' law is much broader in scope than even the Ganske bill we are discussing here today. It covers traditional HMOs, as well as health insurance plans that are not covered by ERISA.

How can I go home and tell my constituents that the strong patients' bill of rights recently made into law in New Jersey will never have the opportunity to benefit our residents?

And that is not the only problem presented in this amendment.

The Norwood amendment creates a presumption in favor of the HMO that the patient must overcome in order to win in court.

This flies in the face of due process, a premise upon which our country is founded. It offends me to the core that this amendment not only restricts access to state law by patients but then adds an additional hurdle to their burden of proof once in court.

If the Norwood amendment had been law when Mrs. Leone was taking care of her husband, these additional obstacles would have made this heartbreaking experience even more painful. She would have had no access to her own state's laws, no fair due process, and a limited amount of damages to seek.

I shake my head whenever I think of how we could have saved Mr. Leone's life if we had only passed the Ganske bill 5 years ago.

Let's not let any more Americans die at the hands of corporations whose sole concern is the bottom line not the patients' health.

I urge all of you in joining me to vote in favor of H.R. 2563 and against the Norwood amendment. Do it for Mr. Leone and all for the future patients who we could save with this important vote.

Mr. BALDACCI. Mr. Chairman, I have long supported the efforts of Mr. NORWOOD to reform managed care. Unfortunately, I cannot support my friend's lastest legislative effort on this issue. Instead, I remain strongly in favor of the Ganske-Dingell-Berry bill, H.R. 2563. This is the only Patients' Bill of Rights legislation we are considering today with sufficient enforcement provisions. Without strong accountability, the landmark patient protections we agree are necessary will be rendered meaningless.

The Norwood amendment, based on his agreement with President Bush, is an empty shell, tipping the balance back to the insurance companies and away from patients. This Norwood plan is significantly weaker than the bill passed by the Senate.

Congressman NORWOOD's amendment places unacceptable limits on a patient's ability to hold his or her plan accountable. Self-funded plans may only be sued in federal courts. This provision limits access to state courts for many Americans covered under employer-sponsored health insurance plans. Even when a patient can seek a resolution through state court, they can only do so under federal rules, which are more restrictive for plaintiffs.

Patients have a larger burden to bear under the Norwood language. They can sue if an independent reviewer decides against them, but the legal presumption would be that the external review was correct. Under this scheme, the burden of proof is placed on the patient, who must meet a higher legal standard of proof than when he or she appealed to the review panel.

The liability provisions of this amendment are so complex and convoluted that they will only serve to dissuade patients from seeking resolution to their grievances.

Under the Norwood amendment, doctors will continue to be held to tougher state malpractice standards than HMOs. Managed care plans will still play by different rules than the physicians whose decisions these companies overrule. This is not acceptable.

Americans deserve better than this shallow version of patients' rights legislation. I urge my colleagues to soundly reject the Norwood Amendment and to support the Ganske legislation.

MR. EVANS. Mr. Chairman, today we have the opportunity to pass a strong, enforceable Patients' Bill of Rights. A bill that would return medical decisions to patients and their doctors. A bill that would strip HMOs of their unprecedented protections which allow them to make decisions about patients' care while being held accountable to no one. A bill that puts quality health care above the bottom line of insurance companies.

I hope that we will pass these new patients' rights protections today. But these rights are meaningless without the ability to enforce them. The Ganske-Dingell Patients' Bill of Rights is the only measure that protest these rights.

The so-called compromise, hastily crafted by the President and Mr. NORWOOD, renders these rights hollow. It effectively eliminates any incentive for HMOs to put the care of patients first. The limited damages that could be awarded once a HMO is found liable for the actual injury or death of a patient are not effective checks on irresponsible conduct. They are financially inconsequential compared to their enormous profit margins. It is the equivalent of a slap on the wrist.

Americans deserve better. They deserve the rights that we have promised them and an avenue of recourse when those rights are violated. I urge my colleagues to support the real Patients' Bill of Rights, not a skeleton of what could have been.

Mr. THORNBERRY. Mr. Chairman, I will vote for the Patient Protection Act legislation that the House is considering.

I voted for a similar bill two years ago because I believe that if an insurance company makes health care decisions like a doctor, it should be held responsible like a doctor. I still support a responsible patients rights bill.

We are all aware of the concerns over this measure: concerns that it could drive up healthcare costs, encourage more litigation, and result in even more people becoming uninsured, particularly in rural areas. I am especially concerned about how this bill will affect patient protection laws that have been enacted in Texas and other states around the country.

While I am not satisfied that this measure, as written fully addresses my concerns, I will vote for this bill to move it to Conference where, hopefully, many of these problems can be resolved. I stand ready to vote against the measure when it returns to the House floor if this does not occur.

It is my sincere hope, though, that this will not happen, and we will be able to reach agreement on a bill that responsibly strengthens patients' rights which the President will be able to sign into law.

Mrs. MALONEY of New York. Mr. Chairman, I rise in strong support of the Patients' Bill of Rights. It is a measure that embodies much of the spirit of our original Bill of Rights. It improves the lives of millions of Americans by guaranteeing their basic rights as health care patients. The Bipartisan Patient Protection Act enjoys strong support from the American people and grants all 167 million privately insured Americans the fundamental protections they deserve.

The bill we are debating today, H.R. 2563, was forged by the hard work of Messrs. DINGELL, GANSKE, NORWOOD, BERRY and many others. The base bill will make the health of patients, and not the wants of managed care insurers, the top priority. If a patient is harmed by HMO negligence, he or she should be able to seek legal redress; under this legislation the patient will be able to do just that. The Patients' Bill of Rights will guarantee these protections and do much more to improve the lives of millions of our citizens—all without increasing healthcare costs significantly.

We also have before us three amendments. They are three amendments that are poison pills to the underlying bill and I cannot support them. The Norwood amendment weakens the strong and sensible Dingell-Ganske bill. It holds HMOs to a lesser standard than doctors and hospitals and it undermines state patient protections. The Thomas-Fletcher amendment fully expands Medical Savings Accounts and would allow associations to offer health insurance to their members without critical state insurance standards. This amendment could actually cause more people to become uninsured. The Thomas-Boehner amendment preempts state medical malpractice and tort law. The bottom line: these amendments do not strengthen the base bill, but weaken it. If these amendments pass, I will vote ''no'' on final passage.

Protecting patients' rights inherently benefits women and their families because women are the primary healthcare consumers. More specifically, the underlying legislation gives American women direct access to an obstetrician-gynecologist and gives families direct access to specialists, such as pediatricians, without a referral. Women need regular, accessible OB/GYN care. They do not need the added expense and hassle of having to get a ''permission slip'' from their managed care insurer.

I am fortunate to represent a state that has enacted very comprehensive regulations that mandate direct-access to OB/GYNs without a gatekeeper's pre-approval. But, the Norwood amendment would roll-back state protections. I support the underlying bill because we must have a federal standard. Why? Look at the numbers: 15 states limit the number of times a women see her OB/GYN; another 12 prohibit or restrict a woman's direct access to follow-up care, even if this care is covered by her health plan; and a full 38 prohibit or restrict an OB/GYN's ability to refer a woman for necessary OB/GYN-related specialty care.

Obstetric and gynecological care is integral to women's health. As things stand now, women in some states receive better care than others. It's time we made direct access to OB/GYNs a fundamental patient protection enjoyed by all women enrolled in managed care plans.

The Bipartisan Patient Protection Act protects the health and well-being of not just women, but all Americans. Every American will have the right to choose his or her own doctor, and will not be forced to see one chosen by an HMO bureaucrat. Under this legislation, doctors, not health insurance companies, will decide which treatments, procedures and specialists are necessary.

In addition, the legislation—absent any amendments—will give patients the peace of mind that all external reviews will be conducted by independent, qualified physicians. If a plan denies coverage, the patient will be able to appeal the decision to a doctor, not an insurance clerk. And if the plan continues to deny coverage, the patient can demand a review by an unbiased, independent medical specialist, whose decision is legally binding.

Image if you or someone you love is injured by the decision of an HMO. It is only fair that he or she should be able to hold that HMO accountable. We would all rather get the care we and our families need to begin with than go to court in the end, but we should have the right to do so if administrative course of redress are exhausted. Under the Dingell-Ganske bill—absent any amendments—disputes involving medical judgments will be subject to applicable state laws; if the case involves an administrative benefit decision, the patient will be able to seek limited compensation in federal courts under federal law. Employers need not fear this bill. They will be protected from liability in either federal or state courts, unless they directly participate in a decision that causes irreparable harm or death. Indeed, employers can completely ensure that they will be fully protected from liability by choosing a ''designated decision-maker'' to assume all liability.

The critics of the Bipartisan Patient Protection Act also claim that these common-sense liability provisions will cost too much. In fact, the Congressional Budget Office reported that the liability provisions will cost only about 23 cents per employee per month. The entire bill is projected to increase premiums 4.2% over 5 years. That translates to a mere $1.20 per month. Isn't quality, protect healthcare worth the added price of a cup of coffee?

By allowing direct-access to OB/GYNs and pediatricians, authorizing physicians and not HMOs to make medical decisions, and establishing avenues for legal recourse, the Bipartisan Patients Protection Act puts the health of patients first. It will make a real difference in the quality of lives of millions of Americans. And that is what the work we do here is all about.

I urge my colleagues to vote against the three poison pill amendments and for a clean Dingell-Ganske-Norwood-Berry bill.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in reluctant opposition to the Ganske-Dingell-Norwood-Berry Patients' Bill of Rights.

We missed an enormous opportunity today, because H.R. 2563—the Ganske-Dingell bill—could have been the giant first step to bring much-needed reform to our current health care system.

Simply speaking, the current system is stacked against patients, placing important decision-making authority in the hands of corporate bureaucrats. Today, we had the opportunity to give back the power to patients and their doctors.

Instead, the Republican-controlled House chose to adopt changes that have put patient protections in jeopardy. By stacking the deck against patients in the appeals process, and by placing caps on damages, we avoid providing any meaningful remedy to those who are injured by a negligent HMO. We essentially turn the system on its head and assume that the doctors and patients are the guilty ones, unless they can prove otherwise.

Mr. Chairman, I represent a district that is 87% Hispanic. Recent studies tell us that two-thirds of privately insured Latinos are enrolled in managed care. The Ganske-Dingell-Norwood-Berry reform bill could have had a tremendous positive impact on my constituents. And it could have helped ensure that people across the country, such as my constituents, had better access to prescription drugs, emergency care and medical specialists. But we have fallen short today.

I certainly hope that at conference we can make improvements to this bill that will put patients before the insurance companies. If we succeed in addressing the unfairness in this bill, we can then take the next step to address the needs of countless numbers of low-income workers who have no health coverage whatsoever; and the 1.2 million eligible adults and children in California who, according to a recent article in the Los Angeles Times, do not access California public health care programs.

To truly reform health care in our nation for all Americans, we must continue to work to extend coverage to the working poor, and to ensure that those who are eligible for existing health care benefits receive them.

Adequate, affordable, and accessible health care should be a right, not a privilege. The House had the change to take a significant step forward today in addressing the health care problems in our nation. But instead of taking a step forward, we have taken a step backward.

Ms. SCHAKOWSKY. Mr. Chairman, I rise in opposition to H.R. 2563, the Patient Protection Act. This bill has been so damaged by the amendments passed today, that it should be a violation of truth in advertising laws to call it a patient protection bill. It is no longer a law designed to curb HMO abuses—it has become a bill that leaves HMOs in charge of health care decision-making and preempting state laws designed to protect patients. It is a bill that is no longer deserving of its title and is no longer deserving of our support. It's an Insurance Industry Protection Act.

Earlier today, the House passed the Thomas amendment to establish Association Health Plans. Despite the arguments of its proponents, AHPs are not a step forward. Instead, AHPs will take critical state protections away from consumers and make access to health care worse for millions of Americans.

I believe that we need to make health care more affordable and accessible to small businesses and their employees. I support purchasing coops and pooling arrangements. But I could not support this amendment. Why? Because it would do more harm than good. By preempting state regulations designed to lower premiums and protect consumers, it would move us backwards not forward.

First, it would actually raise premiums for the majority of small businesses. The Congressional Budget Office estimates that 80 percent of small business employees could face premium increases as companies with healthier employees opt out of the small group market. With market fragmentation, small firms with older workers, women of child-bearing age, and workers with ongoing health problems would wind up paying more.

Second, as a result, those small businesses facing higher premiums would drop coverage. The CBO estimates that 10,000 employees—those with the highest health are needs—would lose coverage. An Urban Institute estimate is that one percent of all small firms would lose coverage.

Third, even insured consumers could face higher costs and reduced access because AHPs would be allowed to ignore state minimum benefit requirements. In Illinois, those minimum benefits include annual pap smears, prosthetic devices, mental health services, cancer screening, education on diabetes self-management, and length of stay protections for mastectomy patients. Consumer' Union opposes AHPs because ''health insurance policies would be less likely to cover potentially life-saving benefits such as mammography screening, cervical cancer screening, and drug abuse treatment.'' AHPs will lead to bare-bones coverage that leaves patients with higher medical bills or forces them to go without care.

Fourth, consumers enrolled in AHPs would have no place to go for protection, since state regulation is preempted and the U.S. Department of Labor lacks the resources or the will to respond to individual consumer complaints.

The National Governors Association, the National Conference of State Legislatures, and the National Association of Insurance Commissioners said it best when they wrote to us opposing this bill. They wrote: ''AHPs would fragment and destabilize the small group market, resulting in higher premiums for many small businesses. AHPs would be exempt from the state solvency requirements, patient protections, and oversight and thus place consumers at risk.''

I also strongly oppose the Norwood liability amendment. Many of us won election last November because we promised that we would give patients meaningful protections. We promised that we would curb HMO abuses that are injuring and killing people on a daily basis.

We promised that we would let medical professionals make medical decisions. We told doctors, nurses and other health care professionals that we would free them from managed care bureaucracy so that they can provide quality care to their patients. This amendment means that we will not be keeping those promises.

This amendment is a ruse. Behind all the fine print, it has one underlying objective: to continue the accountability shield that immunizes HMOs from responsibility when they deny care or limit care or restrict access to specialists. This amendment means that there is absolutely no guarantee that patient protections will be enforced. HMOs will be left in charge, free to continue to override doctors' decisions and deny care with virtual impunity.

This amendment provides special treatment for HMOs. It gives HMOs unique legal protections—protections denied every other industry in this country—so that they can continue to operate with immunity.

Mr. Chairman, we have done a disservice to patients and those who care for them by passing these amendments. There is an old labor song that asks the question: whose side are you on? Unfortunately, this amended bill sides with the HMOs—not patients.

Mr. HONDA. Mr. Chairman, I rise today in strong opposition to H.R. 2563, the so-called Bipartisan Patient Protection Act, as amended.

Patient protection is common sense legislation that America needs and deserves. The original bill, as proposed, provided much needed security for the 160 million Americans who receive their health coverage through managed care. It gave healthcare consumers the same protections offered in other industries. It provided accountability, minimum standards of care, and broader access to health-care options for Americans citizens.

Recently, a constituent of mine, Andrew B. Steffan of Campbell, California has had an outrageous experience, showing exactly why this important legislation is needed.

This past April, Mr. Steffan experienced difficulty breathing and chest discomfort and was transported by ambulance to Good Samaritan Hospital in San Jose. In the ambulance he was monitored by EKG and was administered oxygen to help him breath, and nitroglycerin for his chest pain. He was later diagnosed with coronary heart disease and congestive heart failure.

I can only begin to imagine the fear and anxiety experienced by Mr. Steffan and his family on that day.

What is even more incomprehensible are the problems faced by Mr. Steffan after his hospitalization. His insurance determined, after the fact, that he should have been transported to the hospital by ''other means'' and refused to pay, despite the fact that the attending physician at the hospital stated that he needed to be transported because he required cardiac monitoring.

How can an insurance professional determine after the fact that an ambulance ride was or was not necessary? Moreover, how can a health-care provider refuse to cover basic emergency services that a normal person would consider necessary? It is bad enough when serious health problems develop. One should not have to deal with a larger problem from one's insurance company.

The need for this type of legislation is inarguable. However, the Norwood Amendment, agreed to in a secret handshake deal with the President, has sabotaged any chance for real medical reform.

This amendment, which takes us backward, not forward, contains numerous provisions which enable managed care providers to never face the consequences of their actions.

Under the amended bill, HMOs are held to a different standard than doctors and hospitals. While HMOs would be shielded, with a limit of $1.5 million for punitive damages, doctors and hospitals would be hung out to dry. It allows insurance companies to make bad decisions and never be held accountable.

Under the Norwood Amendment, the injured patient must prove that ''the delay in receiving, or failure to receive, benefits is the proximate cause of personal injury to, or death of, the participant or beneficiary.'' In any medical malpractice case—unlike a running a red light being the proximate cause of the ensuing accident—there is rarely, if ever, a single cause of the injury.

The amendment overturns the good work done by states in protecting patients.

Furthermore, certain cases can be removed to the federal courts, where it is much more difficult for patients to achieve justice.

Yes, America's citizens need healthcare protection. But a sham, ineffective bill is not the answer. What good are patient protections if these rights cannot be effectively enforced in court?

I urge my colleagues to follow the lead of the other body and pass forceful, effective, meaningful legislation.

Mr. RUSH. Mr. Chairman, like many of my colleagues, I have been a staunch advocate for patients' rights. I have looked forward to the day when this House would once again pass a strong patients' bill of rights which would bring back responsibility and accountability to the relationship between HMOs and their patients.

The Bipartisan Patient Protection Act, H.R. 2563, as originally brought to the Floor today by Representative JOHN DINGELL and Representative GREG GANSKE was a model of bipartisanship and fairness. The bill brought equality to the patient and HMO relationship by providing for an internal and external review process of denials of care and permitting patients to sue their HMOs in state and federal courts. To ensure that the pendulum did not swing too far to one side, the bill also capped punitive damages at $5 million. Further, to protect employers from frivolous suits, the bill only held employers liable if they administered their plan themselves. Clearly, the

bill as it was originally intended provided patients the means they needed to protect their right to quality care.

Unfortunately, with the adoption of Representative NORWOOD's amendment, the Bipartisan Patient Protection Act was stripped of its provisions allowing patients to sue their HMOs for the unfair denial of needed health care. Patients will now find themselves in an even more hostile and unresponsive environment.

It is for this reason that I must regrettably rise in opposition to the Bipartisan Patient Protection Act as amended by Representative CHARLES NORWOOD. I can only hope that the changes made to the Bipartisan Patient Protection Act can be revisited in conference.

Mr. GILMAN. Mr. Chairman, I rise today in support of H.R. 2563, the Bipartisan Patient Protection Act of 2001, otherwise known as the Ganske-Dingell-Norwood bill. Over the past 6 years, I have worked with my colleagues, Dr. GANSKE, Mr. DINGELL and Dr. NORWOOD, on trying to bring a comprehensive, bipartisan patient protection bill to the floor, and I believe that H.R. 2563 is this bill.

The Ganske-Dingell bill will provide individuals with managed care insurance plans, with an unprecedented amount of protections, including: the right to choose their own doctor, access to specialists, gag clause protections, information disclosure and access to emergency services. Moreover, the passage of this bill will mark the first time that patients throughout the nation will have the ability to hold their HMOs accountable for injuries or deaths which result from denials or delays of claims by the HMO.

H.R. 2563, has the support of over 800 organizations, including the American Medical Association, American Cancer Society, American Heart Association, National Breast Cancer Coalition, Patient Access to Responsible Care and National Health Association. These organizations recognize that the Ganske-Dingell bill is going to provide the necessary protections against abuses by the managed care industry.

I applaud the efforts of Representatives GANSKE, DINGELL, NORWOOD and BERRY for bring this important measure to the floor and for their dedication to this issue through the years.

Moreover, I commend Dr. NORWOOD for his continued commitment to ensuring that a Patients' Bill of Rights passes the House and has the opportunity to receive full and fair consideration by the Congress and the President. I understand that he has given his best efforts to negotiate a sound amendment which will have the opportunity to be reviewed and reconsidered in the legislative process.

Having said that, I do have concerns with the amendment introduced by Representative NORWOOD.

Foremost, the Norwood amendment fails to hold health plans accountable by the same standards that apply to physicians for negligent medical decisions. Rather than defer to state statutory law and hundreds of years of common law, the Norwood amendment would create a new status of health plans that injure or kill patients by their negligent treatment decisions. All actions against health plans would be determined exclusively under a new federal law while doctors and hospitals would be subject to less stringent state laws.

Additionally, the Norwood amendment includes a provision that grants health plans a ''rebuttable presumption'' in court when the external review panel has found in their favor. A patient would now be forced to prove that the decision of the external review panel was unreasonable, rather than only providing that the HMO was responsible for serious injury or death.

The most difficult portion of the Norwood amendment is that it strips the states of the rights they currently enjoy. It fails to recognize those states that already have external review systems and not allowing them to remain in place. Under Ganske-Dingell, states that already have a substantially similar, if not superior external review system in place, would be able to continue overseeing these systems. Ganske-Dingell sets a federal standard and allows states to provide additional protections if they choose to, while the Norwood amendment mandates a federal cap which prohibits states from providing additional protections.

States like New York, which currently has a superior external review process compared to the regulations outlined in Norwood, would be forced to follow an inferior external review system.

I hoped to come to the floor today to support a bipartisan proposal that had the full backing of all 4 sponsors of H.R. 2563, the House leadership and the White House.

Unfortunately, we have come to a cross roads. Our sponsors are in disagreement, the President has pledged, for his reasons, to veto the Ganske-Dingell-Norwood bill in its present form, the Minority has begun to politicize this issue to the detriment of real reform, and we are now forced to make a decision between passing a Patient's Bill of Rights or passing up the opportunity to allow myself, Dr. GANSKE, Dr. NORWOOD, Mr. DINGELL, Mr. BERRY and other Members of Congress to pressure the Senate and the White House in conference to remedy those provisions which weaken this measure.

In light of this unfortunate situation, I will not kill our opportunity to continue our work on behalf of patient's throughout our nation and pass a bi-partisan Patient's Bill of Rights.

I call on my colleagues, the Senate, and the President to recognize that this is an unfinished work and I look forward to working with all concerned so that after five long years we can finally complete this important measure.

Mr. ROSS. Mr. Chairman we need a real Patients Bill of Rights—one that truly takes the medical decisions out of the hands of the big health insurance company bureaucrats and the big HMOs and puts them back where they belong with physicians, nurses, and patients; one that allows patients to hold their HMOs accountable when they make bad medical decisions. That's what our constituents are asking for. That's what the Ganske-Dingell-Berry bill would do.

I'm sick and tired of the scare tactics the big health insurance companies and the big HMOs have been using with our small business owners. I own a small business with 15 employees back home. We provide health insurance to our employees. And I can tell you, the scare tactics that these HMOs are putting out in regard to increased premiums and potential lawsuits are simply that—scare tactics.

The state of Texas has this law on the books, and it is working. It's making the big HMOs accountable to their patients on the front end, and that is why there have only been 17 lawsuits filed in the state of Texas—a very large state— since the law was enacted in 1997.

The Norwood Compromise overrides states like Texas who already have patient protection laws on their books. It rolls back patient protections and shields HMOs from the consequences of their own bad medical decisions, unlike doctors and hospitals, who will be left to defend themselves.

This is not a patient bill of rights. This is an HMO and health insurance companies' bill of rights. Mr. Chairman, I urge my colleagues to reject this legislation written by the big HMOs for the big HMOs. I urge my colleagues to vote against final passage of this measure.

Mr. UDALL of Colorado. Mr. Chairman, since being elected to Congress, I have worked hard for a meaningful Patient's Bill of Rights. But I cannot support the White House proposal that was crafted in the wee hours of the night because it favors HMOs over patients.

This proposal is bad for Colorado. Patients will not have the full right to sue their HMO if it unfairly denies them access to critical medical care. And worse yet, the White House proposal overrides strong patients' rights laws already enacted in Colorado. When I served in the Colorado State House, we put in lots of hard work on a bipartisan basis to enact strong, meaningful patient protections. This deal will wipe away those protections with one fell swoop. We should keep our strong state protections in tact and not let the weaker federal laws take precedence.

So Mr. Chairman, I stand with the American Medical Association and the millions of Americans who will be greatly harmed by this legislation. I am disappointed that the Republican Leadership has worked with the White House to strike a deal that is acceptable to the President and unacceptable to patients and doctors. They have hijacked a good bill and filled it with protections for special interests. I hope that the House-Senate conference committee will come up with a bill that reflects the McCain bill that was approved in the Senate earlier this year.

Ms. LEE. Mr. Chairman, I am deeply disappointed in how the Republicans have stripped and completely weakened H.R. 2563, the Bipartisan Ganske-Dingell Patient Protection Act of 2001. This Patient Bill of Rights originally included strong patient protections that would have ensured timely access to high quality health care for the millions of Americans with private health insurance.

This bill was a bipartisan effort to protect our patients but some Republicans decided to add some terrible provisions that protected HMOs over individuals. The original Patients Bill of Rights, the one I supported, would have given individuals more access to emergency medical services, access to specialty care, access to essential medication, access to clinical trials, and direct access to pediatricians as well as Ob-Gyn care. This bill would have also protected the doctor-patient relationships by ensuring health professionals are free to provide information about a patient's medical treatment options.

H.R. 2563 did address the importance of allowing patients to appeal their health plans' decision as well as holding HMOs accountable for their actions. This bill would have established an independent, speedy external review process for patients dissatisfied with the results of the internal review. H.R. 2563 would

have allowed individuals the right to sue when a medical judgment resulted in injury or death.

The Republicans offered three amendments of which two passed to the Patient Protection Act that severely weakened major provisions. The first amendment fully expands medical savings accounts (MSA) which only benefit wealthier and healthier people. This provision will directly increase health care costs for those who remain in traditional insurance and managed care plans.

The second Republican amendment weakens enforcement provisions found within H.R. 2563, makes it nearly impossible to pursue cases in state court, and stacks the deck against patients who have been harmed by insurance companies.

Now that these two poisonous amendments have been attached to H.R. 2563, I can no longer support this bill because patients will no longer be protected. Individuals throughout our nation have been growing more and more frustrated with an inadequate health care system that does not listen to the needs of our people. The original bill would have provided many protections that are essential to upholding our patients' rights. But unfortunately, the bill was completely stripped by the Republicans who want to protect HMO insurance groups over average Americans.

I was a stronger supporter of this bill but I now have to vote against this proposal. It's a shame that we cannot pass a real patients' bill of rights, and it's a shame that we are not addressing the 44 million individuals without any kind of health care coverage. I believe we need to provide all individuals access to affordable health care in order to improve our overall quality of life and health. This Congress should support a real Patients' bill of Rights and quality health care for everyone in this country. Today, this Congress did neither.

Mr. BACA. Mr. Chairman, we are about to engage in a battle to protect patients' rights, our rights and the rights of our loved ones. I believe that every American, those in the 42nd district of California, those across the Nation are all entitled to quality health care.

We can no longer take for granted that HMOs will let doctors base decisions on our health needs. We can no longer assume that HMOs care about our health concerns over the companies' bottom line.

The bottom line is that HMOs care only about one thing: Profits! Profits! Profits! Profits! instead of health needs! health needs! health needs! health needs!

Too often today, HMOs are not making sound decisions about the health needs of our families, our children, our parents and grandparents!

We must shift priorities away from money and back to the patient! Away from HMOS and back to our doctors!

This debate is about taking care of the American people that invest in our country every day! It is about working mothers in San Bernardino with sick children at home. It is about a husband or wife in Rialto having to take time off work to see a doctor only to be referred to another doctor.

This is about direct access for women to see an ob-gyn, for your child to see a pediatrician, to emergency care specialists, this is a matter of life or death!

Let's not forget about those who have dedicated their lives to our health and happiness, our parents, our grandparents, the elderly.

This can no longer be about profits! This is about healing the sick! This is about making sure that the health needs of every American are taken care of.

Health care should be the least of our worries! You shouldn't have to worry about losing your job, you shouldn't have to worry about losing your home because your health plan wouldn't cover you in your time of need!

This is America. We care about everyone in America. We should not have to live in fear. The American people should not live in fear of sickness, the American people do not deserve to fear needing medical attention!

The least we can do is guarantee better health care for working Americans than the health care provided to those in our prison systems!

That is why I joined a bipartisan coalition, to co-sponsor H.R. 2563, the Patient Protection Act, a strong, enforceable patients' bill of rights, the only real patients' bill of rights. I will fight against efforts to weaken this bill with amendments negotiated in the dead of night.

President Bush claims he is committed to working on a bipartisan basis for the good of our people. Here is his chance! This is not a partisan issue, it is about protecting patients' rights to quality health care. It is really about the health of our country! ''Read my lips'' were his Dad's famous words. I urge the president to cut the lipservice, prove your commitment to bipartisanship! Commit to America's health Mr. President, not to the health of HMOs, not to the health of your friends in big business!

This patients' bill of rights is the medicine to cure the out-of-control greed of the HMOs. I urge you to hold HMOs accountable, to fight for patients' rights!

Remember who we are talking about. We are talking about the health of our children, our parents and our neighbors. I urge you to vote for the Patient Protection Act, H.R. 2563, without amendments that weaken patient protection.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 2563 is as follows:

H.R. 2563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Bipartisan Patient Protection Act''.

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

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

Sec. 101. Utilization review activities.
Sec. 102. Procedures for initial claims for benefits and prior authorization determinations.
Sec. 103. Internal appeals of claims denials.
Sec. 104. Independent external appeals procedures.
Sec. 105. Health care consumer assistance fund.

Subtitle B—Access to Care

Sec. 111. Consumer choice option.
Sec. 112. Choice of health care professional.
Sec. 113. Access to emergency care.
Sec. 114. Timely access to specialists.
Sec. 115. Patient access to obstetrical and gynecological care.
Sec. 116. Access to pediatric care.
Sec. 117. Continuity of care.
Sec. 118. Access to needed prescription drugs.
Sec. 119. Coverage for individuals participating in approved clinical trials.
Sec. 120. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.

Subtitle C—Access to Information

Sec. 121. Patient access to information.

Subtitle D—Protecting the Doctor-Patient Relationship

Sec. 131. Prohibition of interference with certain medical communications.
Sec. 132. Prohibition of discrimination against providers based on licensure.
Sec. 133. Prohibition against improper incentive arrangements.
Sec. 134. Payment of claims.
Sec. 135. Protection for patient advocacy.

Subtitle E—Definitions

Sec. 151. Definitions.
Sec. 152. Preemption; State flexibility; construction.
Sec. 153. Exclusions.
Sec. 154. Treatment of excepted benefits.
Sec. 155. Regulations.
Sec. 156. Incorporation into plan or coverage documents.
Sec. 157. Preservation of protections.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

Sec. 201. Application to group health plans and group health insurance coverage.
Sec. 202. Application to individual health insurance coverage.
Sec. 203. Cooperation between Federal and State authorities.

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS

Sec. 301. Application of patient protection standards to Federal health insurance programs.

TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 401. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 402. Availability of civil remedies.
Sec. 403. Limitation on certain class action litigation.
Sec. 404. Limitations on actions.
Sec. 405. Cooperation between Federal and State authorities.
Sec. 406. Sense of the Senate concerning the importance of certain unpaid services.

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Application of Patient Protection Provisions

Sec. 501. Application of requirements to group health plans under the Internal Revenue Code of 1986.
Sec. 502. Conforming enforcement for women's health and cancer rights.

Subtitle B—Health Care Coverage Access Tax Incentives

Sec. 511. Expanded availability of Archer MSAs.

Sec. 512. Deduction for 100 percent of health insurance costs of self-employed individuals.
Sec. 513. Credit for health insurance expenses of small businesses.
Sec. 514. Certain grants by private foundations to qualified health benefit purchasing coalitions.
Sec. 515. State grant program for market innovation.

TITLE VI—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

Sec. 601. Effective dates.
Sec. 602. Coordination in implementation.
Sec. 603. Severability.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. No impact on Social Security Trust Fund.
Sec. 702. Customs user fees.
Sec. 703. Fiscal year 2002 medicare payments.
Sec. 704. Sense of Senate with respect to participation in clinical trials and access to specialty care.
Sec. 705. Sense of the Senate regarding fair review process.
Sec. 706. Annual review.
Sec. 707. Definition of born-alive infant.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

SEC. 101. UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section and section 102.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms ''utilization review'' and ''utilization review activities'' mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for a participant, beneficiary, or enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(C) REVIEW OF SAMPLE OF CLAIMS DENIALS.—Such a program shall provide for a periodic evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

(B) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits.

(C) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary and appropriate.

SEC. 102. PROCEDURES FOR INITIAL CLAIMS FOR BENEFITS AND PRIOR AUTHORIZATION DETERMINATIONS.

(a) PROCEDURES OF INITIAL CLAIMS FOR BENEFITS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall—

(A) make a determination on an initial claim for benefits by a participant, beneficiary, or enrollee (or authorized representative) regarding payment or coverage for items or services under the terms and conditions of the plan or coverage involved, including any cost-sharing amount that the participant, beneficiary, or enrollee is required to pay with respect to such claim for benefits; and

(B) notify a participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional involved regarding a determination on an initial claim for benefits made under the terms and conditions of the plan or coverage, including any cost-sharing amounts that the participant, beneficiary, or enrollee may be required to make with respect to such claim for benefits, and of the right of the participant, beneficiary, or enrollee to an internal appeal under section 103.

(2) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an initial claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the claim. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of subsection (b)(1), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER'S OBLIGATIONS.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) ORAL REQUESTS.—In the case of a claim for benefits involving an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may make an initial claim for benefits orally, but a group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for benefits, the making of the request (and the timing of such request) shall be treated as the making at that time of a claim for such benefits without regard to whether and when a written confirmation of such request is made.

(b) TIMELINE FOR MAKING DETERMINATIONS.—

(1) PRIOR AUTHORIZATION DETERMINATION.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a prior authorization determination on a claim for benefits (whether oral or written) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the request for prior authorization and in no case later than 28 days after the date of the claim for benefits is received.

(B) EXPEDITED DETERMINATION.—Notwithstanding subparagraph (A), a group health plan, and a health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on a claim for benefits described in such subparagraph when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than

72 hours after the time the request is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE.—

(i) CONCURRENT REVIEW.—

(I) IN GENERAL.—Subject to clause (ii), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan or issuer must provide by telephone and in printed form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an appeal under section 103(b)(3) to be completed before the termination or reduction takes effect.

(II) CONTENTS OF NOTICE.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(2) RETROSPECTIVE DETERMINATION.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a retrospective determination on a claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but not later than 30 days after the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the claim, or, if earlier, 60 days after the date of receipt of the claim for benefits.

(c) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial made under an initial claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of the determination (or, in the case described in subparagraph (B) or (C) of subsection (b)(1), within the 72-hour or applicable period referred to in such subparagraph).

(d) REQUIREMENTS OF NOTICE OF DETERMINATIONS.—The written notice of a denial of a claim for benefits determination under subsection (c) shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(1) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(2) the procedures for obtaining additional information concerning the determination; and

(3) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with section 103.

(e) DEFINITIONS.—For purposes of this part:

(1) AUTHORIZED REPRESENTATIVE.—The term ''authorized representative'' means, with respect to an individual who is a participant, beneficiary, or enrollee, any health care professional or other person acting on behalf of the individual with the individual's consent or without such consent if the individual is medically unable to provide such consent.

(2) CLAIM FOR BENEFITS.—The term ''claim for benefits'' means any request for coverage (including authorization of coverage), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage.

(3) DENIAL OF CLAIM FOR BENEFITS.—The term ''denial'' means, with respect to a claim for benefits, a denial (in whole or in part) of, or a failure to act on a timely basis upon, the claim for benefits and includes a failure to provide benefits (including items and services) required to be provided under this title.

(4) TREATING HEALTH CARE PROFESSIONAL.—The term ''treating health care professional'' means, with respect to services to be provided to a participant, beneficiary, or enrollee, a health care professional who is primarily responsible for delivering those services to the participant, beneficiary, or enrollee.

SEC. 103. INTERNAL APPEALS OF CLAIMS DENIALS.

(a) RIGHT TO INTERNAL APPEAL.—

(1) IN GENERAL.—A participant, beneficiary, or enrollee (or authorized representative) may appeal any denial of a claim for benefits under section 102 under the procedures described in this section.

(2) TIME FOR APPEAL.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall ensure that a participant, beneficiary, or enrollee (or authorized representative) has a period of not less than 180 days beginning on the date of a denial of a claim for benefits under section 102 in which to appeal such denial under this section.

(B) DATE OF DENIAL.—For purposes of subparagraph (A), the date of the denial shall be deemed to be the date as of which the participant, beneficiary, or enrollee knew of the denial of the claim for benefits.

(3) FAILURE TO ACT.—The failure of a plan or issuer to issue a determination on a claim for benefits under section 102 within the applicable timeline established for such a determination under such section is a denial of a claim for benefits for purposes this subtitle as of the date of the applicable deadline.

(4) PLAN WAIVER OF INTERNAL REVIEW.—A group health plan, or health insurance issuer offering health insurance coverage, may waive the internal review process under this section. In such case the plan or issuer shall provide notice to the participant, beneficiary, or enrollee (or authorized representative) involved, the participant, beneficiary, or enrollee (or authorized representative) involved shall be relieved of any obligation to complete the internal review involved, and may, at the option of such participant, beneficiary, enrollee, or representative proceed directly to seek further appeal through external review under section 104 or otherwise.

(b) TIMELINES FOR MAKING DETERMINATIONS.—

(1) ORAL REQUESTS.—In the case of an appeal of a denial of a claim for benefits under this section that involves an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may request such appeal orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for an appeal of a denial, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for an appeal without regard to whether and when a written confirmation of such request is made.

(2) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an appeal of a denial of a claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the appeal. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of paragraph (3), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER'S OBLIGATIONS.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) PRIOR AUTHORIZATION DETERMINATIONS.—

(A) IN GENERAL.—Except as provided in this paragraph or paragraph (4), a group health plan, and a health insurance issuer offering health insurance coverage, shall make a determination on an appeal of a denial of a claim for benefits under this subsection in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 28 days after the date the request for the appeal is received.

(B) EXPEDITED DETERMINATION.—Notwithstanding subparagraph (A), a group health plan, and a health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on an appeal of a denial of a claim for benefits described in subparagraph (A), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for such appeal is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE DETERMINATIONS.—

(i) IN GENERAL.—Subject to clause (ii), in the case of a concurrent review determination described in section 102(b)(1)(C)(i)(I), which results in a termination or reduction of such care, the plan or issuer must provide notice of the determination on the appeal under this section by telephone and in printed form to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an external appeal

under section 104 to be completed before the termination or reduction takes effect.

(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(4) RETROSPECTIVE DETERMINATION.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a retrospective determination on an appeal of a denial of a claim for benefits in no case later than 30 days after the date on which the plan or issuer receives necessary information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 60 days after the date the request for the appeal is received.

(c) CONDUCT OF REVIEW.—

(1) IN GENERAL.—A review of a denial of a claim for benefits under this section shall be conducted by an individual with appropriate expertise who was not involved in the initial determination.

(2) PEER REVIEW OF MEDICAL DECISIONS BY HEALTH CARE PROFESSIONALS.—A review of an appeal of a denial of a claim for benefits that is based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, or requires an evaluation of medical facts—

(A) shall be made by a physician (allopathic or osteopathic); or

(B) in a claim for benefits provided by a non-physician health professional, shall be made by reviewer (or reviewers) including at least one practicing non-physician health professional of the same or similar specialty;

with appropriate expertise (including, in the case of a child, appropriate pediatric expertise) and acting within the appropriate scope of practice within the State in which the service is provided or rendered, who was not involved in the initial determination.

(d) NOTICE OF DETERMINATION.—

(1) IN GENERAL.—Written notice of a determination made under an internal appeal of a denial of a claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of completion of the review (or, in the case described in subparagraph (B) or (C) of subsection (b)(3), within the 72-hour or applicable period referred to in such subparagraph).

(2) FINAL DETERMINATION.—The decision by a plan or issuer under this section shall be treated as the final determination of the plan or issuer on a denial of a claim for benefits. The failure of a plan or issuer to issue a determination on an appeal of a denial of a claim for benefits under this section within the applicable timeline established for such a determination shall be treated as a final determination on an appeal of a denial of a claim for benefits for purposes of proceeding to external review under section 104.

(3) REQUIREMENTS OF NOTICE.—With respect to a determination made under this section, the notice described in paragraph (1) shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(A) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(B) the procedures for obtaining additional information concerning the determination; and

(C) notification of the right to an independent external review under section 104 and instructions on how to initiate such a review.

SEC. 104. INDEPENDENT EXTERNAL APPEALS PROCEDURES.

(a) RIGHT TO EXTERNAL APPEAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide in accordance with this section participants, beneficiaries, and enrollees (or authorized representatives) with access to an independent external review for any denial of a claim for benefits.

(b) INITIATION OF THE INDEPENDENT EXTERNAL REVIEW PROCESS.—

(1) TIME TO FILE.—A request for an independent external review under this section shall be filed with the plan or issuer not later than 180 days after the date on which the participant, beneficiary, or enrollee receives notice of the denial under section 103(d) or notice of waiver of internal review under section 103(a)(4) or the date on which the plan or issuer has failed to make a timely decision under section 103(d)(2) and notifies the participant or beneficiary that it has failed to make a timely decision and that the beneficiary must file an appeal with an external review entity within 180 days if the participant or beneficiary desires to file such an appeal.

(2) FILING OF REQUEST.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group health plan, or health insurance issuer offering health insurance coverage, may—

(i) except as provided in subparagraph (B)(i), require that a request for review be in writing;

(ii) limit the filing of such a request to the participant, beneficiary, or enrollee involved (or an authorized representative);

(iii) except if waived by the plan or issuer under section 103(a)(4), condition access to an independent external review under this section upon a final determination of a denial of a claim for benefits under the internal review procedure under section 103;

(iv) except as provided in subparagraph (B)(ii), require payment of a filing fee to the plan or issuer of a sum that does not exceed $25; and

(v) require that a request for review include the consent of the participant, beneficiary, or enrollee (or authorized representative) for the release of necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity only for purposes of conducting external review activities.

(B) REQUIREMENTS AND EXCEPTION RELATING TO GENERAL RULE.—

(i) ORAL REQUESTS PERMITTED IN EXPEDITED OR CONCURRENT CASES.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request for such review may be made orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. Such written confirmation shall be treated as a consent for purposes of subparagraph (A)(v). In the case of such an oral request for such a review, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for such a review without regard to whether and when a written confirmation of such request is made.

(ii) EXCEPTION TO FILING FEE REQUIREMENT.—

(I) INDIGENCY.—Payment of a filing fee shall not be required under subparagraph (A)(iv) where there is a certification (in a form and manner specified in guidelines established by the appropriate Secretary) that the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).

(II) FEE NOT REQUIRED.—Payment of a filing fee shall not be required under subparagraph (A)(iv) if the plan or issuer waives the internal appeals process under section 103(a)(4).

(III) REFUNDING OF FEE.—The filing fee paid under subparagraph (A)(iv) shall be refunded if the determination under the independent external review is to reverse or modify the denial which is the subject of the review.

(IV) COLLECTION OF FILING FEE.—The failure to pay such a filing fee shall not prevent the consideration of a request for review but, subject to the preceding provisions of this clause, shall constitute a legal liability to pay.

(c) REFERRAL TO QUALIFIED EXTERNAL REVIEW ENTITY UPON REQUEST.—

(1) IN GENERAL.—Upon the filing of a request for independent external review with the group health plan, or health insurance issuer offering health insurance coverage, the plan or issuer shall immediately refer such request, and forward the plan or issuer's initial decision (including the information described in section 103(d)(3)(A)), to a qualified external review entity selected in accordance with this section.

(2) ACCESS TO PLAN OR ISSUER AND HEALTH PROFESSIONAL INFORMATION.—With respect to an independent external review conducted under this section, the participant, beneficiary, or enrollee (or authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide the external review entity with information that is necessary to conduct a review under this section, as determined and requested by the entity. Such information shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in clause (ii) or (iii) of subsection (e)(1)(A), by such earlier time as may be necessary to comply with the applicable timeline under such clause.

(3) SCREENING OF REQUESTS BY QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) IN GENERAL.—With respect to a request referred to a qualified external review entity under paragraph (1) relating to a denial of a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that—

(i) any of the conditions described in clauses (ii) or (iii) of subsection (b)(2)(A) have not been met;

(ii) the denial of the claim for benefits does not involve a medically reviewable decision under subsection (d)(2);

(iii) the denial of the claim for benefits relates to a decision regarding whether an individual is a participant, beneficiary, or enrollee who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage); or

(iv) the denial of the claim for benefits is a decision as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage unless the decision is a denial described in subsection (d)(2).

Upon making a determination that any of clauses (i) through (iv) applies with respect to the request, the entity shall determine that the denial of a claim for benefits involved is not eligible for independent medical review under subsection (d), and shall provide notice in accordance with subparagraph (C).

(B) PROCESS FOR MAKING DETERMINATIONS.—

(i) NO DEFERENCE TO PRIOR DETERMINATIONS.—In making determinations under subparagraph (A), there shall be no deference given to determinations made by the plan or issuer or the recommendation of a treating health care professional (if any).

(ii) USE OF APPROPRIATE PERSONNEL.—A qualified external review entity shall use appropriately qualified personnel to make determinations under this section.

(C) NOTICES AND GENERAL TIMELINES FOR DETERMINATION.—

(i) NOTICE IN CASE OF DENIAL OF REFERRAL.—If the entity under this paragraph does not make a referral to an independent medical reviewer, the entity shall provide notice to the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) filing the request, and the treating health care professional (if any) that the denial is not subject to independent medical review. Such notice—

(I) shall be written (and, in addition, may be provided orally) in a manner calculated to be understood by a participant or enrollee;

(II) shall include the reasons for the determination;

(III) include any relevant terms and conditions of the plan or coverage; and

(IV) include a description of any further recourse available to the individual.

(ii) GENERAL TIMELINE FOR DETERMINATIONS.—Upon receipt of information under paragraph (2), the qualified external review entity, and if required the independent medical reviewer, shall make a determination within the overall timeline that is applicable to the case under review as described in subsection (e), except that if the entity determines that a referral to an independent medical reviewer is not required, the entity shall provide notice of such determination to the participant, beneficiary, or enrollee (or authorized representative) within such timeline and within 2 days of the date of such determination.

(d) INDEPENDENT MEDICAL REVIEW.—

(1) IN GENERAL.—If a qualified external review entity determines under subsection (c) that a denial of a claim for benefits is eligible for independent medical review, the entity shall refer the denial involved to an independent medical reviewer for the conduct of an independent medical review under this subsection.

(2) MEDICALLY REVIEWABLE DECISIONS.—A denial of a claim for benefits is eligible for independent medical review if the benefit for the item or service for which the claim is made would be a covered benefit under the terms and conditions of the plan or coverage but for one (or more) of the following determinations:

(A) DENIALS BASED ON MEDICAL NECESSITY AND APPROPRIATENESS.—A determination that the item or service is not covered because it is not medically necessary and appropriate or based on the application of substantially equivalent terms.

(B) DENIALS BASED ON EXPERIMENTAL OR INVESTIGATIONAL TREATMENT.—A determination that the item or service is not covered because it is experimental or investigational or based on the application of substantially equivalent terms.

(C) DENIALS OTHERWISE BASED ON AN EVALUATION OF MEDICAL FACTS.—A determination that the item or service or condition is not covered based on grounds that require an evaluation of the medical facts by a health care professional in the specific case involved to determine the coverage and extent of coverage of the item or service or condition.

(3) INDEPENDENT MEDICAL REVIEW DETERMINATION.—

(A) IN GENERAL.—An independent medical reviewer under this section shall make a new independent determination with respect to whether or not the denial of a claim for a benefit that is the subject of the review should be upheld, reversed, or modified.

(B) STANDARD FOR DETERMINATION.—The independent medical reviewer's determination relating to the medical necessity and appropriateness, or the experimental or investigational nature, or the evaluation of the medical facts, of the item, service, or condition involved shall be based on the medical condition of the participant, beneficiary, or enrollee (including the medical records of the participant, beneficiary, or enrollee) and valid, relevant scientific evidence and clinical evidence, including peer-reviewed medical literature or findings and including expert opinion.

(C) NO COVERAGE FOR EXCLUDED BENEFITS.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage, provide coverage for items or services for which benefits are specifically excluded or expressly limited under the plan or coverage in the plain language of the plan document (and which are disclosed under section 121(b)(1)(C)). Notwithstanding any other provision of this Act, any exclusion of an exact medical procedure, any exact time limit on the duration or frequency of coverage, and any exact dollar limit on the amount of coverage that is specifically enumerated and defined (in the plain language of the plan or coverage documents) under the plan or coverage offered by a group health plan or health insurance issuer offering health insurance coverage and that is disclosed under section 121(b)(1) shall be considered to govern the scope of the benefits that may be required: *Provided,* That the terms and conditions of the plan or coverage relating to such an exclusion or limit are in compliance with the requirements of law.

(D) EVIDENCE AND INFORMATION TO BE USED IN MEDICAL REVIEWS.—In making a determination under this subsection, the independent medical reviewer shall also consider appropriate and available evidence and information, including the following:

(i) The determination made by the plan or issuer with respect to the claim upon internal review and the evidence, guidelines, or rationale used by the plan or issuer in reaching such determination.

(ii) The recommendation of the treating health care professional and the evidence, guidelines, and rationale used by the treating health care professional in reaching such recommendation.

(iii) Additional relevant evidence or information obtained by the reviewer or submitted by the plan, issuer, participant, beneficiary, or enrollee (or an authorized representative), or treating health care professional.

(iv) The plan or coverage document.

(E) INDEPENDENT DETERMINATION.—In making determinations under this section, a qualified external review entity and an independent medical reviewer shall—

(i) consider the claim under review without deference to the determinations made by the plan or issuer or the recommendation of the treating health care professional (if any); and

(ii) consider, but not be bound by, the definition used by the plan or issuer of ''medically necessary and appropriate'', or ''experimental or investigational'', or other substantially equivalent terms that are used by the plan or issuer to describe medical necessity and appropriateness or experimental or investigational nature of the treatment.

(F) DETERMINATION OF INDEPENDENT MEDICAL REVIEWER.—An independent medical reviewer shall, in accordance with the deadlines described in subsection (e), prepare a written determination to uphold, reverse, or modify the denial under review. Such written determination shall include—

(i) the determination of the reviewer;

(ii) the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific evidence used in making the determination; and

(iii) with respect to a determination to reverse or modify the denial under review, a timeframe within which the plan or issuer must comply with such determination.

(G) NONBINDING NATURE OF ADDITIONAL RECOMMENDATIONS.—In addition to the determination under subparagraph (F), the reviewer may provide the plan or issuer and the treating health care professional with additional recommendations in connection with such a determination, but any such recommendations shall not affect (or be treated as part of) the determination and shall not be binding on the plan or issuer.

(e) TIMELINES AND NOTIFICATIONS.—

(1) TIMELINES FOR INDEPENDENT MEDICAL REVIEW.—

(A) PRIOR AUTHORIZATION DETERMINATION.—

(i) IN GENERAL.—The independent medical reviewer (or reviewers) shall make a determination on a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days after the date of receipt of information under subsection (c)(2) if the review involves a prior authorization of items or services and in no case later than 21 days after the date the request for external review is received.

(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i) and subject to clause (iii), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination, and a health care professional certifies, with the request, that a determination under the timeline described in clause (i) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for external review is received by the qualified external review entity.

(iii) ONGOING CARE DETERMINATION.—Notwithstanding clause (i), in the case of a review described in such clause that involves a termination or reduction of care, the notice of the determination shall be completed not later than 24 hours after the time the request for external review is received by the qualified external review entity and before the end of the approved period of care.

(B) RETROSPECTIVE DETERMINATION.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retrospective determination on an appeal of a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in no case later than 30 days after the date of receipt of information under subsection (c)(2) and in no case later than 60 days after the date the request for external review is received by the qualified external review entity.

(2) NOTIFICATION OF DETERMINATION.—The external review entity shall ensure that the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if

any) receives a copy of the written determination of the independent medical reviewer prepared under subsection (d)(3)(F). Nothing in this paragraph shall be construed as preventing an entity or reviewer from providing an initial oral notice of the reviewer's determination.

(3) FORM OF NOTICES.—Determinations and notices under this subsection shall be written in a manner calculated to be understood by a participant.

(f) COMPLIANCE.—

(1) APPLICATION OF DETERMINATIONS.—

(A) EXTERNAL REVIEW DETERMINATIONS BINDING ON PLAN.—The determinations of an external review entity and an independent medical reviewer under this section shall be binding upon the plan or issuer involved.

(B) COMPLIANCE WITH DETERMINATION.—If the determination of an independent medical reviewer is to reverse or modify the denial, the plan or issuer, upon the receipt of such determination, shall authorize coverage to comply with the medical reviewer's determination in accordance with the timeframe established by the medical reviewer.

(2) FAILURE TO COMPLY.—

(A) IN GENERAL.—If a plan or issuer fails to comply with the timeframe established under paragraph (1)(B) with respect to a participant, beneficiary, or enrollee, where such failure to comply is caused by the plan or issuer, the participant, beneficiary, or enrollee may obtain the items or services involved (in a manner consistent with the determination of the independent external reviewer) from any provider regardless of whether such provider is a participating provider under the plan or coverage.

(B) REIMBURSEMENT.—

(i) IN GENERAL.—Where a participant, beneficiary, or enrollee obtains items or services in accordance with subparagraph (A), the plan or issuer involved shall provide for reimbursement of the costs of such items or services. Such reimbursement shall be made to the treating health care professional or to the participant, beneficiary, or enrollee (in the case of a participant, beneficiary, or enrollee who pays for the costs of such items or services).

(ii) AMOUNT.—The plan or issuer shall fully reimburse a professional, participant, beneficiary, or enrollee under clause (i) for the total costs of the items or services provided (regardless of any plan limitations that may apply to the coverage of such items or services) so long as the items or services were provided in a manner consistent with the determination of the independent medical reviewer.

(C) FAILURE TO REIMBURSE.—Where a plan or issuer fails to provide reimbursement to a professional, participant, beneficiary, or enrollee in accordance with this paragraph, the professional, participant, beneficiary, or enrollee may commence a civil action (or utilize other remedies available under law) to recover only the amount of any such reimbursement that is owed by the plan or issuer and any necessary legal costs or expenses (including attorney's fees) incurred in recovering such reimbursement.

(D) AVAILABLE REMEDIES.—The remedies provided under this paragraph are in addition to any other available remedies.

(3) PENALTIES AGAINST AUTHORIZED OFFICIALS FOR REFUSING TO AUTHORIZE THE DETERMINATION OF AN EXTERNAL REVIEW ENTITY.—

(A) MONETARY PENALTIES.—

(i) IN GENERAL.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion of a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(ii) ADDITIONAL PENALTY FOR FAILING TO FOLLOW TIMELINE.—In any case in which treatment was not commenced by the plan in accordance with the determination of an independent external reviewer, the Secretary shall assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant, beneficiary, or enrollee involved.

(B) CEASE AND DESIST ORDER AND ORDER OF ATTORNEY'S FEES.—In any action described in subparagraph (A) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such subparagraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity to be covered, or has failed to take an action for which such person is responsible under the terms and conditions of the plan or coverage and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

(i) to cease and desist from the alleged action or failure to act; and

(ii) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(C) ADDITIONAL CIVIL PENALTIES.—

(i) IN GENERAL.—In addition to any penalty imposed under subparagraph (A) or (B), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(I) any pattern or practice of repeated refusal to authorize a benefit determined by an external appeal entity to be covered; or

(II) any pattern or practice of repeated violations of the requirements of this section with respect to such plan or coverage.

(ii) STANDARD OF PROOF AND AMOUNT OF PENALTY.—Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice and shall be in an amount not to exceed the lesser of—

(I) 25 percent of the aggregate value of benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section under such pattern or practice; or

(II) $500,000.

(D) REMOVAL AND DISQUALIFICATION.—Any person acting in the capacity of authorizing benefits who has engaged in any such pattern or practice described in subparagraph (C)(i) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any such position or involvement for a period determined by the court.

(4) PROTECTION OF LEGAL RIGHTS.—Nothing in this subsection or subtitle shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce rights.

(g) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—

(1) IN GENERAL.—In referring a denial to 1 or more individuals to conduct independent medical review under subsection (c), the qualified external review entity shall ensure that—

(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3);

(B) with respect to each review at least 1 such reviewer meets the requirements described in paragraphs (4) and (5); and

(C) compensation provided by the entity to the reviewer is consistent with paragraph (6).

(2) LICENSURE AND EXPERTISE.—Each independent medical reviewer shall be a physician (allopathic or osteopathic) or health care professional who—

(A) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(B) typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(3) INDEPENDENCE.—

(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

(i) not be a related party (as defined in paragraph (7));

(ii) not have a material familial, financial, or professional relationship with such a party; and

(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

(i) prohibit an individual, solely on the basis of affiliation with the plan or issuer, from serving as an independent medical reviewer if—

(I) a non-affiliated individual is not reasonably available;

(II) the affiliated individual is not involved in the provision of items or services in the case under review;

(III) the fact of such an affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative) and neither party objects; and

(IV) the affiliated individual is not an employee of the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as an independent medical reviewer merely on the basis of such affiliation if the affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative), and neither party objects; or

(iii) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (6).

(4) PRACTICING HEALTH CARE PROFESSIONAL IN SAME FIELD.—

(A) IN GENERAL.—In a case involving treatment, or the provision of items or services—

(i) by a physician, a reviewer shall be a practicing physician (allopathic or osteopathic) of the same or similar specialty, as a physician who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review; or

(ii) by a non-physician health care professional, a reviewer (or reviewers) shall include at least one practicing non-physician health care professional of the same or similar specialty as the non-physician health care

professional who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(B) PRACTICING DEFINED.—For purposes of this paragraph, the term ''practicing'' means, with respect to an individual who is a physician or other health care professional that the individual provides health care services to individual patients on average at least 2 days per week.

(5) PEDIATRIC EXPERTISE.—In the case of an external review relating to a child, a reviewer shall have expertise under paragraph (2) in pediatrics.

(6) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified external review entity to an independent medical reviewer in connection with a review under this section shall—

(A) not exceed a reasonable level; and

(B) not be contingent on the decision rendered by the reviewer.

(7) RELATED PARTY DEFINED.—For purposes of this section, the term ''related party'' means, with respect to a denial of a claim under a plan or coverage relating to a participant, beneficiary, or enrollee, any of the following:

(A) The plan, plan sponsor, or issuer involved, or any fiduciary, officer, director, or employee of such plan, plan sponsor, or issuer.

(B) The participant, beneficiary, or enrollee (or authorized representative).

(C) The health care professional that provides the items or services involved in the denial.

(D) The institution at which the items or services (or treatment) involved in the denial are provided.

(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

(h) QUALIFIED EXTERNAL REVIEW ENTITIES.—

(1) SELECTION OF QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) LIMITATION ON PLAN OR ISSUER SELECTION.—The appropriate Secretary shall implement procedures—

(i) to assure that the selection process among qualified external review entities will not create any incentives for external review entities to make a decision in a biased manner; and

(ii) for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

No such selection process under the procedures implemented by the appropriate Secretary may give either the patient or the plan or issuer any ability to determine or influence the selection of a qualified external review entity to review the case of any participant, beneficiary, or enrollee.

(B) STATE AUTHORITY WITH RESPECT TO QUALIFIED EXTERNAL REVIEW ENTITIES FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in a manner determined by the State to assure an unbiased determination.

(2) CONTRACT WITH QUALIFIED EXTERNAL REVIEW ENTITY.—Except as provided in paragraph (1)(B), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan or issuer and 1 or more qualified external review entities (as defined in paragraph (4)(A)).

(3) TERMS AND CONDITIONS OF CONTRACT.—The terms and conditions of a contract under paragraph (2) shall—

(A) be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external review activities; and

(B) provide that the costs of the external review process shall be borne by the plan or issuer.

Subparagraph (B) shall not be construed as applying to the imposition of a filing fee under subsection (b)(2)(A)(iv) or costs incurred by the participant, beneficiary, or enrollee (or authorized representative) or treating health care professional (if any) in support of the review, including the provision of additional evidence or information.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—In this section, the term ''qualified external review entity'' means, in relation to a plan or issuer, an entity that is initially certified (and periodically recertified) under subparagraph (C) as meeting the following requirements:

(i) The entity has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise and sufficient staffing to carry out duties of a qualified external review entity under this section on a timely basis, including making determinations under subsection (b)(2)(A) and providing for independent medical reviews under subsection (d).

(ii) The entity is not a plan or issuer or an affiliate or a subsidiary of a plan or issuer, and is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

(iii) The entity has provided assurances that it will conduct external review activities consistent with the applicable requirements of this section and standards specified in subparagraph (C), including that it will not conduct any external review activities in a case unless the independence requirements of subparagraph (B) are met with respect to the case.

(iv) The entity has provided assurances that it will provide information in a timely manner under subparagraph (D).

(v) The entity meets such other requirements as the appropriate Secretary provides by regulation.

(B) INDEPENDENCE REQUIREMENTS.—

(i) IN GENERAL.—Subject to clause (ii), an entity meets the independence requirements of this subparagraph with respect to any case if the entity—

(I) is not a related party (as defined in subsection (g)(7));

(II) does not have a material familial, financial, or professional relationship with such a party; and

(III) does not otherwise have a conflict of interest with such a party (as determined under regulations).

(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified external review entity of compensation from a plan or issuer for the conduct of external review activities under this section if the compensation is provided consistent with clause (iii).

(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by a plan or issuer to a qualified external review entity in connection with reviews under this section shall—

(I) not exceed a reasonable level; and

(II) not be contingent on any decision rendered by the entity or by any independent medical reviewer.

(C) CERTIFICATION AND RECERTIFICATION PROCESS.—

(i) IN GENERAL.—The initial certification and recertification of a qualified external review entity shall be made—

(I) under a process that is recognized or approved by the appropriate Secretary; or

(II) by a qualified private standard-setting organization that is approved by the appropriate Secretary under clause (iii).

In taking action under subclause (I), the appropriate Secretary shall give deference to entities that are under contract with the Federal Government or with an applicable State authority to perform functions of the type performed by qualified external review entities.

(ii) PROCESS.—The appropriate Secretary shall not recognize or approve a process under clause (i)(I) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

(I) will carry out (and has carried out, in the case of recertification) the responsibilities of such an entity in accordance with this section, including meeting applicable deadlines;

(II) will meet (and has met, in the case of recertification) appropriate indicators of fiscal integrity;

(III) will maintain (and has maintained, in the case of recertification) appropriate confidentiality with respect to individually identifiable health information obtained in the course of conducting external review activities; and

(IV) in the case of recertification, shall review the matters described in clause (iv).

(iii) APPROVAL OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—For purposes of clause (i)(II), the appropriate Secretary may approve a qualified private standard-setting organization if such Secretary finds that the organization only certifies (or recertifies) external review entities that meet at least the standards required for the certification (or recertification) of external review entities under clause (ii).

(iv) CONSIDERATIONS IN RECERTIFICATIONS.—In conducting recertifications of a qualified external review entity under this paragraph, the appropriate Secretary or organization conducting the recertification shall review compliance of the entity with the requirements for conducting external review activities under this section, including the following:

(I) Provision of information under subparagraph (D).

(II) Adherence to applicable deadlines (both by the entity and by independent medical reviewers it refers cases to).

(III) Compliance with limitations on compensation (with respect to both the entity and independent medical reviewers it refers cases to).

(IV) Compliance with applicable independence requirements.

(V) Compliance with the requirement of subsection (d)(1) that only medically reviewable decisions shall be the subject of independent medical review and with the requirement of subsection (d)(3) that independent medical reviewers may not require coverage for specifically excluded benefits.

(v) PERIOD OF CERTIFICATION OR RECERTIFICATION.—A certification or recertification provided under this paragraph shall extend for a period not to exceed 2 years.

(vi) REVOCATION.—A certification or recertification under this paragraph may be revoked by the appropriate Secretary or by the organization providing such certification upon a showing of cause. The Secretary, or organization, shall revoke a certification or deny a recertification with respect to an entity if there is a showing that the entity has

a pattern or practice of ordering coverage for benefits that are specifically excluded under the plan or coverage.

(vii) PETITION FOR DENIAL OR WITHDRAWAL.—An individual may petition the Secretary, or an organization providing the certification involves, for a denial of recertification or a withdrawal of a certification with respect to an entity under this subparagraph if there is a pattern or practice of such entity failing to meet a requirement of this section.

(viii) SUFFICIENT NUMBER OF ENTITIES.—The appropriate Secretary shall certify and recertify a number of external review entities which is sufficient to ensure the timely and efficient provision of review services.

(D) PROVISION OF INFORMATION.—

(i) IN GENERAL.—A qualified external review entity shall provide to the appropriate Secretary, in such manner and at such times as such Secretary may require, such information (relating to the denials which have been referred to the entity for the conduct of external review under this section) as such Secretary determines appropriate to assure compliance with the independence and other requirements of this section to monitor and assess the quality of its external review activities and lack of bias in making determinations. Such information shall include information described in clause (ii) but shall not include individually identifiable medical information.

(ii) INFORMATION TO BE INCLUDED.—The information described in this subclause with respect to an entity is as follows:

(I) The number and types of denials for which a request for review has been received by the entity.

(II) The disposition by the entity of such denials, including the number referred to a independent medical reviewer and the reasons for such dispositions (including the application of exclusions), on a plan or issuer-specific basis and on a health care specialty-specific basis.

(III) The length of time in making determinations with respect to such denials.

(IV) Updated information on the information required to be submitted as a condition of certification with respect to the entity's performance of external review activities.

(iii) INFORMATION TO BE PROVIDED TO CERTIFYING ORGANIZATION.—

(I) IN GENERAL.—In the case of a qualified external review entity which is certified (or recertified) under this subsection by a qualified private standard-setting organization, at the request of the organization, the entity shall provide the organization with the information provided to the appropriate Secretary under clause (i).

(II) ADDITIONAL INFORMATION.—Nothing in this subparagraph shall be construed as preventing such an organization from requiring additional information as a condition of certification or recertification of an entity.

(iv) USE OF INFORMATION.—Information provided under this subparagraph may be used by the appropriate Secretary and qualified private standard-setting organizations to conduct oversight of qualified external review entities, including recertification of such entities, and shall be made available to the public in an appropriate manner.

(E) LIMITATION ON LIABILITY.—No qualified external review entity having a contract with a plan or issuer, and no person who is employed by any such entity or who furnishes professional services to such entity (including as an independent medical reviewer), shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

(5) REPORT.—Not later than 12 months after the general effective date referred to in section 601, the General Accounting Office shall prepare and submit to the appropriate committees of Congress a report concerning—

(A) the information that is provided under paragraph (3)(D);

(B) the number of denials that have been upheld by independent medical reviewers and the number of denials that have been reversed by such reviewers; and

(C) the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded under the plan or coverage.

SEC. 105. HEALTH CARE CONSUMER ASSISTANCE FUND.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall establish a fund, to be known as the ''Health Care Consumer Assistance Fund'', to be used to award grants to eligible States to carry out consumer assistance activities (including programs established by States prior to the enactment of this Act) designed to provide information, assistance, and referrals to consumers of health insurance products.

(2) STATE ELIGIBILITY.—To be eligible to receive a grant under this subsection a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan that describes—

(A) the manner in which the State will ensure that the health care consumer assistance office (established under paragraph (4)) will educate and assist health care consumers in accessing needed care;

(B) the manner in which the State will coordinate and distinguish the services provided by the health care consumer assistance office with the services provided by Federal, State and local health-related ombudsman, information, protection and advocacy, insurance, and fraud and abuse programs;

(C) the manner in which the State will provide information, outreach, and services to underserved, minority populations with limited English proficiency and populations residing in rural areas;

(D) the manner in which the State will oversee the health care consumer assistance office, its activities, product materials and evaluate program effectiveness;

(E) the manner in which the State will ensure that funds made available under this section will be used to supplement, and not supplant, any other Federal, State, or local funds expended to provide services for programs described under this section and those described in subparagraphs (C) and (D);

(F) the manner in which the State will ensure that health care consumer office personnel have the professional background and training to carry out the activities of the office; and

(G) the manner in which the State will ensure that consumers have direct access to consumer assistance personnel during regular business hours.

(3) AMOUNT OF GRANT.—

(A) IN GENERAL.—From amounts appropriated under subsection (b) for a fiscal year, the Secretary shall award a grant to a State in an amount that bears the same ratio to such amounts as the number of individuals within the State covered under a group health plan or under health insurance coverage offered by a health insurance issuer bears to the total number of individuals so covered in all States (as determined by the Secretary). Any amounts provided to a State under this subsection that are not used by the State shall be remitted to the Secretary and reallocated in accordance with this subparagraph.

(B) MINIMUM AMOUNT.—In no case shall the amount provided to a State under a grant under this subsection for a fiscal year be less than an amount equal to 0.5 percent of the amount appropriated for such fiscal year to carry out this section.

(C) NON-FEDERAL CONTRIBUTIONS.—A State will provide for the collection of non-Federal contributions for the operation of the office in an amount that is not less than 25 percent of the amount of Federal funds provided to the State under this section.

(4) PROVISION OF FUNDS FOR ESTABLISHMENT OF OFFICE.—

(A) IN GENERAL.—From amounts provided under a grant under this subsection, a State shall, directly or through a contract with an independent, nonprofit entity with demonstrated experience in serving the needs of health care consumers, provide for the establishment and operation of a State health care consumer assistance office.

(B) ELIGIBILITY OF ENTITY.—To be eligible to enter into a contract under subparagraph (A), an entity shall demonstrate that it has the technical, organizational, and professional capacity to deliver the services described in subsection (b) to all public and private health insurance participants, beneficiaries, enrollees, or prospective enrollees.

(C) EXISTING STATE ENTITY.—Nothing in this section shall prevent the funding of an existing health care consumer assistance program that otherwise meets the requirements of this section.

(b) USE OF FUNDS.—

(1) BY STATE.—A State shall use amounts provided under a grant awarded under this section to carry out consumer assistance activities directly or by contract with an independent, non-profit organization. An eligible entity may use some reasonable amount of such grant to ensure the adequate training of personnel carrying out such activities. To receive amounts under this subsection, an eligible entity shall provide consumer assistance services, including—

(A) the operation of a toll-free telephone hotline to respond to consumer requests;

(B) the dissemination of appropriate educational materials on available health insurance products and on how best to access health care and the rights and responsibilities of health care consumers;

(C) the provision of education on effective methods to promptly and efficiently resolve questions, problems, and grievances;

(D) the coordination of educational and outreach efforts with health plans, health care providers, payers, and governmental agencies;

(E) referrals to appropriate private and public entities to resolve questions, problems and grievances; and

(F) the provision of information and assistance, including acting as an authorized representative, regarding internal, external, or administrative grievances or appeals procedures in nonlitigative settings to appeal the denial, termination, or reduction of health care services, or the refusal to pay for such services, under a group health plan or health insurance coverage offered by a health insurance issuer.

(2) CONFIDENTIALITY AND ACCESS TO INFORMATION.—

(A) STATE ENTITY.—With respect to a State that directly establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols in accordance with applicable Federal and State laws.

(B) CONTRACT ENTITY.—With respect to a State that, through contract, establishes a

health care consumer assistance office, such office shall establish and implement procedures and protocols, consistent with applicable Federal and State laws, to ensure the confidentiality of all information shared by a participant, beneficiary, enrollee, or their personal representative and their health care providers, group health plans, or health insurance insurers with the office and to ensure that no such information is used by the office, or released or disclosed to State agencies or outside persons or entities without the prior written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) of the individual or personal representative. The office may, consistent with applicable Federal and State confidentiality laws, collect, use or disclose aggregate information that is not individually identifiable (as defined in section 164.501 of title 45, Code of Federal Regulations). The office shall provide a written description of the policies and procedures of the office with respect to the manner in which health information may be used or disclosed to carry out consumer assistance activities. The office shall provide health care providers, group health plans, or health insurance issuers with a written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) to allow the office to obtain medical information relevant to the matter before the office.

(3) AVAILABILITY OF SERVICES.—The health care consumer assistance office of a State shall not discriminate in the provision of information, referrals, and services regardless of the source of the individual's health insurance coverage or prospective coverage, including individuals covered under a group health plan or health insurance coverage offered by a health insurance issuer, the medicare or medicaid programs under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 and 1396 et seq.), or under any other Federal or State health care program.

(4) DESIGNATION OF RESPONSIBILITIES.—

(A) WITHIN EXISTING STATE ENTITY.—If the health care consumer assistance office of a State is located within an existing State regulatory agency or office of an elected State official, the State shall ensure that—

(i) there is a separate delineation of the funding, activities, and responsibilities of the office as compared to the other funding, activities, and responsibilities of the agency; and

(ii) the office establishes and implements procedures and protocols to ensure the confidentiality of all information shared by a participant, beneficiary, or enrollee or their personal representative and their health care providers, group health plans, or health insurance issuers with the office and to ensure that no information is disclosed to the State agency or office without the written authorization of the individual or their personal representative in accordance with paragraph (2).

(B) CONTRACT ENTITY.—In the case of an entity that enters into a contract with a State under subsection (a)(3), the entity shall provide assurances that the entity has no conflict of interest in carrying out the activities of the office and that the entity is independent of group health plans, health insurance issuers, providers, payers, and regulators of health care.

(5) SUBCONTRACTS.—The health care consumer assistance office of a State may carry out activities and provide services through contracts entered into with 1 or more nonprofit entities so long as the office can demonstrate that all of the requirements of this section are complied with by the office.

(6) TERM.—A contract entered into under this subsection shall be for a term of 3 years.

(c) REPORT.—Not later than 1 year after the Secretary first awards grants under this section, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the activities funded under this section and the effectiveness of such activities in resolving health care-related problems and grievances.

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

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) IN GENERAL.—If—

(1) a health insurance issuer providing health insurance coverage in connection with a group health plan offers to enrollees health insurance coverage which provides for coverage of services (including physician pathology services) only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, or

(2) a group health plan offers to participants or beneficiaries health benefits which provide for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the plan to provide such services,

then the issuer or plan shall also offer or arrange to be offered to such enrollees, participants, or beneficiaries (at the time of enrollment and during an annual open season as provided under subsection (c)) the option of health insurance coverage or health benefits which provide for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(b) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary unless it is paid by the health plan sponsor or group health plan through agreement with the health insurance issuer.

(c) OPEN SEASON.—An enrollee, participant, or beneficiary, may change to the offering provided under this section only during a time period determined by the health insurance issuer or group health plan. Such time period shall occur at least annually.

SEC. 112. CHOICE OF HEALTH CARE PROFESSIONAL.

(a) PRIMARY CARE.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary and appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating health care professionals with respect to such care.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the application of section 114 (relating to access to specialty care).

SEC. 113. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides or covers any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

(A) without the need for any prior authorization determination;

(B) whether the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

(i) by a nonparticipating health care provider with or without prior authorization, or

(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION.—The term ''emergency medical condition'' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term ''emergency services'' means, with respect to an emergency medical condition—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(C) STABILIZE.—The term ''to stabilize'', with respect to an emergency medical condition (as defined in subparagraph (A)), has the meaning given in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—A group health plan, and health insurance coverage offered by a health insurance issuer, must provide reimbursement for maintenance care and post-stabilization care in accordance with the requirements of section 1852(d)(2) of

the Social Security Act (42 U.S.C. 1395w–22(d)(2)). Such reimbursement shall be provided in a manner consistent with subsection (a)(1)(C).

(c) COVERAGE OF EMERGENCY AMBULANCE SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage provided by a health insurance issuer, provides any benefits with respect to ambulance services and emergency services, the plan or issuer shall cover emergency ambulance services (as defined in paragraph (2)) furnished under the plan or coverage under the same terms and conditions under subparagraphs (A) through (D) of subsection (a)(1) under which coverage is provided for emergency services.

(2) EMERGENCY AMBULANCE SERVICES.—For purposes of this subsection, the term ''emergency ambulance services'' means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in subsection (a)(2)(A)) to a hospital for the receipt of emergency services (as defined in subsection (a)(2)(B)) in a case in which the emergency services are covered under the plan or coverage pursuant to subsection (a)(1) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

SEC. 114. TIMELY ACCESS TO SPECIALISTS.

(a) TIMELY ACCESS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall ensure that participants, beneficiaries, and enrollees receive timely access to specialists who are appropriate to the condition of, and accessible to, the participant, beneficiary, or enrollee, when such specialty care is a covered benefit under the plan or coverage.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

(A) to require the coverage under a group health plan or health insurance coverage of benefits or services;

(B) to prohibit a plan or issuer from including providers in the network only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees; or

(C) to override any State licensure or scope-of-practice law.

(3) ACCESS TO CERTAIN PROVIDERS.—

(A) IN GENERAL.—With respect to specialty care under this section, if a participating specialist is not available and qualified to provide such care to the participant, beneficiary, or enrollee, the plan or issuer shall provide for coverage of such care by a nonparticipating specialist.

(B) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a participant, beneficiary, or enrollee receives care from a nonparticipating specialist pursuant to subparagraph (A), such specialty care shall be provided at no additional cost to the participant, beneficiary, or enrollee beyond what the participant, beneficiary, or enrollee would otherwise pay for such specialty care if provided by a participating specialist.

(b) REFERRALS.—

(1) AUTHORIZATION.—Subject to subsection (a)(1), a group health plan or health insurance issuer may require an authorization in order to obtain coverage for specialty services under this section. Any such authorization—

(A) shall be for an appropriate duration of time or number of referrals, including an authorization for a standing referral where appropriate; and

(B) may not be refused solely because the authorization involves services of a nonparticipating specialist (described in subsection (a)(3)).

(2) REFERRALS FOR ONGOING SPECIAL CONDITIONS.—

(A) IN GENERAL.—Subject to subsection (a)(1), a group health plan and a health insurance issuer shall permit a participant, beneficiary, or enrollee who has an ongoing special condition (as defined in subparagraph (B)) to receive a referral to a specialist for the treatment of such condition and such specialist may authorize such referrals, procedures, tests, and other medical services with respect to such condition, or coordinate the care for such condition, subject to the terms of a treatment plan (if any) referred to in subsection (c) with respect to the condition.

(B) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term ''ongoing special condition'' means a condition or disease that—

(i) is life-threatening, degenerative, potentially disabling, or congenital; and

(ii) requires specialized medical care over a prolonged period of time.

(c) TREATMENT PLANS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may require that the specialty care be provided—

(A) pursuant to a treatment plan, but only if the treatment plan—

(i) is developed by the specialist, in consultation with the case manager or primary care provider, and the participant, beneficiary, or enrollee, and

(ii) is approved by the plan or issuer in a timely manner, if the plan or issuer requires such approval; and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

(2) NOTIFICATION.—Nothing in paragraph (1) shall be construed as prohibiting a plan or issuer from requiring the specialist to provide the plan or issuer with regular updates on the specialty care provided, as well as all other reasonably necessary medical information.

(d) SPECIALIST DEFINED.—For purposes of this section, the term ''specialist'' means, with respect to the condition of the participant, beneficiary, or enrollee, a health care professional, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

SEC. 115. PATIENT ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

(a) GENERAL RIGHTS.—

(1) DIRECT ACCESS.—A group health plan, and a health insurance issuer offering health insurance coverage, described in subsection (b) may not require authorization or referral by the plan, issuer, or any person (including a primary care provider described in subsection (b)(2)) in the case of a female participant, beneficiary, or enrollee who seeks coverage for obstetrical or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology.

(2) OBSTETRICAL AND GYNECOLOGICAL CARE.—A group health plan and a health insurance issuer described in subsection (b) shall treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access described under paragraph (1), by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

(b) APPLICATION OF SECTION.—A group health plan, or health insurance issuer offering health insurance coverage, described in this subsection is a group health plan or coverage that—

(1) provides coverage for obstetric or gynecologic care; and

(2) requires the designation by a participant, beneficiary, or enrollee of a participating primary care provider.

(c) CONSTRUCTION.—Nothing in subsection (a) shall be construed to—

(1) waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) PEDIATRIC CARE.—In the case of a person who has a child who is a participant, beneficiary, or enrollee under a group health plan, or health insurance coverage offered by a health insurance issuer, if the plan or issuer requires or provides for the designation of a participating primary care provider for the child, the plan or issuer shall permit such person to designate a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider if such provider participates in the network of the plan or issuer.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of pediatric care.

SEC. 117. CONTINUITY OF CARE.

(a) TERMINATION OF PROVIDER.—

(1) IN GENERAL.—If—

(A) a contract between a group health plan, or a health insurance issuer offering health insurance coverage, and a treating health care provider is terminated (as defined in paragraph (e)(4)), or

(B) benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such plan or coverage,

the plan or issuer shall meet the requirements of paragraph (3) with respect to each continuing care patient.

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) REQUIREMENTS.—The requirements of this paragraph are that the plan or issuer—

(A) notify the continuing care patient involved, or arrange to have the patient notified pursuant to subsection (d)(2), on a timely basis of the termination described in paragraph (1) (or paragraph (2), if applicable) and the right to elect continued transitional care from the provider under this section;

(B) provide the patient with an opportunity to notify the plan or issuer of the patient's need for transitional care; and

(C) subject to subsection (c), permit the patient to elect to continue to be covered with

respect to the course of treatment by such provider with the provider's consent during a transitional period (as provided for under subsection (b)).

(4) CONTINUING CARE PATIENT.—For purposes of this section, the term ''continuing care patient'' means a participant, beneficiary, or enrollee who—

(A) is undergoing a course of treatment for a serious and complex condition from the provider at the time the plan or issuer receives or provides notice of provider, benefit, or coverage termination described in paragraph (1) (or paragraph (2), if applicable);

(B) is undergoing a course of institutional or inpatient care from the provider at the time of such notice;

(C) is scheduled to undergo non-elective surgery from the provider at the time of such notice;

(D) is pregnant and undergoing a course of treatment for the pregnancy from the provider at the time of such notice; or

(E) is or was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of such notice, but only with respect to a provider that was treating the terminal illness before the date of such notice.

(b) TRANSITIONAL PERIODS.—

(1) SERIOUS AND COMPLEX CONDITIONS.—The transitional period under this subsection with respect to a continuing care patient described in subsection (a)(4)(A) shall extend for up to 90 days (as determined by the treating health care professional) from the date of the notice described in subsection (a)(3)(A).

(2) INSTITUTIONAL OR INPATIENT CARE.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(B) shall extend until the earlier of—

(A) the expiration of the 90-day period beginning on the date on which the notice under subsection (a)(3)(A) is provided; or

(B) the date of discharge of the patient from such care or the termination of the period of institutionalization, or, if later, the date of completion of reasonable follow-up care.

(3) SCHEDULED NON-ELECTIVE SURGERY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(C) shall extend until the completion of the surgery involved and post-surgical follow-up care relating to the surgery and occurring within 90 days after the date of the surgery.

(4) PREGNANCY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(D) shall extend through the provision of post-partum care directly related to the delivery.

(5) TERMINAL ILLNESS.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(E) shall extend for the remainder of the patient's life for care that is directly related to the treatment of the terminal illness or its medical manifestations.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under this section upon the provider agreeing to the following terms and conditions:

(1) The treating health care provider agrees to accept reimbursement from the plan or issuer and continuing care patient involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or coverage after the date of the termination of the contract with the group health plan or health insurance issuer) and not to impose cost-sharing with respect to the patient in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The treating health care provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The treating health care provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider; or

(2) with respect to the termination of a contract under subsection (a) to prevent a group health plan or health insurance issuer from requiring that the health care provider—

(A) notify participants, beneficiaries, or enrollees of their rights under this section; or

(B) provide the plan or issuer with the name of each participant, beneficiary, or enrollee who the provider believes is a continuing care patient.

(e) DEFINITIONS.—In this section:

(1) CONTRACT.—The term ''contract'' includes, with respect to a plan or issuer and a treating health care provider, a contract between such plan or issuer and an organized network of providers that includes the treating health care provider, and (in the case of such a contract) the contract between the treating health care provider and the organized network.

(2) HEALTH CARE PROVIDER.—The term ''health care provider'' or ''provider'' means—

(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

(3) SERIOUS AND COMPLEX CONDITION.—The term ''serious and complex condition'' means, with respect to a participant, beneficiary, or enrollee under the plan or coverage—

(A) in the case of an acute illness, a condition that is serious enough to require specialized medical treatment to avoid the reasonable possibility of death or permanent harm; or

(B) in the case of a chronic illness or condition, is an ongoing special condition (as defined in section 114(b)(2)(B)).

(4) TERMINATED.—The term ''terminated'' includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract for failure to meet applicable quality standards or for fraud.

SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—To the extent that a group health plan, or health insurance coverage offered by a health insurance issuer, provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan or issuer shall—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary;

(2) provide for disclosure of the formulary to providers; and

(3) in accordance with the applicable quality assurance and utilization review standards of the plan or issuer, provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate and, in the case of such an exception, apply the same cost-sharing requirements that would have applied in the case of a drug covered under the formulary.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (and health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term ''qualified individual'' means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan and a health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the appropriate Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate; or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term ''approved clinical trial'' means a clinical research study or clinical investigation—

(A) approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(i) the National Institutes of Health;

(ii) a cooperative group or center of the National Institutes of Health, including a qualified nongovernmental research entity to which the National Cancer Institute has awarded a center support grant;

(iii) either of the following if the conditions described in paragraph (2) are met—

(I) the Department of Veterans Affairs;

(II) the Department of Defense; or

(B) approved by the Food and Drug Administration.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the appropriate Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health; and

(B) assures unbiased review of the highest ethical standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. 120. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

(a) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage, may not modify the terms and conditions of coverage based on the determination by a participant, beneficiary, or enrollee to request less than the minimum coverage required under subsection (a).

(c) SECONDARY CONSULTATIONS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan or coverage with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan or issuer.

(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

(d) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage, may not—

(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant, beneficiary, or enrollee in accordance with this section;

(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant, beneficiary, or enrollee for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (c).

Subtitle C—Access to Information

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) REQUIREMENT.—

(1) DISCLOSURE.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis—

(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

(II) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year; and

(iii) of information relating to any material reduction to the benefits or information described in such subsection or subsection (c), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect.

(B) PARTICIPANTS, BENEFICIARIES, AND ENROLLEES.—The disclosure required under subparagraph (A) shall be provided—

(i) jointly to each participant, beneficiary, and enrollee who reside at the same address; or

(ii) in the case of a beneficiary or enrollee who does not reside at the same address as the participant or another enrollee, separately to the participant or other enrollees and such beneficiary or enrollee.

(2) PROVISION OF INFORMATION.—Information shall be provided to participants, beneficiaries, and enrollees under this section at the last known address maintained by the plan or issuer with respect to such participants, beneficiaries, or enrollees, to the extent that such information is provided to participants, beneficiaries, or enrollees via the United States Postal Service or other private delivery service.

(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

(1) BENEFITS.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits;

(B) specific preventive services covered under the plan or coverage if such services are covered;

(C) any specific exclusions or express limitations of benefits described in section 104(d)(3)(C);

(D) any other benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(E) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(2) COST SHARING.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable;

(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

(3) DISENROLLMENT.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

(4) SERVICE AREA.—A description of the plan or issuer's service area, including the provision of any out-of-area coverage.

(5) PARTICIPATING PROVIDERS.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.

(6) CHOICE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants, beneficiaries, and enrollees in selecting, accessing, or changing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a pediatrician as a primary care provider under section 116 for a participant, beneficiary, or enrollee who is a child if such section applies.

(7) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

(8) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

(9) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including any limitations on choice of health care professionals referred to in section 112(b)(2) and the right to timely access to specialists care under section 114 if such section applies.

(10) CLINICAL TRIALS.—A description of the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

(11) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for obtaining on- and off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to access to prescription drugs under section 118 if such section applies.

(12) EMERGENCY SERVICES.—A summary of the rules and procedures for accessing emergency services, including the right of a participant, beneficiary, or enrollee to obtain emergency services under the prudent layperson standard under section 113, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(13) CLAIMS AND APPEALS.—A description of the plan or issuer's rules and procedures pertaining to claims and appeals, a description of the rights (including deadlines for exercising rights) of participants, beneficiaries, and enrollees under subtitle A in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate authority), and a description of any additional legal rights and remedies available under section 502 of the Employee Retirement Income Security Act of 1974 and applicable State law.

(14) ADVANCE DIRECTIVES AND ORGAN DONATION.—A description of procedures for advance directives and organ donation decisions if the plan or issuer maintains such procedures.

(15) INFORMATION ON PLANS AND ISSUERS.—The name, mailing address, and telephone number or numbers of the plan administrator and the issuer to be used by participants, beneficiaries, and enrollees seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. Notice of whether the benefits under the plan or coverage are provided under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

(16) TRANSLATION SERVICES.—A summary description of any translation or interpretation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speakers and participants, beneficiaries, and enrollees with communication disabilities and a description of how to access these items or services.

(17) ACCREDITATION INFORMATION.—Any information that is made public by accrediting organizations in the process of accreditation if the plan or issuer is accredited, or any additional quality indicators (such as the results of enrollee satisfaction surveys) that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.

(18) NOTICE OF REQUIREMENTS.—A description of any rights of participants, beneficiaries, and enrollees that are established by the Bipartisan Patient Protection Act (excluding those described in paragraphs (1) through (17)) if such sections apply. The description required under this paragraph may be combined with the notices of the type described in sections 711(d), 713(b), or 606(a)(1) of the Employee Retirement Income Security Act of 1974 and with any other notice provision that the appropriate Secretary determines may be combined, so long as such combination does not result in any reduction in the information that would otherwise be provided to the recipient.

(19) AVAILABILITY OF ADDITIONAL INFORMATION.—A statement that the information described in subsection (c), and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request.

(20) DESIGNATED DECISIONMAKERS.—A description of the participants and beneficiaries with respect to whom each designated decisionmaker under the plan has assumed liability under section 502(o) of the Employee Retirement Income Security Act of 1974 and the name and address of each such decisionmaker.

(c) ADDITIONAL INFORMATION.—The informational materials to be provided upon the request of a participant, beneficiary, or enrollee shall include for each option available under a group health plan or health insurance coverage the following:

(1) STATUS OF PROVIDERS.—The State licensure status of the plan or issuer's participating health care professionals and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

(2) COMPENSATION METHODS.—A summary description by category of the applicable methods (such as capitation, fee-for-service, salary, bundled payments, per diem, or a combination thereof) used for compensating prospective or treating health care professionals (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage.

(3) PRESCRIPTION DRUGS.—Information about whether a specific prescription medication is included in the formulary of the plan or issuer, if the plan or issuer uses a defined formulary.

(4) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, timeframes, and appeals rights) under any utilization review program under sections 101 and 102, including any drug formulary program under section 118.

(5) EXTERNAL APPEALS INFORMATION.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) under the plan or under the coverage of the issuer.

(d) MANNER OF DISCLOSURE.—The information described in this section shall be disclosed in an accessible medium and format that is calculated to be understood by a participant or enrollee.

(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer in connection with health insurance coverage, from—

(1) distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants, beneficiaries, and enrollees in the selection of a health plan or health insurance coverage; and

(2) complying with the provisions of this section by providing information in brochures, through the Internet or other electronic media, or through other similar means, so long as—

(A) the disclosure of such information in such form is in accordance with requirements as the appropriate Secretary may impose, and

(B) in connection with any such disclosure of information through the Internet or other electronic media—

(i) the recipient has affirmatively consented to the disclosure of such information in such form,

(ii) the recipient is capable of accessing the information so disclosed on the recipient's individual workstation or at the recipient's home,

(iii) the recipient retains an ongoing right to receive paper disclosure of such information and receives, in advance of any attempt at disclosure of such information to him or her through the Internet or other electronic media, notice in printed form of such ongoing right and of the proper software required to view information so disclosed, and

(iv) the plan administrator appropriately ensures that the intended recipient is receiving the information so disclosed and provides the information in printed form if the information is not received.

Subtitle D—Protecting the Doctor-Patient Relationship

SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) GENERAL RULE.—The provisions of any contract or agreement, or the operation of

any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

SEC. 132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) IN GENERAL.—A group health plan, and a health insurance issuer with respect to health insurance coverage, shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(b) CONSTRUCTION.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage of a particular benefit or service or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer.

SEC. 133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1852(j)(4) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

(b) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1852(j)(4) of the Social Security Act to the Secretary, a Medicare+Choice organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

SEC. 134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner that is no less protective than the provisions of section 1842(c)(2) of the Social Security Act (42 U.S.C. 1395u(c)(2)).

SEC. 135. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term "protected health care professional" means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle E—Definitions

SEC. 151. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the term ''appropriate Secretary'' means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 714 of the Employee Retirement Income Security Act of 1974.

(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) APPLICABLE AUTHORITY.—The term ''applicable authority'' means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) ENROLLEE.—The term ''enrollee'' means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(3) GROUP HEALTH PLAN.—The term ''group health plan'' has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974, except that such term includes a employee welfare benefit plan treated as a group health plan under section 732(d) of such Act or defined as such a plan under section 607(1) of such Act.

(4) HEALTH CARE PROFESSIONAL.—The term ''health care professional'' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

(5) HEALTH CARE PROVIDER.—The term ''health care provider'' includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(6) NETWORK.—The term ''network'' means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(7) NONPARTICIPATING.—The term ''nonparticipating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(8) PARTICIPATING.—The term ''participating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(9) PRIOR AUTHORIZATION.—The term ''prior authorization'' means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

(10) TERMS AND CONDITIONS.—The term ''terms and conditions'' includes, with respect to a group health plan or health insurance coverage, requirements imposed under this title with respect to the plan or coverage.

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(3) CONSTRUCTION.—In applying this section, a State law that provides for equal access to, and availability of, all categories of licensed health care providers and services shall not be treated as preventing the application of any requirement of this title.

(b) APPLICATION OF SUBSTANTIALLY COMPLIANT STATE LAWS.—

(1) IN GENERAL.—In the case of a State law that imposes, with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan, a requirement that substantially complies (within the meaning of subsection (c)) with a patient protection requirement (as defined in paragraph (3)) and does not prevent the application of other requirements under this Act (except in the case of other substantially compliant requirements), in applying the requirements of this title under section 2707 and 2753 (as applicable) of the Public Health Service Act (as added by title II), subject to subsection (a)(2)—

(A) the State law shall not be treated as being superseded under subsection (a); and

(B) the State law shall apply instead of the patient protection requirement otherwise applicable with respect to health insurance coverage and non-Federal governmental plans.

(2) LIMITATION.—In the case of a group health plan covered under title I of the Employee Retirement Income Security Act of 1974, paragraph (1) shall be construed to apply only with respect to the health insurance coverage (if any) offered in connection with the plan.

(3) DEFINITIONS.—In this section:

(A) PATIENT PROTECTION REQUIREMENT.—The term ''patient protection requirement'' means a requirement under this title, and includes (as a single requirement) a group or related set of requirements under a section or similar unit under this title.

(B) SUBSTANTIALLY COMPLIANT.—The terms ''substantially compliant'', substantially complies'', or ''substantial compliance'' with respect to a State law, mean that the State law has the same or similar features as the patient protection requirements and has a similar effect.

(c) DETERMINATIONS OF SUBSTANTIAL COMPLIANCE.—

(1) CERTIFICATION BY STATES.—A State may submit to the Secretary a certification that a State law provides for patient protections that are at least substantially compliant with one or more patient protection requirements. Such certification shall be accompanied by such information as may be required to permit the Secretary to make the determination described in paragraph (2)(A).

(2) REVIEW.—

(A) IN GENERAL.—The Secretary shall promptly review a certification submitted under paragraph (1) with respect to a State law to determine if the State law substantially complies with the patient protection requirement (or requirements) to which the law relates.

(B) APPROVAL DEADLINES.—

(i) INITIAL REVIEW.—Such a certification is considered approved unless the Secretary notifies the State in writing, within 90 days after the date of receipt of the certification, that the certification is disapproved (and the reasons for disapproval) or that specified additional information is needed to make the determination described in subparagraph (A).

(ii) ADDITIONAL INFORMATION.—With respect to a State that has been notified by the Secretary under clause (i) that specified additional information is needed to make the determination described in subparagraph (A), the Secretary shall make the determination within 60 days after the date on which such specified additional information is received by the Secretary.

(3) APPROVAL.—

(A) IN GENERAL.—The Secretary shall approve a certification under paragraph (1) unless—

(i) the State fails to provide sufficient information to enable the Secretary to make a determination under paragraph (2)(A); or

(ii) the Secretary determines that the State law involved does not provide for patient protections that substantially comply with the patient protection requirement (or requirements) to which the law relates.

(B) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under subparagraph (A) may challenge such disapproval in the appropriate United States district court.

(C) DEFERENCE TO STATES.—With respect to a certification submitted under paragraph (1), the Secretary shall give deference to the State's interpretation of the State law involved with respect to the patient protection involved.

(D) PUBLIC NOTIFICATION.—The Secretary shall—

(i) provide a State with a notice of the determination to approve or disapprove a certification under this paragraph;

(ii) promptly publish in the Federal Register a notice that a State has submitted a certification under paragraph (1);

(iii) promptly publish in the Federal Register the notice described in clause (i) with respect to the State; and

(iv) annually publish the status of all States with respect to certifications.

(4) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the certification (and approval of certification) of a State law under this subsection solely because it provides for greater protections for patients than those protections otherwise required to establish substantial compliance.

(5) PETITIONS.—

(A) PETITION PROCESS.—Effective on the date on which the provisions of this Act become effective, as provided for in section 601, a group health plan, health insurance issuer, participant, beneficiary, or enrollee may submit a petition to the Secretary for an advisory opinion as to whether or not a standard or requirement under a State law applicable to the plan, issuer, participant, beneficiary, or enrollee that is not the subject of a certification under this subsection, is superseded under subsection (a)(1) because such standard or requirement prevents the application of a requirement of this title.

(B) OPINION.—The Secretary shall issue an advisory opinion with respect to a petition submitted under subparagraph (A) within the 60-day period beginning on the date on which such petition is submitted.

(d) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term ''State'' includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 153. EXCLUSIONS.

(a) NO BENEFIT REQUIREMENTS.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to include specific items and services under the terms of such a plan or coverage, other than those provided under the terms and conditions of such plan or coverage.

(b) EXCLUSION FROM ACCESS TO CARE MANAGED CARE PROVISIONS FOR FEE-FOR-SERVICE COVERAGE.—

(1) IN GENERAL.—The provisions of sections 111 through 117 shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) FEE-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term ''fee-for-service coverage'' means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

(C) allows access to any provider that is lawfully authorized to provide the covered services and that agrees to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the plan or issuer does not require prior authorization before providing for any health care services.

SEC. 154. TREATMENT OF EXCEPTED BENEFITS.

(a) IN GENERAL.—The requirements of this title and the provisions of sections 502(a)(1)(C), 502(n), and 514(d) of the Employee Retirement Income Security Act of 1974 (added by section 402) shall not apply to excepted benefits (as defined in section 733(c) of such Act), other than benefits described in section 733(c)(2)(A) of such Act, in the same manner as the provisions of part 7 of subtitle B of title I of such Act do not apply to such benefits under subsections (b) and (c) of section 732 of such Act.

(b) COVERAGE OF CERTAIN LIMITED SCOPE PLANS.—Only for purposes of applying the requirements of this title under sections 2707 and 2753 of the Public Health Service Act, section 714 of the Employee Retirement Income Security Act of 1974, and section 9813 of the Internal Revenue Code of 1986, the following sections shall be deemed not to apply:

(1) Section 2791(c)(2)(A) of the Public Health Service Act.

(2) Section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974.

(3) Section 9832(c)(2)(A) of the Internal Revenue Code of 1986.

SEC. 155. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

SEC. 156. INCORPORATION INTO PLAN OR COVERAGE DOCUMENTS.

The requirements of this title with respect to a group health plan or health insurance coverage are, subject to section 154, deemed to be incorporated into, and made a part of, such plan or the policy, certificate, or contract providing such coverage and are enforceable under law as if directly included in the documentation of such plan or such policy, certificate, or contract.

SEC. 157. PRESERVATION OF PROTECTIONS.

(a) IN GENERAL.—The rights under this Act (including the right to maintain a civil action and any other rights under the amendments made by this Act) may not be waived, deferred, or lost pursuant to any agreement not authorized under this Act.

(b) EXCEPTION.—Subsection (a) shall not apply to an agreement providing for arbitration or participation in any other nonjudicial procedure to resolve a dispute if the agreement is entered into knowingly and voluntarily by the parties involved after the dispute has arisen or is pursuant to the terms of a collective bargaining agreement. Nothing in this subsection shall be construed to permit the waiver of the requirements of sections 103 and 104 (relating to internal and external review).

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

''SEC. 2707. PATIENT PROTECTION STANDARDS.

''Each group health plan shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.''.

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting ''(other than section 2707)'' after ''requirements of such subparts''.

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

''SEC. 2753. PATIENT PROTECTION STANDARDS.

''Each health insurance issuer shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.''.

SEC. 203. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Part C of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–91 et seq.) is amended by adding at the end the following:

''SEC. 2793. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

''(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

''(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.''.

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that enrollees in Federal health insurance programs should have the same rights and privileges as those afforded under title I and under the amendments made by title IV to participants and beneficiaries under group health plans.

(b) CONFORMING FEDERAL HEALTH INSURANCE PROGRAMS.—It is the sense of Congress that the President should require, by executive order, the Federal official with authority over each Federal health insurance program, to the extent feasible, to take such steps as are necessary to implement the rights and privileges described in subsection (a) with respect to such program.

(c) GAO REPORT ON ADDITIONAL STEPS REQUIRED.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on statutory changes that are required to implement such rights and privileges in a manner that is consistent with the missions of the Federal health insurance programs and that avoids unnecessary duplication or disruption of such programs.

(d) FEDERAL HEALTH INSURANCE PROGRAM.—In this section, the term ''Federal health insurance program'' means a Federal program that provides creditable coverage (as defined in section 2701(c)(1) of the Public Health Service Act) and includes a health program of the Department of Veterans Affairs.

TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 401. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

''SEC. 714. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Bipartisan Patient Protection Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

''(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

''(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Bipartisan Patient Protection Act with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

''(A) Section 111 (relating to consumer choice option).

''(B) Section 112 (relating to choice of health care professional).

''(C) Section 113 (relating to access to emergency care).

''(D) Section 114 (relating to timely access to specialists).

''(E) Section 115 (relating to patient access to obstetrical and gynecological care).

''(F) Section 116 (relating to access to pediatric care).

''(G) Section 117 (relating to continuity of care), but only insofar as a replacement issuer assumes the obligation for continuity of care.

''(H) Section 118 (relating to access to needed prescription drugs).

''(I) Section 119 (relating to coverage for individuals participating in approved clinical trials).

''(J) Section 120 (relating to required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations).

''(K) Section 134 (relating to payment of claims).

''(2) INFORMATION.—With respect to information required to be provided or made available under section 121 of the Bipartisan Patient Protection Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

''(3) INTERNAL APPEALS.—With respect to the internal appeals process required to be established under section 103 of such Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer's failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

''(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 104 of such Act, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

''(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections of the Bipartisan Patient Protection Act, the group health plan shall not be liable for such violation unless the plan caused such violation:

''(A) Section 131 (relating to prohibition of interference with certain medical communications).

''(B) Section 132 (relating to prohibition of discrimination against providers based on licensure).

''(C) Section 133 (relating to prohibition against improper incentive arrangements).

''(D) Section 135 (relating to protection for patient advocacy).

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

''(7) TREATMENT OF SUBSTANTIALLY COMPLIANT STATE LAWS.—For purposes of applying this subsection in connection with health insurance coverage, any reference in this subsection to a requirement in a section or other provision in the Bipartisan Patient Protection Act with respect to a health insurance issuer is deemed to include a reference to a requirement under a State law that substantially complies (as determined under section 152(c) of such Act) with the requirement in such section or other provisions.

''(8) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 135(b)(1) of the Bipartisan Patient Protection Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

''(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

''(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 135(b)(1) of the Bipartisan Patient Protection Act may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

''(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

''(d) CONFORMING REGULATIONS.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under the other provisions of this title. In order to reduce duplication and clarify the rights of participants and beneficiaries with respect to information that is required to be provided, such regulations shall coordinate the information disclosure requirements under section 121 of the Bipartisan Patient Protection Act with the reporting and disclosure requirements imposed under part 1, so long as such coordination does not result in any reduction in the information that would otherwise be provided to participants and beneficiaries.''.

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting ''(a)'' after ''SEC. 503.'' and by adding at the end the following new subsection:

''(b) In the case of a group health plan (as defined in section 733), compliance with the requirements of subtitle A of title I of the Bipartisan Patient Protection Act, and compliance with regulations promulgated by the Secretary, in the case of a claims denial, shall be deemed compliance with subsection (a) with respect to such claims denial.''.

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Patient protection standards.''.

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting ''(other than section 135(b))'' after ''part 7''.

SEC. 402. AVAILABILITY OF CIVIL REMEDIES.

(a) AVAILABILITY OF FEDERAL CIVIL REMEDIES IN CASES NOT INVOLVING MEDICALLY REVIEWABLE DECISIONS.—

(1) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsections:

''(n) CAUSE OF ACTION RELATING TO PROVISION OF HEALTH BENEFITS.—

''(1) IN GENERAL.—In any case in which—

''(A) a person who is a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with the plan, or an agent of the plan, issuer, or plan sponsor, upon consideration of a claim for benefits of a participant or beneficiary under section 102 of the Bipartisan Patient Protection Act (relating to procedures for initial claims for benefits and prior authorization determinations) or upon review of a denial of such a claim under section 103 of such Act (relating to internal appeal of a denial of a claim for benefits), fails to exercise ordinary care in making a decision—

''(i) regarding whether an item or service is covered under the terms and conditions of the plan or coverage,

''(ii) regarding whether an individual is a participant or beneficiary who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage), or

''(iii) as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage, and

''(B) such failure is a proximate cause of personal injury to, or the death of, the participant or beneficiary,

such plan, plan sponsor, or issuer shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages (but not exemplary or punitive damages) in connection with such personal injury or death.

''(2) CAUSE OF ACTION MUST NOT INVOLVE MEDICALLY REVIEWABLE DECISION.—

''(A) IN GENERAL.—A cause of action is established under paragraph (1)(A) only if the decision referred to in paragraph (1)(A) does not include a medically reviewable decision.

''(B) MEDICALLY REVIEWABLE DECISION.—For purposes of this subsection, the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Bipartisan Patient Protection Act (relating to medically reviewable decisions).

''(3) LIMITATION REGARDING CERTAIN TYPES OF ACTIONS SAVED FROM PREEMPTION OF STATE LAW.—A cause of action is not established under paragraph (1)(A) in connection with a failure described in paragraph (1)(A) to the extent that a cause of action under State law (as defined in section 514(c)) for such failure would not be preempted under section 514.

''(4) DEFINITIONS AND RELATED RULES.—For purposes of this subsection.—

''(A) ORDINARY CARE.—The term 'ordinary care' means, with respect to a determination on a claim for benefits, that degree of care,

skill, and diligence that a reasonable and prudent individual would exercise in making a fair determination on a claim for benefits of like kind to the claims involved.

''(B) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

''(C) CLAIM FOR BENEFITS; DENIAL.—The terms 'claim for benefits' and 'denial of a claim for benefits' have the meanings provided such terms in section 102(e) of the Bipartisan Patient Protection Act.

''(D) TERMS AND CONDITIONS.—The term 'terms and conditions' includes, with respect to a group health plan or health insurance coverage, requirements imposed under title I of the Bipartisan Patient Protection Act.

''(E) TREATMENT OF EXCEPTED BENEFITS.—Under section 154(a) of the Bipartisan Patient Protection Act, the provisions of this subsection and subsection (a)(1)(C) do not apply to certain excepted benefits.

''(5) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

''(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1)(A) does not authorize a cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment).

''(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) under paragraph (1)(A), to the extent there was direct participation by the employer or other plan sponsor (or employee) in the decision of the plan under section 102 of the Bipartisan Patient Protection Act upon consideration of a claim for benefits or under section 103 of such Act upon review of a denial of a claim for benefits.

''(C) DIRECT PARTICIPATION.—

''(i) IN GENERAL.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in paragraph (1)(A), the actual making of such decision or the actual exercise of control in making such decision.

''(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in paragraph (1)(A) on a particular claim for benefits of a participant or beneficiary, including (but not limited to)—

''(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

''(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

''(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

''(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

''(iii) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

''(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

''(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

''(D) APPLICATION TO CERTAIN PLANS.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection, no group health plan described in clause (ii) (or plan sponsor of such a plan) shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty under the plan.

''(ii) DEFINITION.—A group health plan described in this clause is—

''(I) a group health plan that is self-insured and self administered by an employer (including an employee of such an employer acting within the scope of employment); or

''(II) a multiemployer plan as defined in section 3(37)(A) (including an employee of a contributing employer or of the plan, or a fiduciary of the plan, acting within the scope of employment or fiduciary responsibility) that is self-insured and self-administered.

''(6) EXCLUSION OF PHYSICIANS AND OTHER HEALTH CARE PROFESSIONALS.—

''(A) IN GENERAL.—No treating physician or other treating health care professional of the participant or beneficiary, and no person acting under the direction of such a physician or health care professional, shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

''(B) DEFINITIONS.—For purposes of subparagraph (A)—

''(i) HEALTH CARE PROFESSIONAL.—The term 'health care professional' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

''(ii) NON-MEDICALLY REVIEWABLE DUTY.—The term 'non-medically reviewable duty' means a duty the discharge of which does not include the making of a medically reviewable decision.

''(7) EXCLUSION OF HOSPITALS.—No treating hospital of the participant or beneficiary shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty (as defined in paragraph (6)(B)(ii)) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

''(8) RULE OF CONSTRUCTION RELATING TO EXCLUSION FROM LIABILITY OF PHYSICIANS, HEALTH CARE PROFESSIONALS, AND HOSPITALS.—Nothing in paragraph (6) or (7) shall be construed to limit the liability (whether direct or vicarious) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

''(9) REQUIREMENT OF EXHAUSTION.—

''(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102 and 103 of the Bipartisan Patient Protection Act (if applicable) have been exhausted.

''(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) or paragraph (10)(B), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

''(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

''(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

''(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative processes or such action in determining the amount of the damages awarded.

''(D) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 103 of the Bipartisan Patient Protection Act shall be admissible in any Federal court proceeding and shall be presented to the trier of fact.

''(10) STATUTORY DAMAGES.—

''(A) IN GENERAL.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this subsection.

''(B) ASSESSMENT OF CIVIL PENALTIES.—In addition to the remedies provided for in paragraph (1) (relating to the failure to provide contract benefits in accordance with the plan), a civil assessment, in an amount not to exceed $5,000,000, payable to the claimant may be awarded in any action under such paragraph if the claimant establishes by clear and convincing evidence that the alleged conduct carried out by the defendant demonstrated bad faith and flagrant disregard for the rights of the participant or beneficiary under the plan and was a proximate cause of the personal injury or death that is the subject of the claim.

''(11) LIMITATION ON ATTORNEYS' FEES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought pursuant to this subsection shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

''(B) DETERMINATION BY DISTRICT COURT.—The last Federal district court in which the action was pending upon the final disposition, including all appeals, of the action shall have jurisdiction to review the attorney's fee to ensure that the fee is a reasonable one.

''(12) LIMITATION OF ACTION.—Paragraph (1) shall not apply in connection with any action commenced after 3 years after the later of—

''(A) the date on which the plaintiff first knew, or reasonably should have known, of the personal injury or death resulting from the failure described in paragraph (1), or

''(B) the date as of which the requirements of paragraph (9) are first met.

''(13) TOLLING PROVISION.—The statute of limitations for any cause of action arising under State law relating to a denial of a claim for benefits that is the subject of an action brought in Federal court under this subsection shall be tolled until such time as the Federal court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the Federal court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

''(14) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action under subsection (a)(1)(C) and this subsection.

''(15) EXCLUSION OF DIRECTED RECORDKEEPERS.—

''(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

''(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term 'directed recordkeeper' means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Bipartisan Patient Protection Act and whose duties do not include making decisions on claims for benefits.

''(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

''(16) EXCLUSION OF HEALTH INSURANCE AGENTS.—Paragraph (1) does not apply with respect to a person whose sole involvement with the group health plan is providing advice or administrative services to the employer or other plan sponsor relating to the selection of health insurance coverage offered in connection with the plan.

''(17) NO EFFECT ON STATE LAW.—No provision of State law (as defined in section 514(c)(1)) shall be treated as superseded or otherwise altered, amended, modified, invalidated, or impaired by reason of the provisions of subsection (a)(1)(C) and this subsection.

''(18) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

''(A) IN GENERAL.—Notwithstanding the direct participation (as defined in paragraph (5)(C)(i)) of an employer or plan sponsor, in any case in which there is (or is deemed under subparagraph (B) to be) a designated decisionmaker under subparagraph (B) that meets the requirements of subsection (o)(1) for an employer or other plan sponsor—

''(i) all liability of such employer or plan sponsor involved (and any employee of such employer or sponsor acting within the scope of employment) under this subsection in connection with any participant or beneficiary shall be transferred to, and assumed by, the designated decisionmaker, and

''(ii) with respect to such liability, the designated decisionmaker shall be substituted for the employer or sponsor (or employee) in the action and may not raise any defense that the employer or sponsor (or employee) could not raise if such a decisionmaker were not so deemed.

''(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

''(C) TREATMENT OF CERTAIN TRUST FUNDS.—For purposes of this paragraph, the terms 'employer' and 'plan sponsor', in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph, shall be construed to include a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.).

''(19) PREVIOUSLY PROVIDED SERVICES.—

''(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures; or

''(ii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

''(20) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

''(A) a member of a board of directors of an employer or plan sponsor; or

''(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment or of plan-related duties of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

''(o) REQUIREMENTS FOR DESIGNATED DECISIONMAKERS OF GROUP HEALTH PLANS.—

''(1) IN GENERAL.—For purposes of subsection (n)(18) and section 514(d)(9), a designated decisionmaker meets the requirements of this paragraph with respect to any participant or beneficiary if—

''(A) such designation is in such form as may be prescribed in regulations of the Secretary,

''(B) the designated decisionmaker—

''(i) meets the requirements of paragraph (2),

''(ii) assumes unconditionally all liability of the employer or plan sponsor involved (and any employee of such employer or sponsor acting within the scope of employment) either arising under subsection (n) or arising in a cause of action permitted under section 514(d) in connection with actions (and failures to act) of the employer or plan sponsor (or employee) occurring during the period in which the designation under subsection (n)(18) or section 514(d)(9) is in effect relating to such participant and beneficiary,

''(iii) agrees to be substituted for the employer or plan sponsor (or employee) in the action and not to raise any defense with respect to such liability that the employer or plan sponsor (or employee) may not raise, and

''(iv) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary, and

''(C) the designated decisionmaker and the participants and beneficiaries for whom the decisionmaker has assumed liability are identified in the written instrument required under section 402(a) and as required under section 121(b)(19) of the Bipartisan Patient Protection Act.

Any liability assumed by a designated decisionmaker pursuant to this subsection shall be in addition to any liability that it may otherwise have under applicable law.

''(2) QUALIFICATIONS FOR DESIGNATED DECISIONMAKERS.—

''(A) IN GENERAL.—Subject to subparagraph (B), an entity is qualified under this paragraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in paragraph (1) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor and the Secretary certification of such ability. Such certification shall be provided to the plan sponsor or named fiduciary and to the Secretary upon designation under subsection (n)(18)(B) or section 517(d)(9)(B) and not less frequently than annually thereafter, or if such designation constitutes a multiyear arrangement, in conjunction with the renewal of the arrangement.

''(B) SPECIAL QUALIFICATION IN THE CASE OF CERTAIN REVIEWABLE DECISIONS.—In the case of a group health plan that provides benefits consisting of medical care to a participant or beneficiary only through health insurance coverage offered by a single health insurance issue, such issuer is the only entity that may be qualified under this paragraph to serve as a designated decisionmaker with respect to such participant or beneficiary, and shall serve as the designated decisionmaker unless the employer or other plan sponsor acts affirmatively to prevent such service.

''(3) REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of paragraph (2)(A), the requirements relating to the financial obligation of an entity for liability shall include—

''(A) coverage of such entity under an insurance policy or other arrangement, secured and maintained by such entity, to effectively insure such entity against losses arising from professional liability claims, including those arising from its service as a designated decisionmaker under this part; or

''(B) evidence of minimum capital and surplus levels that are maintained by such entity to cover any losses as a result of liability arising from its service as a designated decisionmaker under this part.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subparagraphs (A) and (B) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary may prescribe and shall be maintained throughout the term for which the designation is in effect. The provisions of this paragraph shall not apply in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State financial solvency law.

''(4) LIMITATION ON APPOINTMENT OF TREATING PHYSICIANS.—A treating physician who directly delivered the care, treatment, or provided the patient service that is the subject of a cause of action by a participant or beneficiary under subsection (n) or section 514(d) may not be designated as a designated decisionmaker under this subsection with respect to such participant or beneficiary.''.

(2) CONFORMING AMENDMENT.—Section 502(a)(1) of such Act (29 U.S.C. 1132(a)(1)) is amended—

(A) by striking ''or'' at the end of subparagraph (A);

(B) in subparagraph (B), by striking ''plan;'' and inserting ''plan, or''; and

(C) by adding at the end the following new subparagraph:

''(C) for the relief provided for in subsection (n) of this section.''.

(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following new subsections:

''(d) PREEMPTION NOT TO APPLY TO CAUSES OF ACTION UNDER STATE LAW INVOLVING MEDICALLY REVIEWABLE DECISION.—

''(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

''(A) IN GENERAL.—Except as provided in this subsection, nothing in this title (including section 502) shall be construed to supersede or otherwise alter, amend, modify, invalidate, or impair any cause of action under State law of a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) against the plan, the plan sponsor, any health insurance issuer offering health insurance coverage in connection with the plan, or any managed care entity in connection with the plan to recover damages resulting from personal injury or for wrongful death if such cause of action arises by reason of a medically reviewable decision.

''(B) MEDICALLY REVIEWABLE DECISION.—For purposes of subparagraph (A), the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Bipartisan Patient Protection Act (relating to medically reviewable decisions).

''(C) LIMITATION ON PUNITIVE DAMAGES.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), with respect to a cause of action described in subparagraph (A) brought with respect to a participant or beneficiary, State law is superseded insofar as it provides any punitive, exemplary, or similar damages if, as of the time of the personal injury or death, all the requirements of the following sections of the Bipartisan Patient Protection Act were satisfied with respect to the participant or beneficiary:

''(I) Section 102 (relating to procedures for initial claims for benefits and prior authorization determinations).

''(II) Section 103 of such Act (relating to internal appeals of claims denials).

''(III) Section 104 of such Act (relating to independent external appeals procedures).

''(ii) EXCEPTION FOR CERTAIN ACTIONS FOR WRONGFUL DEATH.—Clause (i) shall not apply with respect to an action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such an action which are only punitive or exemplary in nature.

''(iii) EXCEPTION FOR WILLFUL OR WANTON DISREGARD FOR THE RIGHTS OR SAFETY OF OTHERS.—Clause (i) shall not apply with respect to any cause of action described in subparagraph (A) if, in such action, the plaintiff establishes by clear and convincing evidence that conduct carried out by the defendant with willful or wanton disregard for the rights or safety of others was a proximate cause of the personal injury or wrongful death that is the subject of the action.

''(2) DEFINITIONS AND RELATED RULES.—For purposes of this subsection and subsection (e)—

''(A) TREATMENT OF EXCEPTED BENEFITS.—Under section 154(a) of the Bipartisan Patient Protection Act, the provisions of this subsection do not apply to certain excepted benefits.

''(B) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

''(C) CLAIM FOR BENEFIT; DENIAL.—The terms 'claim for benefits' and 'denial of a claim for benefits' shall have the meaning provided such terms under section 102(e) of the Bipartisan Patient Protection Act.

''(D) MANAGED CARE ENTITY.—

''(i) IN GENERAL.—The term 'managed care entity' means, in connection with a group health plan and subject to clause (ii), any entity that is involved in determining the manner in which or the extent to which items or services (or reimbursement therefor) are to be provided as benefits under the plan.

''(ii) TREATMENT OF TREATING PHYSICIANS, OTHER TREATING HEALTH CARE PROFESSIONALS, AND TREATING HOSPITALS.—Such term does not include a treating physician or other treating health care professional (as defined in section 502(n)(6)(B)(i)) of the participant or beneficiary and also does not include a treating hospital insofar as it is acting solely in the capacity of providing treatment or care to the participant or beneficiary. Nothing in the preceding sentence shall be construed to preempt vicarious liability of any plan, plan sponsor, health insurance issuer, or managed care entity.

''(3) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

''(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1) does not apply with respect to—

''(i) any cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment), or

''(ii) a right of recovery, indemnity, or contribution by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action to which paragraph (1) applies.

''(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), paragraph (1) applies with respect to any cause of action that is brought by a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) to recover damages resulting from personal injury or for wrongful death against any employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment) if such cause of action arises by reason of a medically reviewable decision, to the extent that there was direct participation by the employer or other plan sponsor (or employee) in the decision.

''(C) DIRECT PARTICIPATION.—

''(i) DIRECT PARTICIPATION IN DECISIONS.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in subparagraph (B), the actual making of such decision or the actual exercise of control in making such decision or in the conduct constituting the failure.

''(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in subparagraph (B) on a particular claim for benefits of a particular participant or beneficiary, including (but not limited to)—

''(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

''(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

''(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

''(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

''(iv) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

''(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

''(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

''(4) REQUIREMENT OF EXHAUSTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (D), a cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Bipartisan Patient Protection Act (if applicable) have been exhausted.

''(B) LATE MANIFESTATION OF INJURY.—

''(i) IN GENERAL.—A participant or beneficiary shall not be precluded from pursuing a review under section 104 of the Bipartisan Patient Protection Act regarding an injury that such participant or beneficiary has experienced if the external review entity first

determines that the injury of such participant or beneficiary is a late manifestation of an earlier injury.

''(ii) DEFINITION.—In this subparagraph, the term 'late manifestation of an earlier injury' means an injury sustained by the participant or beneficiary which was not known, and should not have been known, by such participant or beneficiary by the latest date that the requirements of subparagraph (A) should have been met regarding the claim for benefits which was denied.

''(C) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) unless the requirements of subparagraph (A) are met.

''(D) FAILURE TO REVIEW.—

''(i) IN GENERAL.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(i), a participant or beneficiary may bring an action under section 514(d) after 10 additional days after the date on which such time period has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 104(e)(1)(A)(i).

''(ii) EXPEDITED DETERMINATION.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(ii), a participant or beneficiary may bring an action under this subsection and the filing of such an action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 104(e)(1)(A)(ii).

''(E) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

''(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

''(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

''(F) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 104 of the Bipartisan Patient Protection Act shall be admissible in any Federal or State court proceeding and shall be presented to the trier of fact.

''(5) TOLLING PROVISION.—The statute of limitations for any cause of action arising under section 502(n) relating to a denial of a claim for benefits that is the subject of an action brought in State court shall be tolled until such time as the State court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the State court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

''(6) EXCLUSION OF DIRECTED RECORDKEEPERS.—

''(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

''(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term 'directed recordkeeper' means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Bipartisan Patient Protection Act and whose duties do not include making decisions on claims for benefits.

''(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

''(7) CONSTRUCTION.—Nothing in this subsection shall be construed as—

''(A) saving from preemption a cause of action under State law for the failure to provide a benefit for an item or service which is specifically excluded under the group health plan involved, except to the extent that—

''(i) the application or interpretation of the exclusion involves a determination described in section 104(d)(2) of the Bipartisan Patient Protection Act, or

''(ii) the provision of the benefit for the item or service is required under Federal law or under applicable State law consistent with subsection (b)(2)(B);

''(B) preempting a State law which requires an affidavit or certificate of merit in a civil action;

''(C) affecting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A); or

''(D) affecting a cause of action under State law other than a cause of action described in paragraph (1)(A).

''(8) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action described in paragraph (1)(A).

''(9) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

''(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any cause of action described in paragraph (1)(A) under State law insofar as such cause of action provides for liability with respect to a participant or beneficiary of an employer or plan sponsor (or an employee of such employer or sponsor acting within the scope of employment), if with respect to the employer or plan sponsor there is (or is deemed under subparagraph (B) to be) a designated decisionmaker that meets the requirements of section 502(o)(1) with respect to such participant or beneficiary. Such paragraph (1) shall apply with respect to any cause of action described in paragraph (1)(A) under State law against the designated decisionmaker of such employer or other plan sponsor with respect to the participant or beneficiary.

''(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

''(C) TREATMENT OF CERTAIN TRUST FUNDS.—For purposes of this paragraph, the terms 'employer' and 'plan sponsor', in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph, shall be construed to include a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.).

''(10) PREVIOUSLY PROVIDED SERVICES.—

''(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures;

''(ii) prohibit a cause of action under paragraph (1) relating to quality of care; or

''(iii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

''(11) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

''(A) a member of a board of directors of an employer or plan sponsor; or

''(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment or of plan-related duties of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

''(12) CHOICE OF LAW.—A cause of action brought under paragraph (1) shall be governed by the law (including choice of law rules) of the State in which the plaintiff resides.

''(13) LIMITATION ON ATTORNEYS' FEES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought under paragraph (1) shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

''(B) DETERMINATION BY COURT.—The last court in which the action was pending upon the final disposition, including all appeals, of the action may review the attorney's fee to ensure that the fee is a reasonable one.

''(C) NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a law or framework of laws with respect to the amount of an attorney's contingency fee that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action.

''(e) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—

''(1) affecting any State law relating to the practice of medicine or the provision of, or the failure to provide, medical care, or affecting any action (whether the liability is direct or vicarious) based upon such a State law,

''(2) superseding any State law permitted under section 152(b)(1)(A) of the Bipartisan Patient Protection Act, or

''(3) affecting any applicable State law with respect to limitations on monetary damages.

''(f) NO RIGHT OF ACTION FOR RECOVERY, INDEMNITY, OR CONTRIBUTION BY ISSUERS AGAINST TREATING HEALTH CARE PROFESSIONALS AND TREATING HOSPITALS.—In the case of any care provided, or any treatment decision made, by the treating health care professional or the treating hospital of a participant or beneficiary under a group health plan which consists of medical care provided under such plan, any cause of action under State law against the treating health care professional or the treating hospital by the plan or a health insurance issuer providing health insurance coverage in connection with the plan for recovery, indemnity, or contribution in connection with such care (or any medically reviewable decision made in connection with such care) or such treatment decision is superseded.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after the applicable effective under section 601.

SEC. 403. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 402, is further amended by adding at the end the following:

''(p) LIMITATION ON CLASS ACTION LITIGATION.—

''(1) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

''(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.''.

SEC. 404. LIMITATIONS ON ACTIONS.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) (as amended by section 402(a)) is amended further by adding at the end the following new subsection:

''(q) LIMITATIONS ON ACTIONS RELATING TO GROUP HEALTH PLANS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of any provision in section 101, subtitle B, or subtitle D of title I of the Bipartisan Patient Protection Act (as incorporated under section 714).

''(2) CERTAIN ACTIONS ALLOWABLE.—An action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of section 101, 113, 114, 115, 116, 117, 118(a)(3), 119, or 120 of the Bipartisan Patient Protection Act (as incorporated under section 714) to the individual circumstances of that participant or beneficiary, except that—

''(A) such an action may not be brought or maintained as a class action; and

''(B) in such an action, relief may only provide for the provision of (or payment of) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney's fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person.

''(3) OTHER PROVISIONS UNAFFECTED.—Nothing in this subsection shall be construed as affecting subsections (a)(1)(C) and (n) or section 514(d).

''(4) ENFORCEMENT BY SECRETARY UNAFFECTED.—Nothing in this subsection shall be construed as affecting any action brought by the Secretary.''.

SEC. 405. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191 et seq.) is amended by adding at the end the following new section:

''SEC. 735. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

''(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

''(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.''.

SEC. 406. SENSE OF THE SENATE CONCERNING THE IMPORTANCE OF CERTAIN UNPAID SERVICES.

It is the sense of the Senate that the court should consider the loss of a nonwage earning spouse or parent as an economic loss for the purposes of this section. Furthermore, the court should define the compensation for the loss not as minimum services, but, rather, in terms that fully compensate for the true and whole replacement cost to the family.

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Application of Patient Protection Provisions

SEC. 501. APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

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

''Sec. 9813. Standard relating to patients' bill of rights.'';

and

(2) by inserting after section 9812 the following:

''SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

''A group health plan shall comply with the requirements of title I of the Bipartisan Patient Protection Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.''.

SEC. 502. CONFORMING ENFORCEMENT FOR WOMEN'S HEALTH AND CANCER RIGHTS.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 501, is further amended—

(1) in the table of sections, by inserting after the item relating to section 9813 the following new item:

''Sec. 9814. Standard relating to women's health and cancer rights.'';

and

(2) by inserting after section 9813 the following:

''SEC. 9814. STANDARD RELATING TO WOMEN'S HEALTH AND CANCER RIGHTS.

''The provisions of section 713 of the Employee Retirement Income Security Act of 1974 (as in effect as of the date of the enactment of this section) shall apply to group health plans as if included in this subchapter.''.

Subtitle B—Health Care Coverage Access Tax Incentives

SEC. 511. EXPANDED AVAILABILITY OF ARCHER MSAS.

(a) EXTENSION OF PROGRAM.—Paragraphs (2) and (3)(B) of section 220(i) of the Internal Revenue Code of 1986 (defining cut-off year) are each amended by striking ''2002'' each place it appears and inserting ''2004''.

(b) INCREASE IN NUMBER OF PERMITTED ACCOUNT PARTICIPANTS.—

(1) IN GENERAL.—Subsection (j) of section 220 of such Code is amended by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6) and by inserting after paragraph (2) the following new paragraph:

''(3) DETERMINATION OF WHETHER LIMIT EXCEEDED FOR YEARS AFTER 2001.—

''(A) IN GENERAL.—The numerical limitation for any year after 2001 is exceeded if the sum of—

''(i) the number of Archer MSA returns filed on or before April 15 of such calendar year for taxable years ending with or within the preceding calendar year, plus

''(ii) the Secretary's estimate (determined on the basis of the returns described in clause (i)) of the number of Archer MSA returns for such taxable years which will be filed after such date, exceeds 1,000,000. For purposes of the preceding sentence, the term 'Archer MSA return' means any return on which any exclusion is claimed under section 106(b) or any deduction is claimed under this section.

''(B) ALTERNATIVE COMPUTATION OF LIMITATION.—The numerical limitation for any year after 2001 is also exceeded if the sum of—

''(i) 90 percent of the sum determined under subparagraph (A) for such calendar year, plus

''(ii) the product of 2.5 and the number of medical savings accounts established during the portion of such year preceding July 1 (based on the reports required under paragraph (5)) for taxable years beginning in such year,

exceeds 1,000,000''.

(2) CONFORMING AMENDMENTS.—

(A) Clause (ii) of section 220(j)(2)(B) of such Code is amended by striking ''paragraph (4)'' and inserting ''paragraph (5)''.

(B) Subparagraph (A) of section 220(j)(4) of such Code is amended by striking ''and 2001'' and inserting ''2001, 2002, and 2003''.

(c) INCREASE IN SIZE OF ELIGIBLE EMPLOYERS.—Subparagraph (A) of section 220(c)(4) of such Code is amended by striking ''50 or fewer employees'' and inserting ''100 or fewer employees''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(e) GAO STUDY.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the impact of Archer MSAs on the cost of conventional insurance (especially in those areas where there are higher numbers of such accounts) and on adverse selection and health care costs.

SEC. 512. DEDUCTION FOR 100 PERCENT OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 513. CREDIT FOR HEALTH INSURANCE EXPENSES OF SMALL BUSINESSES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45E. SMALL BUSINESS HEALTH INSURANCE EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a small employer, the health insurance credit determined under this section for the taxable year is an amount equal to the applicable percentage of the expenses paid by the taxpayer during the taxable year for health insurance coverage for such year provided under a new health plan for employees of such employer.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(1) in the case of insurance purchased as a member of a qualified health benefit purchasing coalition (as defined in section 9841), 30 percent, and

''(2) in the case of insurance not described in paragraph (1), 20 percent.

''(c) LIMITATIONS.—

''(1) PER EMPLOYEE DOLLAR LIMITATION.—The amount of expenses taken into account under subsection (a) with respect to any employee for any taxable year shall not exceed—

''(A) $2,000 in the case of self-only coverage, and

''(B) $5,000 in the case of family coverage. In the case of an employee who is covered by a new health plan of the employer for only a portion of such taxable year, the limitation under the preceding sentence shall be an amount which bears the same ratio to such limitation (determined without regard to this sentence) as such portion bears to the entire taxable year.

''(2) PERIOD OF COVERAGE.—Expenses may be taken into account under subsection (a) only with respect to coverage for the 4-year period beginning on the date the employer establishes a new health plan.

''(d) DEFINITIONS.—For purposes of this section—

''(1) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by section 9832(b)(1).

''(2) NEW HEALTH PLAN.—

''(A) IN GENERAL.—The term 'new health plan' means any arrangement of the employer which provides health insurance coverage to employees if—

''(i) such employer (and any predecessor employer) did not establish or maintain such arrangement (or any similar arrangement) at any time during the 2 taxable years ending prior to the taxable year in which the credit under this section is first allowed, and

''(ii) such arrangement provides health insurance coverage to at least 70 percent of the qualified employees of such employer.

''(B) QUALIFIED EMPLOYEE.—

''(i) IN GENERAL.—The term 'qualified employee' means any employee of an employer if the annual rate of such employee's compensation (as defined in section 414(s)) exceeds $10,000.

''(ii) TREATMENT OF CERTAIN EMPLOYEES.—The term 'employee' shall include a leased employee within the meaning of section 414(n).

''(3) SMALL EMPLOYER.—The term 'small employer' has the meaning given to such term by section 4980D(d)(2); except that only qualified employees shall be taken into account.

''(e) SPECIAL RULES.—

''(1) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(2) AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred pursuant to a salary reduction arrangement shall be taken into account under subsection (a).

''(f) TERMINATION.—This section shall not apply to expenses paid or incurred by an employer with respect to any arrangement established on or after January 1, 2010.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', plus'', and by adding at the end the following:

''(14) in the case of a small employer (as defined in section 45E(d)(3)), the health insurance credit determined under section 45E(a).''.

(c) NO CARRYBACKS.—Subsection (d) of section 39 of such Code (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

''(10) NO CARRYBACK OF SECTION 45E CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the employee health insurance expenses credit determined under section 45E may be carried back to a taxable year ending before the date of the enactment of section 45E.''.

(d) DENIAL OF DOUBLE BENEFIT.—Section 280C of such Code is amended by adding at the end the following new subsection:

''(d) CREDIT FOR SMALL BUSINESS HEALTH INSURANCE EXPENSES.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the expenses (otherwise allowable as a deduction) taken into account in determining the credit under section 45E for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45E(a).

''(2) CONTROLLED GROUPS.—Persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 person for purposes of this section.''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

''Sec. 45E. Small business health insurance expenses.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2001, for arrangements established after the date of the enactment of this Act.

SEC. 514. CERTAIN GRANTS BY PRIVATE FOUNDATIONS TO QUALIFIED HEALTH BENEFIT PURCHASING COALITIONS.

(a) IN GENERAL.—Section 4942 of the Internal Revenue Code of 1986 (relating to taxes on failure to distribute income) is amended by adding at the end the following:

''(k) CERTAIN QUALIFIED HEALTH BENEFIT PURCHASING COALITION DISTRIBUTIONS.—

''(1) IN GENERAL.—For purposes of subsection (g), sections 170, 501, 507, 509, and 2522, and this chapter, a qualified health benefit purchasing coalition distribution by a private foundation shall be considered to be a distribution for a charitable purpose.

''(2) QUALIFIED HEALTH BENEFIT PURCHASING COALITION DISTRIBUTION.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'qualified health benefit purchasing coalition distribution' means any amount paid or incurred by a private foundation to or on behalf of a qualified health benefit purchasing coalition (as defined in section 9841) for purposes of payment or reimbursement of amounts paid or incurred in connection with the establishment and maintenance of such coalition.

''(B) EXCLUSIONS.—Such term shall not include any amount used by a qualified health benefit purchasing coalition (as so defined)—

''(i) for the purchase of real property,

''(ii) as payment to, or for the benefit of, members (or employees or affiliates of such members) of such coalition, or

''(iii) for any expense paid or incurred more than 48 months after the date of establishment of such coalition.

''(3) TERMINATION.—This subsection shall not apply—

''(A) to qualified health benefit purchasing coalition distributions paid or incurred after December 31, 2009, and

''(B) with respect to start-up costs of a coalition which are paid or incurred after December 31, 2010.''.

(b) QUALIFIED HEALTH BENEFIT PURCHASING COALITION.—

(1) IN GENERAL.—Chapter 100 of such Code (relating to group health plan requirements) is amended by adding at the end the following new subchapter:

''Subchapter D—Qualified Health Benefit Purchasing Coalition

''Sec. 9841. Qualified health benefit purchasing coalition.

''SEC. 9841. QUALIFIED HEALTH BENEFIT PURCHASING COALITION.

''(a) IN GENERAL.—A qualified health benefit purchasing coalition is a private not-for-profit corporation which—

''(1) sells health insurance through State licensed health insurance issuers in the State in which the employers to which such coalition is providing insurance are located, and

''(2) establishes to the Secretary, under State certification procedures or other procedures as the Secretary may provide by regulation, that such coalition meets the requirements of this section.

''(b) BOARD OF DIRECTORS.—

''(1) IN GENERAL.—Each purchasing coalition under this section shall be governed by a Board of Directors.

''(2) ELECTION.—The Secretary shall establish procedures governing election of such Board.

''(3) MEMBERSHIP.—The Board of Directors shall—

''(A) be composed of representatives of the members of the coalition, in equal number,

including small employers and employee representatives of such employers, but

''(B) not include other interested parties, such as service providers, health insurers, or insurance agents or brokers which may have a conflict of interest with the purposes of the coalition.

''(c) MEMBERSHIP OF COALITION.—

''(1) IN GENERAL.—A purchasing coalition shall accept all small employers residing within the area served by the coalition as members if such employers request such membership.

''(2) OTHER MEMBERS.—The coalition, at the discretion of its Board of Directors, may be open to individuals and large employers.

''(3) VOTING.—Members of a purchasing coalition shall have voting rights consistent with the rules established by the State.

''(d) DUTIES OF PURCHASING COALITIONS.—Each purchasing coalition shall—

''(1) enter into agreements with small employers (and, at the discretion of its Board, with individuals and other employers) to provide health insurance benefits to employees and retirees of such employers,

''(2) where feasible, enter into agreements with 3 or more unaffiliated, qualified licensed health plans, to offer benefits to members,

''(3) offer to members at least 1 open enrollment period of at least 30 days per calendar year,

''(4) serve a significant geographical area and market to all eligible members in that area, and

''(5) carry out other functions provided for under this section.

''(e) LIMITATION ON ACTIVITIES.—A purchasing coalition shall not—

''(1) perform any activity (including certification or enforcement) relating to compliance or licensing of health plans,

''(2) assume insurance or financial risk in relation to any health plan, or

''(3) perform other activities identified by the State as being inconsistent with the performance of its duties under this section.

''(f) ADDITIONAL REQUIREMENTS FOR PURCHASING COALITIONS.—As provided by the Secretary in regulations, a purchasing coalition shall be subject to requirements similar to the requirements of a group health plan under this chapter.

''(g) RELATION TO OTHER LAWS.—

''(1) PREEMPTION OF STATE FICTITIOUS GROUP LAWS.—Requirements (commonly referred to as fictitious group laws) relating to grouping and similar requirements for health insurance coverage are preempted to the extent such requirements impede the establishment and operation of qualified health benefit purchasing coalitions.

''(2) ALLOWING SAVINGS TO BE PASSED THROUGH.—Any State law that prohibits health insurance issuers from reducing premiums on health insurance coverage sold through a qualified health benefit purchasing coalition to reflect administrative savings is preempted. This paragraph shall not be construed to preempt State laws that impose restrictions on premiums based on health status, claims history, industry, age, gender, or other underwriting factors.

''(3) NO WAIVER OF HIPAA REQUIREMENTS.—Nothing in this section shall be construed to change the obligation of health insurance issuers to comply with the requirements of title XXVII of the Public Health Service Act with respect to health insurance coverage offered to small employers in the small group market through a qualified health benefit purchasing coalition.

''(h) DEFINITION OF SMALL EMPLOYER.—For purposes of this section—

''(1) IN GENERAL.—The term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of at least 2 and not more than 50 qualified employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

''(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under paragraph (1) shall be based on the average number of qualified employees that it is reasonably expected such employer will employ on business days in the current calendar year.''.

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 100 of such Code is amended by adding at the end the following item:

''Subchapter D. Qualified health benefit purchasing coalition.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 515. STATE GRANT PROGRAM FOR MARKET INNOVATION.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish a program (in this section referred to as the ''program'') to award demonstration grants under this section to States to allow States to demonstrate the effectiveness of innovative ways to increase access to health insurance through market reforms and other innovative means. Such innovative means may include (and are not limited to) any of the following:

(1) Alternative group purchasing or pooling arrangements, such as purchasing cooperatives for small businesses, reinsurance pools, or high risk pools.

(2) Individual or small group market reforms.

(3) Consumer education and outreach.

(4) Subsidies to individuals, employers, or both, in obtaining health insurance.

(b) SCOPE; DURATION.—The program shall be limited to not more than 10 States and to a total period of 5 years, beginning on the date the first demonstration grant is made.

(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary may not provide for a demonstration grant to a State under the program unless the Secretary finds that under the proposed demonstration grant—

(A) the State will provide for demonstrated increase of access for some portion of the existing uninsured population through a market innovation (other than merely through a financial expansion of a program initiated before the date of the enactment of this Act);

(B) the State will comply with applicable Federal laws;

(C) the State will not discriminate among participants on the basis of any health status-related factor (as defined in section 2791(d)(9) of the Public Health Service Act), except to the extent a State wishes to focus on populations that otherwise would not obtain health insurance because of such factors; and

(D) the State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may specify.

(2) APPLICATION.—The Secretary shall not provide a demonstration grant under the program to a State unless—

(A) the State submits to the Secretary such an application, in such a form and manner, as the Secretary specifies;

(B) the application includes information regarding how the demonstration grant will address issues such as governance, targeted population, expected cost, and the continuation after the completion of the demonstration grant period; and

(C) the Secretary determines that the demonstration grant will be used consistent with this section.

(3) FOCUS.—A demonstration grant proposal under section need not cover all uninsured individuals in a State or all health care benefits with respect to such individuals.

(d) EVALUATION.—The Secretary shall enter into a contract with an appropriate entity outside the Department of Health and Human Services to conduct an overall evaluation of the program at the end of the program period. Such evaluation shall include an analysis of improvements in access, costs, quality of care, or choice of coverage, under different demonstration grants.

(e) OPTION TO PROVIDE FOR INITIAL PLANNING GRANTS.—Notwithstanding the previous provisions of this section, under the program the Secretary may provide for a portion of the amounts appropriated under subsection (f) (not to exceed $5,000,000) to be made available to any State for initial planning grants to permit States to develop demonstration grant proposals under the previous provisions of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for each fiscal year to carry out this section. Amounts appropriated under this subsection shall remain available until expended.

(g) STATE DEFINED.—For purposes of this section, the term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act.

TITLE VI—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 601. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (d), the amendments made by sections 201(a), 401, 403, 501, and 502 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2002 (in this section referred to as the ''general effective date'').

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by sections 201(a), 401, 403, 501, and 502 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (excluding any extension thereof agreed to after the date of the enactment of this Act); or

(B) the general effective date;

but shall apply not later than 1 year after the general effective date. For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—Subject to subsection (d), the amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

(c) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—

(1) IN GENERAL.—Nothing in this Act (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) RELIGIOUS NONMEDICAL PROVIDER.—For purposes of this subsection, the term ''religious nonmedical provider'' means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

(d) TRANSITION FOR NOTICE REQUIREMENT.—The disclosure of information required under section 121 of this Act shall first be provided pursuant to—

(1) subsection (a) with respect to a group health plan that is maintained as of the general effective date, not later than 30 days before the beginning of the first plan year to which title I applies in connection with the plan under such subsection; or

(2) subsection (b) with respect to a individual health insurance coverage that is in effect as of the general effective date, not later than 30 days before the first date as of which title I applies to the coverage under such subsection.

SEC. 602. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor and the Secretary of Health and Human Services shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

SEC. 603. SEVERABILITY.

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

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such Act.

SEC. 702. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''2003'' and inserting ''2011, except that fees may not be charged under paragraphs (9) and (10) of such subsection after March 31, 2006''.

SEC. 703. FISCAL YEAR 2002 MEDICARE PAYMENTS.

Notwithstanding any other provision of law, any letter of credit under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) that would otherwise be sent to the Treasury or the Federal Reserve Board on September 30, 2002, by a carrier with a contract under section 1842 of that Act (42 U.S.C. 1395u) shall be sent on October 1, 2002.

SEC. 704. SENSE OF SENATE WITH RESPECT TO PARTICIPATION IN CLINICAL TRIALS AND ACCESS TO SPECIALTY CARE.

(a) FINDINGS.—The Senate finds the following:

(1) Breast cancer is the most common form of cancer among women, excluding skin cancers.

(2) During 2001, 182,800 new cases of female invasive breast cancer will be diagnosed, and 40,800 women will die from the disease.

(3) In addition, 1,400 male breast cancer cases are projected to be diagnosed, and 400 men will die from the disease.

(4) Breast cancer is the second leading cause of cancer death among all women and the leading cause of cancer death among women between ages 40 and 55.

(5) This year 8,600 children are expected to be diagnosed with cancer.

(6) 1,500 children are expected to die from cancer this year.

(7) There are approximately 333,000 people diagnosed with multiple sclerosis in the United States and 200 more cases are diagnosed each week.

(8) Parkinson's disease is a progressive disorder of the central nervous system affecting 1,000,000 in the United States.

(9) An estimated 198,100 men will be diagnosed with prostate cancer this year.

(10) 31,500 men will die from prostate cancer this year. It is the second leading cause of cancer in men.

(11) While information obtained from clinical trials is essential to finding cures for diseases, it is still research which carries the risk of fatal results. Future efforts should be taken to protect the health and safety of adults and children who enroll in clinical trials.

(12) While employers and health plans should be responsible for covering the routine costs associated with federally approved or funded clinical trials, such employers and health plans should not be held legally responsible for the design, implementation, or outcome of such clinical trials, consistent with any applicable State or Federal liability statutes.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) men and women battling life-threatening, deadly diseases, including advanced breast or ovarian cancer, should have the opportunity to participate in a federally approved or funded clinical trial recommended by their physician;

(2) an individual should have the opportunity to participate in a federally approved or funded clinical trial recommended by their physician if—

(A) that individual—

(i) has a life-threatening or serious illness for which no standard treatment is effective;

(ii) is eligible to participate in a federally approved or funded clinical trial according to the trial protocol with respect to treatment of the illness;

(B) that individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual; and

(C) either—

(i) the referring physician is a participating health care professional and has concluded that the individual's participation in the trial would be appropriate, based upon the individual meeting the conditions described in subparagraph (A); or

(ii) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in the trial would be appropriate, based upon the individual meeting the conditions described in subparagraph (A);

(3) a child with a life-threatening illness, including cancer, should be allowed to participate in a federally approved or funded clinical trial if that participation meets the requirements of paragraph (2);

(4) a child with a rare cancer should be allowed to go to a cancer center capable of providing high quality care for that disease; and

(5) a health maintenance organization's decision that an in-network physician without the necessary expertise can provide care for a seriously ill patient, including a woman battling cancer, should be appealable to an independent, impartial body, and that this same right should be available to all Americans in need of access to high quality specialty care.

SEC. 705. SENSE OF THE SENATE REGARDING FAIR REVIEW PROCESS.

(a) FINDINGS.—The Senate finds the following:

(1) A fair, timely, impartial independent external appeals process is essential to any meaningful program of patient protection.

(2) The independence and objectivity of the review organization and review process must be ensured.

(3) It is incompatible with a fair and independent appeals process to allow a health maintenance organization to select the review organization that is entrusted with providing a neutral and unbiased medical review.

(4) The American Arbitration Association and arbitration standards adopted under chapter 44 of title 28, United States Code (28 U.S.C. 651 et seq.) both prohibit, as inherently unfair, the right of one party to a dispute to choose the judge in that dispute.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) every patient who is denied care by a health maintenance organization or other health insurance company should be entitled to a fair, speedy, impartial appeal to a review organization that has not been selected by the health plan;

(2) the States should be empowered to maintain and develop the appropriate process for selection of the independent external review entity;

(3) a child battling a rare cancer whose health maintenance organization has denied a covered treatment recommended by its physician should be entitled to a fair and impartial external appeal to a review organization that has not been chosen by the organization or plan that has denied the care; and

(4) patient protection legislation should not pre-empt existing State laws in States where there already are strong laws in place regarding the selection of independent review organizations.

SEC. 706. ANNUAL REVIEW.

(a) IN GENERAL.—Not later than 24 months after the general effective date referred to in section 601(a)(1), and annually thereafter for each of the succeeding 4 calendar years (or until a repeal is effective under subsection (b)), the Secretary of Health and Human Services shall request that the Institute of Medicine of the National Academy of Sciences prepare and submit to the appropriate committees of Congress a report concerning the impact of this Act, and the amendments made by this Act, on the number of individuals in the United States with health insurance coverage.

(b) LIMITATION WITH RESPECT TO CERTAIN PLANS.—If the Secretary, in any report submitted under subsection (a), determines that more than 1,000,000 individuals in the United States have lost their health insurance coverage as a result of the enactment of this Act, as compared to the number of individuals with health insurance coverage in the 12-month period preceding the date of enactment of this Act, section 402 of this Act shall be repealed effective on the date that is 12 month after the date on which the report is submitted, and the submission of any further reports under subsection (a) shall not be required.

(c) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 2003 and 2004, the Secretary of Health and Human Services shall provide for such funding as the Secretary determines necessary for the conduct of the study of the National Academy of Sciences under this section.

SEC. 707. DEFINITION OF BORN-ALIVE INFANT.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

"§ 8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant

''(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words 'person', 'human being', 'child', and 'individual', shall include every infant member of the species homo sapiens who is born alive at any stage of development.

''(b) As used in this section, the term 'born alive', with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, caesarean section, or induced abortion.

''(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive as defined in this section.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

''8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant.''.

The CHAIRMAN. No amendment is in order except those printed in House Report 107–184. Each amendment may be offered only in the order printed, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider Amendment No. 1 printed in House Report 107–184.

AMENDMENT NO. 1 OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. THOMAS:

Insert before section 401 the following heading (and conform the table of contents accordingly):

Subtitle A—General Provisions

In section 301(a), insert ''subtitle A of'' before ''title IV''.

Add at the end of title IV the following new subtitle (and conform the table of contents accordingly):

Subtitle B—Association Health Plans

SEC. 421. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

"SEC. 801. ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

''(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

''(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

''(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership in the sponsor; and

''(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

"SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—The applicable authority shall prescribe by regulation, through negotiated rulemaking, a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

''(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), in the case of an association health plan that provides at least one benefit option which does not consist of health insurance coverage, the applicable authority shall certify such plan as meeting the requirements of this part only if the applicable authority is satisfied that the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

''(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

''(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation, through negotiated rulemaking, for continued certification of association health plans under this part.

''(e) CLASS CERTIFICATION FOR FULLY INSURED PLANS.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

''(f) CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—An association health plan which offers one or more benefit options which do not consist of health insurance coverage may be certified under this part only if such plan consists of any of the following:

''(1) a plan which offered such coverage on the date of the enactment of the Bipartisan Patient Protection Act,

''(2) a plan under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

''(3) a plan whose eligible participating employers represent one or more trades or businesses, or one or more industries, consisting of any of the following: agriculture; equipment and automobile dealerships; barbering and cosmetology; certified public accounting practices; child care; construction; dance, theatrical and orchestra productions; disinfecting and pest control; financial services; fishing; foodservice establishments; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; professional consulting services; sanitary services;

transportation (local and freight); warehousing; wholesaling/distributing; or any other trade or business or industry which has been indicated as having average or above-average risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, or other means demonstrated by such plan in accordance with regulations which the Secretary shall prescribe through negotiated rulemaking.

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

''(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

''(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

''(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

''(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

''(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

''(B) LIMITATION.—

''(i) GENERAL RULE.—Except as provided in clauses (ii) and (iii), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

''(ii) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

''(iii) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, clause (i) shall not apply in the case of any service provider described in subparagraph (A) who is a provider of medical care under the plan.

''(C) CERTAIN PLANS EXCLUDED.—Subparagraph (A) shall not apply to an association health plan which is in existence on the date of the enactment of the Bipartisan Patient Protection Act.

''(D) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

''(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

''(1) the requirements of subsection (a) and section 801(a)(1) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

''(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation, through negotiated rulemaking, define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

''(d) CERTAIN COLLECTIVELY BARGAINED PLANS.—

''(1) IN GENERAL.—In the case of a group health plan described in paragraph (2)—

''(A) the requirements of subsection (a) and section 801(a)(1) shall be deemed met;

''(B) the joint board of trustees shall be deemed a board of trustees with respect to which the requirements of subsection (b) are met; and

''(C) the requirements of section 804 shall be deemed met.

''(2) REQUIREMENTS.—A group health plan is described in this paragraph if—

''(A) the plan is a multiemployer plan; or

''(B) the plan is in existence on April 1, 2001, and would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii).

''(3) CONSTRUCTION.—A group health plan described in paragraph (2) shall only be treated as an association health plan under this part if the sponsor of the plan applies for, and obtains, certification of the plan as an association health plan under this part.

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

''(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

''(1) each participating employer must be—

''(A) a member of the sponsor,

''(B) the sponsor, or

''(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met,

except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

''(2) all individuals commencing coverage under the plan after certification under this part must be—

''(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

''(B) the beneficiaries of individuals described in subparagraph (A).

''(b) COVERAGE OF PREVIOUSLY UNINSURED EMPLOYEES.—In the case of an association health plan in existence on the date of the enactment of the Bipartisan Patient Protection Act, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

''(1) the affiliated member was an affiliated member on the date of certification under this part; or

''(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

''(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

''(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to an association health plan if—

''(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

''(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

''(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

''(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

''(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A));

''(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)); and

''(C) incorporates the requirements of section 806.

''(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

''(A) The contribution rates for any participating small employer do not vary on the basis of the claims experience of such employer and do not vary on the basis of the type of business or industry in which such employer is engaged.

''(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from—

''(i) setting contribution rates based on the claims experience of the plan; or

''(ii) varying contribution rates for small employers in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates in the small group market with respect to health insurance coverage offered in connection with bona fide associations (within the meaning of section 2791(d)(3) of the Public Health Service Act),

subject to the requirements of section 702(b) relating to contribution rates.

''(3) FLOOR FOR NUMBER OF COVERED INDIVIDUALS WITH RESPECT TO CERTAIN PLANS.—If any benefit option under the plan does not consist of health insurance coverage, the plan

has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

''(4) MARKETING REQUIREMENTS.—

''(A) IN GENERAL.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

''(B) STATE-LICENSED INSURANCE AGENTS.—For purposes of subparagraph (A), the term 'State-licensed insurance agents' means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

''(5) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation through negotiated rulemaking.

''(b) ABILITY OF ASSOCIATION HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Subject to section 514(e), nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of any law to the extent that it (1) prohibits an exclusion of a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to matters governed by section 711 or 712.

''SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if—

''(1) the benefits under the plan consist solely of health insurance coverage; or

''(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

''(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

''(i) a reserve sufficient for unearned contributions;

''(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities;

''(iii) a reserve sufficient for any other obligations of the plan; and

''(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan; and

''(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

''(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation, through negotiated rulemaking, provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary. The applicable authority may by regulation, through negotiated rulemaking, provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

''(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—In the case of any association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to—

''(1) $500,000, or

''(2) such greater amount (but not greater than $2,000,000) as may be set forth in regulations prescribed by the applicable authority through negotiated rulemaking, based on the level of aggregate and specific excess/stop loss insurance provided with respect to such plan.

''(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves and excess/stop loss insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation, through negotiated rulemaking, with respect to any such plan or any class of such plans.

''(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSURANCE.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

''(e) ALTERNATIVE MEANS OF COMPLIANCE.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

''(f) MEASURES TO ENSURE CONTINUED PAYMENT OF BENEFITS BY CERTAIN PLANS IN DISTRESS.—

''(1) PAYMENTS BY CERTAIN PLANS TO ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of $5,000, and, in addition to such annual payments, such supplemental payments as the Secretary may determine to be necessary under paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

''(B) PENALTIES FOR FAILURE TO MAKE PAYMENTS.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

''(C) CONTINUED DUTY OF THE SECRETARY.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

''(2) PAYMENTS BY SECRETARY TO CONTINUE EXCESS/STOP LOSS INSURANCE COVERAGE AND INDEMNIFICATION INSURANCE COVERAGE FOR CERTAIN PLANS.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be: (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2); or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

''(3) ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—There is established on the books of the Treasury a fund to be known as the 'Association Health Plan Fund'. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B); and earnings on investments of amounts of the Fund under subparagraph (B).

''(B) INVESTMENT.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

''(g) EXCESS/STOP LOSS INSURANCE.—For purposes of this section—

''(1) AGGREGATE EXCESS/STOP LOSS INSURANCE.—The term 'aggregate excess/stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to aggregate

claims under the plan in excess of an amount or amounts specified in such contract;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(2) SPECIFIC EXCESS/STOP LOSS INSURANCE.—The term 'specific excess/stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(h) INDEMNIFICATION INSURANCE.—For purposes of this section, the term 'indemnification insurance' means, in connection with an association health plan, a contract—

''(1) under which an insurer (meeting such minimum standards as the applicable authority may prescribe through negotiated rulemaking) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination);

''(2) which is guaranteed renewable and noncancellable for any reason (except as the applicable authority may prescribe by regulation through negotiated rulemaking); and

''(3) which allows for payment of premiums by any third party on behalf of the insured plan.

''(i) RESERVES.—For purposes of this section, the term 'reserves' means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as the applicable authority may prescribe through negotiated rulemaking.

''(j) SOLVENCY STANDARDS WORKING GROUP.—

''(1) IN GENERAL.—Within 90 days after the date of the enactment of the Bipartisan Patient Protection Act, the applicable authority shall establish a Solvency Standards Working Group. In prescribing the initial regulations under this section, the applicable authority shall take into account the recommendations of such Working Group.

''(2) MEMBERSHIP.—The Working Group shall consist of not more than 15 members appointed by the applicable authority. The applicable authority shall include among persons invited to membership on the Working Group at least one of each of the following:

''(A) a representative of the National Association of Insurance Commissioners;

''(B) a representative of the American Academy of Actuaries;

''(C) a representative of the State governments, or their interests;

''(D) a representative of existing self-insured arrangements, or their interests;

''(E) a representative of associations of the type referred to in section 801(b)(1), or their interests; and

''(F) a representative of multiemployer plans that are group health plans, or their interests.

"SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

''(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

''(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority through negotiated rulemaking, at least the following information:

''(1) IDENTIFYING INFORMATION.—The names and addresses of—

''(A) the sponsor; and

''(B) the members of the board of trustees of the plan.

''(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

''(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

''(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

''(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

''(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

''(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe through negotiated rulemaking.

''(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

''(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

''(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

''(E) OTHER INFORMATION.—Any other information as may be determined by the applicable authority, by regulation through negotiated rulemaking, as necessary to carry out the purposes of this part.

''(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

''(d) NOTICE OF MATERIAL CHANGES.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation through negotiated rulemaking. The applicable authority may require by regulation, through negotiated rulemaking, prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

''(e) REPORTING REQUIREMENTS FOR CERTAIN ASSOCIATION HEALTH PLANS.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 103 by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority). The applicable authority may require by regulation through negotiated rulemaking such interim reports as it considers appropriate.

''(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

''(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations; and

''(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

"SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

''Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees—

''(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

''(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

''(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation through negotiated rulemaking.

''SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

''(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation through negotiated rulemaking) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

''(b) MANDATORY TERMINATION.—In any case in which—

''(1) the applicable authority has been notified under subsection (a) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements; and

''(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

''SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition, as shall be defined by the Secretary by regulation through negotiated rulemaking, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

''(b) POWERS AS TRUSTEE.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

''(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan;

''(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee;

''(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary through negotiated rulemaking, and applicable provisions of law;

''(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan;

''(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship;

''(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan;

''(7) to issue, publish, or file such notices, statements, and reports as may be required by the Secretary by regulation through negotiated rulemaking or required by any order of the court;

''(8) to terminate the plan (or provide for its termination in accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship;

''(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options; and

''(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

''(c) NOTICE OF APPOINTMENT.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

''(1) the sponsor and plan administrator;

''(2) each participant;

''(3) each participating employer; and

''(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

''(d) ADDITIONAL DUTIES.—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

''(e) OTHER PROCEEDINGS.—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

''(f) JURISDICTION OF COURT.—

''(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

''(2) VENUE.—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

''(g) PERSONNEL.—In accordance with regulations which shall be prescribed by the Secretary through negotiated rulemaking, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

''SEC. 811. STATE ASSESSMENT AUTHORITY.

''(a) IN GENERAL.—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Bipartisan Patient Protection Act.

''(b) CONTRIBUTION TAX.—For purposes of this section, the term 'contribution tax' imposed by a State on an association health plan means any tax imposed by such State if—

''(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals;

''(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan;

''(3) such tax is otherwise nondiscriminatory; and

''(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage,

aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

"SEC. 812. DEFINITIONS AND RULES OF CONSTRUCTION.

''(a) DEFINITIONS.—For purposes of this part—

''(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

''(2) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

''(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

''(4) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

''(5) APPLICABLE AUTHORITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'applicable authority' means, in connection with an association health plan—

''(i) the State recognized pursuant to subsection (c) of section 506 as the State to which authority has been delegated in connection with such plan; or

''(ii) if there if no State referred to in clause (i), the Secretary.

''(B) EXCEPTIONS.—

''(i) JOINT AUTHORITIES.—Where such term appears in section 808(3), section 807(e) (in the first instance), section 809(a) (in the second instance), section 809(a) (in the fourth instance), and section 809(b)(1), such term means, in connection with an association health plan, the Secretary and the State referred to in subparagraph (A)(i) (if any) in connection with such plan.

''(ii) REGULATORY AUTHORITIES.—Where such term appears in section 802(a) (in the first instance), section 802(d), section 802(e), section 803(d), section 805(a)(5), section 806(a)(2), section 806(b), section 806(c), section 806(d), paragraphs (1)(A) and (2)(A) of section 806(g), section 806(h), section 806(i), section 806(j), section 807(a) (in the second instance), section 807(b), section 807(d), section 807(e) (in the second instance), section 808 (in the matter after paragraph (3)), and section 809(a) (in the third instance), such term means, in connection with an association health plan, the Secretary.

''(6) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning provided in section 733(d)(2).

''(7) INDIVIDUAL MARKET.—

''(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

''(B) TREATMENT OF VERY SMALL GROUPS.—

''(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

''(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

''(8) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

''(9) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

''(10) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation through negotiated rulemaking.

''(11) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

''(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

''(B) in the case of a sponsor with members which consist of associations, a person who is a member of any such association and elects an affiliated status with the sponsor, or

''(C) in the case of an association health plan in existence on the date of the enactment of the Bipartisan Patient Protection Act, a person eligible to be a member of the sponsor or one of its member associations.

''(12) LARGE EMPLOYER.—The term 'large employer' means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(13) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

''(b) RULES OF CONSTRUCTION.—

''(1) EMPLOYERS AND EMPLOYEES.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

''(A) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

''(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

''(2) PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.''.

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

''(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.''.

(2) Section 514 of such Act (29 U.S.C. 1144), as amended by section 142, is amended—

(A) in subsection (b)(4), by striking ''Subsection (a)'' and inserting ''Subsections (a) and (e)'';

(B) in subsection (b)(5), by striking ''subsection (a)'' in subparagraph (A) and inserting ''subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805'', and by striking ''subsection (a)'' in subparagraph (B) and inserting ''subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805'';

(C) by redesignating subsection (e) as subsection (f); and

(D) by inserting after subsection (d) the following new subsection:

''(e)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

''(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

''(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

''(B) In any case in which health insurance coverage of any policy type is offered under an association health plan in a State and the filing, with the applicable State authority, of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

''(3) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

''(4) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 811, respectively.''.

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking ''and'' at the end;

(B) in clause (ii), by inserting ''and which does not provide medical care (within the meaning of section 733(a)(2)),'' after ''arrangement,'', and by striking ''title.'' and inserting ''title, and''; and

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

''(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care

(within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.''.

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking ''Nothing'' and inserting ''(1) Except as provided in paragraph (2), nothing''; and

(B) by adding at the end the following new paragraph:

''(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Bipartisan Patient Protection Act shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.''.

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: ''Such term also includes a person serving as the sponsor of an association health plan under part 8.''.

(d) DISCLOSURE OF SOLVENCY PROTECTIONS RELATED TO SELF-INSURED AND FULLY INSURED OPTIONS UNDER ASSOCIATION HEALTH PLANS.—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: ''An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.''.

(e) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting ''or part 8'' after ''this part''.

(f) REPORT TO THE CONGRESS REGARDING CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—Not later than January 1, 2006, the Secretary of Labor shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the effect association health plans have had, if any, on reducing the number of uninsured individuals.

(g) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''Sec. 801. Association health plans.
''Sec. 802. Certification of association health plans.
''Sec. 803. Requirements relating to sponsors and boards of trustees.
''Sec. 804. Participation and coverage requirements.
''Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
''Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
''Sec. 807. Requirements for application and related requirements.
''Sec. 808. Notice requirements for voluntary termination.
''Sec. 809. Corrective actions and mandatory termination.
''Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
''Sec. 811. State assessment authority.
''Sec. 812. Definitions and rules of construction.''.

SEC. 422. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting ''for any plan year of any such plan, or any fiscal year of any such other arrangement;'' after ''single employer'', and by inserting ''during such year or at any time during the preceding 1-year period'' after ''control group'';

(2) in clause (iii)—

(A) by striking ''common control shall not be based on an interest of less than 25 percent'' and inserting ''an interest of greater than 25 percent may not be required as the minimum interest necessary for common control''; and

(B) by striking ''similar to'' and inserting ''consistent and coextensive with'';

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

''(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only one participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement;''.

SEC. 423. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) IN GENERAL.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

''(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E);''.

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

''(C) For purposes of subparagraph (A)(i)(II), a plan or other arrangement shall be treated as established or maintained in accordance with this subparagraph only if the following requirements are met:

''(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

''(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement; or

''(II) pay any type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations prescribed by the Secretary through negotiated rulemaking), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement;

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

''(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are neither—

''(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit); nor

''(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment);

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Bipartisan Patient Protection Act and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of the total number of present and former employees enrolled under the plan or other arrangement.

''(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed by the Secretary through negotiated rulemaking that the plan or other arrangement meets the requirements of clauses (i) and (ii).

''(D) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

''(i) all of the benefits provided under the plan or arrangement consist of health insurance coverage; or

''(ii)(I) the plan or arrangement is a multiemployer plan; and

''(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)) are met with respect to such plan or other arrangement.

''(E) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

''(i) the plan or arrangement is in effect as of the date of the enactment of the Bipartisan Patient Protection Act; or

''(ii) the employee organization or other entity sponsoring the plan or arrangement—

''(I) has been in existence for at least 3 years; or

''(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.''.

(c) CONFORMING AMENDMENTS TO DEFINITIONS OF PARTICIPANT AND BENEFICIARY.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: ''Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).''.

SEC. 424. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting ''(a)'' after ''SEC. 501.''; and

(2) by adding at the end the following new subsection:

''(b) Any person who willfully falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

''(1) being an association health plan which has been certified under part 8;

''(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

''(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met; shall, upon conviction, be imprisoned not more than 5 years, be fined under title 18, United States Code, or both.''.

(b) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132), as amended by sections 141 and 143, is further amended by adding at the end the following new subsection:

''(p) ASSOCIATION HEALTH PLAN CEASE AND DESIST ORDERS.—

''(1) IN GENERAL.—Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

''(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

''(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

''(2) EXCEPTION.—Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

''(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

''(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

''(3) ADDITIONAL EQUITABLE RELIEF.—The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.''.

(c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133), as amended by section 301(b), is amended by adding at the end the following new subsection:

''(c) ASSOCIATION HEALTH PLANS.—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.''.

SEC. 425. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

''(c) CONSULTATION WITH STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.—

''(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to an association health plan regarding the exercise of—

''(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

''(B) the Secretary's authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

''(2) RECOGNITION OF PRIMARY DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular association health plan, as the State to with which consultation is required. In carrying out this paragraph, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.''.

SEC. 426. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by sections 421, 424, and 425 shall take effect one year from the date of enactment. The amendments made by sections 422 and 423 shall take effect on the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this subtitle within one year from the date of enactment. Such regulations shall be issued through negotiated rulemaking.

(b) EXCEPTION.—Section 801(a)(2) of the Employee Retirement Income Security Act of 1974 (added by section 421) does not apply in connection with an association health plan (certified under part 8 of subtitle B of title I of such Act) existing on the date of the enactment of this Act, if no benefits provided thereunder as of the date of the enactment of this Act consist of health insurance coverage (as defined in section 733(b)(1) of such Act).

(c) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 812(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a)(1) and 803(a)(1) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) DEFINITIONS.—For purposes of this subsection, the terms ''group health plan'', ''medical care'', and ''participating employer'' shall have the meanings provided in section 812 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an ''association health plan'' shall be deemed a reference to an arrangement referred to in this subsection.

Amend section 511 to read as follows (and conform the table of contents accordingly):

SEC. 511. EXPANSION OF AVAILABILITY OF ARCHER MEDICAL SAVINGS ACCOUNTS.

(a) REPEAL OF LIMITATIONS ON NUMBER OF MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Subsections (i) and (j) of section 220 of the Internal Revenue Code of 1986 are hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 220(c) of such Code is amended by striking subparagraph (D).

(B) Section 138 of such Code is amended by striking subsection (f).

(b) AVAILABILITY NOT LIMITED TO ACCOUNTS FOR EMPLOYEES OF SMALL EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Subparagraph (A) of section 220(c)(1) of such Code (relating to eligible individual) is amended to read as follows:

''(A) IN GENERAL.—The term 'eligible individual' means, with respect to any month, any individual if—

''(i) such individual is covered under a high deductible health plan as of the 1st day of such month, and

''(ii) such individual is not, while covered under a high deductible health plan, covered under any health plan—

''(I) which is not a high deductible health plan, and

''(II) which provides coverage for any benefit which is covered under the high deductible health plan.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 220(c)(1) of such Code is amended by striking subparagraph (C).

(B) Section 220(c) of such Code is amended by striking paragraph (4) (defining small employer) and by redesignating paragraph (5) as paragraph (4).

(C) Section 220(b) of such Code is amended by striking paragraph (4) (relating to deduction limited by compensation) and by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(c) INCREASE IN AMOUNT OF DEDUCTION ALLOWED FOR CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Paragraph (2) of section 220(b) of such Code is amended to read as follows:

''(2) MONTHLY LIMITATION.—The monthly limitation for any month is the amount equal

to 1/12 of the annual deductible (as of the first day of such month) of the individual's coverage under the high deductible health plan.''.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 220(d)(1)(A) of such Code is amended by striking ''75 percent of''.

(d) BOTH EMPLOYERS AND EMPLOYEES MAY CONTRIBUTE TO MEDICAL SAVINGS ACCOUNTS.—Paragraph (4) of section 220(b) of such Code (as redesignated by subsection (b)(2)(C)) is amended to read as follows:

''(4) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—The limitation which would (but for this paragraph) apply under this subsection to the taxpayer for any taxable year shall be reduced (but not below zero) by the amount which would (but for section 106(b)) be includible in the taxpayer's gross income for such taxable year.''.

(e) REDUCTION OF PERMITTED DEDUCTIBLES UNDER HIGH DEDUCTIBLE HEALTH PLANS.—

(1) IN GENERAL.—Subparagraph (A) of section 220(c)(2) of such Code (defining high deductible health plan) is amended—

(A) by striking ''$1,500'' in clause (i) and inserting ''$1,000''; and

(B) by striking ''$3,000'' in clause (ii) and inserting ''$2,000''.

(2) CONFORMING AMENDMENT.—Subsection (g) of section 220 of such Code is amended to read as follows:

''(g) COST-OF-LIVING ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1998, each dollar amount in subsection (c)(2) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) SPECIAL RULES.—In the case of the $1,000 amount in subsection (c)(2)(A)(i) and the $2,000 amount in subsection (c)(2)(A)(ii), paragraph (1)(B) shall be applied by substituting 'calendar year 2000' for 'calendar year 1997'.

''(3) ROUNDING.—If any increase under paragraph (1) or (2) is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.''.

(f) PROVIDING INCENTIVES FOR PREFERRED PROVIDER ORGANIZATIONS TO OFFER MEDICAL SAVINGS ACCOUNTS.—

(1) PREVENTIVE CARE COVERAGE PERMITTED.—Clause (ii) of section 220(c)(2)(B) of such Code is amended by striking ''preventive care if'' and all that follows and inserting ''preventive care.''

(2) TREATMENT OF NETWORK SERVICES.—Subparagraph (B) of section 220(c)(2) of such Code is amended by adding at the end the following new clause:

''(iii) TREATMENT OF NETWORK SERVICES.—In the case of a health plan which provides benefits for services provided by providers in a network (as defined in section 161 of the Patient's Bill of Rights Act of 2001) and which would (without regard to services provided by providers outside the network) be a high deductible health plan, such plan shall not fail to be a high deductible health plan because—

''(I) the annual deductible for services provided by providers outside the network exceeds the applicable maximum dollar amount in clause (i) or (ii), or

''(II) the annual out-of-pocket expenses required to be paid for services provided by providers outside the network exceeds the applicable dollar amount in clause (iii).

The annual deductible taken into account under subsection (b)(2) with respect to a plan to which the preceding sentence applies shall be the annual deductible for services provided by providers within the network.''

(g) MEDICAL SAVINGS ACCOUNTS MAY BE OFFERED UNDER CAFETERIA PLANS.—Subsection (f) of section 125 of such Code is amended by striking ''106(b),''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

The CHAIRMAN. Pursuant to House Resolution 219, the gentleman from California (Mr. THOMAS) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment has two major provisions, one dealing with an attempt, since we know that the Patients' Bill of Rights and the expenses associated with the albeit appropriate and necessary structural procedure of due process and potential litigation will cost additional dollars and, therefore, will have some negative impact on the number of folks who are insured, we believe that it is necessary to go forward. That is why this amendment is offered.

This amendment contains two significant provisions that we believe will significantly enhance the opportunity to retain the insurance that is available for individuals for health insurance today and, perhaps, even enhance it based upon the creative approach in this amendment.

The first provisions are called medical savings accounts, and in honor of the former chairman of the Committee on Ways and Means, these have become known as Archer MSAs.

The problem with the Archer MSAs was that they were not permanent. They were not a viable insurance product, and notwithstanding recent polls that show that up to 90 percent of Americans believe these are necessary and appropriate, especially among that group that is the least insured with health insurance, the 18- to 29-year-olds who have that 91 percent desirability for this insurance, the structure of MSAs has been such that it does not work.

Mr. Chairman, this amendment refines medical savings accounts to produce a viable insurance product.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMAS. Mr. Chairman, I ask unanimous consent to yield the balance of my time to the gentleman from Texas (Mr. SAM JOHNSON) to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from California (Mr. STARK) claims the time in opposition.

Mr. STARK. Mr. Chairman, I ask unanimous consent to allocate 10 minutes to the gentleman from New Jersey (Mr. ANDREWS).

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. STARK. Mr. Chairman, I yield 2 minutes to myself.

Mr. Chairman, this is an old dead horse which for some reason has been revived again. Medical savings accounts have not worked in the private market and did not work when they were offered to Medicare beneficiaries. They did not sell one policy under Medicare. This provision comes with a price tag of nearly $5 billion over 10 years, and all that can be said is, ''There they go again, the Republicans giving a tax cut to the very rich.''

Mr. Chairman, the American Academy of Actuaries said the greatest savings from MSAs will be for the employees who have little or no health expenditures; and the greatest losses will be for those employees with substantial health care expenditures. Those with high expenditures are primarily older employees and pregnant women.

The Wall Street Journal article explaining the lack of demand for MSAs stated that consumers using MSAs must generally pay full price for medical services, while managed care plans get discounts of 30 to 60 percent. MSAs discourage preventive care, which leads to more serious health costs. MSAs do not work.

Mr. Chairman, why we should be increasing the ability of very rich people to have a second IRA and deny health care or raise the cost of health care for other workers escapes me. This is an amendment, laughable at best, proposed by people who think that they can buy some more votes by pandering to the very rich by giving away more tax deductions.

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I might say that in the previous debate today, people talked about raising the cost of health insurance. There is not one credible, independent study ever conducted that shows the number of uninsured Americans would go up if we passed the Patients' Bill of Rights. I challenge the Republicans to show me such a study.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I rise today in strong support of the amendment offered by my colleagues. There are millions of Americans without health coverage, and they live in every one of our districts. We hear from them every day. One provision that is poised to have a tremendous impact on reducing the number of uninsured is association health plans.

I have heard some of my colleagues contend that AHPs are bad for women. Bad for women? How is affordable health coverage bad for women? Association health plans offer another tool for women to access affordable health insurance. Currently, small business owners, their families and their employees make up over 60 percent of the uninsured. Over half of these people are women. This is a no-brainer. AHPs are

good for women. In fact, AHPs are strongly supported by the National Association of Women Business Owners, Women Impacting Public Policy, in addition to a host of other groups committed to increasing access to health care for hardworking women Americans.

Many small businesses do not have the ability to negotiate affordable health care prices the way big companies can. I think we should give them an opportunity to level this playing field.

I urge all of my colleagues to remember the women and uninsured of America and adopt this amendment.

Mr. STARK. Mr. Chairman, I yield myself such time as I may consume. I ask the gentlewoman from New York if she would care to respond to a question and answer for me if she knows of any women's group in the United States that endorses this outside of perhaps the Eagle Forum.

Mrs. KELLY. If the gentleman will yield, Mr. Chairman, I am sorry, perhaps the gentleman was not listening. Yes. The National Association of Women Business Owners and the Women Impacting Public Policy both. That is only two. There are others.

Mr. STARK. There are?

Mrs. KELLY. Yes.

Mr. STARK. Which others?

Mrs. KELLY. I do not have a list of them in my hand, but there are others.

Mr. STARK. I thank the gentlewoman.

Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin (Mr. KLECZKA).

Mr. KLECZKA. Mr. Chairman, I rise in strong opposition to this amendment, especially the portion dealing with medical savings accounts. What are those? We all know about retirement savings accounts, IRAs; we know about education savings accounts putting money away for your child's education. Now we have medical savings accounts.

My question to the proponents is, where are individuals going to get all this money to slug into these various accounts? You have got to pay the mortgage, your gas bill, your heat bill and now you are supposed to have all this money left over to give to your IRA, your education IRA and then a medical IRA.

Mr. Chairman, if this passes and becomes law, this is the death knell for employer-sponsored insurance. I say that because only the healthy and the wealthy will be able to put money into medical savings accounts, leaving the rest of us and the sick, to pull the wagon. What will happen is rates will go up, employers will cancel their plan and say, You will have to go into a medical savings account. I can't afford this anymore.

Just to prove my point, the author of the amendment, Mr. THOMAS the chairman of the Committee on Ways and Means, said in March of 1998, that it would be not surprising if a health care package uses the Tax Code to get rid of the employer-sponsored insurance system.''

Mr. Chairman, we see it is right here today and if this passes, say good-bye to your employer-sponsored health insurance because the rates are going to be too high for employers to keep it. Again, this plan is for the healthy and wealthy.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. I thank the gentleman for yielding time.

Mr. Chairman, it is interesting to follow the previous speaker, because medical savings accounts hold the best promise for allowing Americans to break out of managed care entirely and take control of their own health care for the first time in many years. I do not have time to go into this a lot, but some of the most serious, real problems faced today by medical savings account companies is that a far higher mix of seriously ill patients are flocking into MSAs than other health plans, to the point that negative selection is currently hurting MSAs, not traditional insurance. The reason so many people with preexisting conditions are flocking to MSAs is that MSAs provide freedom, freedom to get the drug your doctor ordered, freedom to see your specialist without seeking permission from anyone or to have to file an appeal for an overturn.

I urge my colleagues to support this amendment for medical savings accounts because I think that it will help all of us do one of the things I have been trying to do all along, is get away from managed care.

Mr. STARK. Mr. Chairman, I am happy to yield 1½ minutes to the distinguished gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Chairman, as the sponsor of the amendment pointed out, this amendment deals with two points: one is medical savings accounts, the other is association health plans. I want to deal with the second issue, because I think it will have the unintended consequence of actually increasing the number of uninsured, not increasing the number of insured.

Let me just give you an example. In my State of Maryland, we have already had small market reform. Small companies can already join a state-regulated plan that is much less expensive than on the open market. If we are to adopt the associated health plan that is in this amendment, it will be the death knell for the small market reform in the State of Maryland.

Maryland is not alone. Other States have done the same thing. The reason quite frankly is the success of the Maryland small market reform is based upon all small employers coming into the Maryland plan, not picking and choosing between different plans. If we allow the associated health plans, that means there will be less companies insured in the State of Maryland. Do not take my word for it; take the word of Steve Larsen, the insurance commissioner for the State of Maryland, who is urging us not to pass this amendment and points out that the National Association of Insurance Commissioners oppose this amendment.

I would urge my colleagues to reject this amendment because it will increase the number of uninsured and reduce the opportunity for small companies in this country.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Chairman, I thank the gentleman for yielding time. I am curious as I watch this debate over medical savings accounts from the other side, if you are so much against MSAs, then why do you expand MSAs in your own bill? The Ganske-Dingell bill has medical savings accounts expansion and extension of them in their own legislation. So if they are so rotten, why are you advocating them in your own legislation?

Mr. Chairman, what this bill is about is whether or not we are going to improve the quality of health care for all Americans. That is the sole purpose of this bill. What this amendment gives us a chance to do is determine whether or not we can also improve the accessibility and affordability of health care. We all know that health care is getting too expensive, that it is inaccessible for too many people. This bill will do many great things to improve the quality of health care, but we need to work on making it more affordable for working families and we need to make it more accessible.

Association health plans, which is also in this amendment which is being ignored right now, allows the small little guy, the small businesses to band together to jointly purchase health insurance so they can get that big volume discount purchasing power that the big companies have. That is what we are accomplishing in this. We are giving small businesses, where 85 percent of the working family works for, the chance to get the same kind of health insurance deals that large corporations do, making health care more accessible and more affordable. Medical savings accounts as validated in the opposition's bill also expands freedom of choice in health care.

Mr. STARK. Mr. Chairman, I yield 1½ minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding me this time.

My wife always tells me that as she was going through medical school, the axiom that they always were told to remember was ''do no harm.'' If you are going to go out there and be a physician and treat people, remember that if nothing else, you try to do no harm.

I do not understand why, if that is what doctors rely upon as they continue their career and their practice to try to heal and help, why we all of a

sudden have to go against all those good physicians, all those good health care providers who are saying, please, do no harm to the Patients' Bill of Rights that we had, the same bill that last year got some 270 votes from the same Chamber. Why did we have to go into the back room and do this harm through these damaging three amendments that we have here before us? Why is it that we have to strip the accountability from the bill that would make sure that HMOs and insurance plans provide what patients want, the accountability. If you do harm to them, they have the right to go after you to get a remedy. Why is it that we strip away from those patients who are injured or perhaps even killed the ability to go after those who committed malpractice? Why? This is our chance to tell the American public that we believe, just as doctors do, that we should do no harm.

We have a great base bill before us. We should follow what we did last year. We should have the bipartisan vote that gave us 271 people in this same House of Representatives to vote for it and move forward and have what the American people want, a bill that will do no harm. Unfortunately, these amendments are killer, poison amendments. Please vote against all three of these amendments that are coming up and vote for the Dingell bill which is the true Patients' Bill of Rights.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. ENGLISH), a member of the Committee on Ways and Means.

Mr. ENGLISH. Mr. Chairman, in 1996 Congress provided patients with options to save for their health care needs and manage their own health care needs by creating medical savings accounts. But certain limitations placed on those accounts never allowed patients to fully realize the promise of MSAs.

Today, I urge my colleagues to make those accounts permanent and repeal the limitations put on them by supporting this amendment, this pro-consumer amendment. This amendment allows any size company to offer MSAs and also allows individuals to purchase MSAs, giving more people the power to choose the health care professionals, services and products that best meet their needs as individuals. It allows MSAs to be offered under cafeteria plans that will greatly expand the number of consumers that can be reached by MSAs and treat MSAs like other health care plans.

Many insurers have been reluctant to offer medical savings accounts because the cap limits the size of the market in which MSAs can be offered. We would repeal that cap. That is fundamentally pro-consumer legislation.

Mr. STARK. Mr. Chairman, I am happy to yield 2½ minutes to the gentleman from North Dakota (Mr. POMEROY), a former insurance commissioner of that fine State.

Mr. POMEROY. Mr. Chairman, I thank the gentleman for yielding time.

Back home we say you can take a pig, put lipstick on it, smell it and call it Monique, but it is still a pig. AHPs, association health plans, contained in this bill are just another iteration of what has been tried in the past and failed in the past to the disadvantage of small employers and their employees: multiple employer trusts in the early 1980s, giving way to multiple employer welfare arrangements in the late 1980s.

What these were were efforts to have unregulated insurance pools across small employers managed by associations. The net result, no regulation, no adequate oversight in terms of capitalization of these programs; and while the premiums were cheap, when the claims came in, the companies were not there. It is not just a matter of having a policy for purposes of having access to coverage. You want to make sure you actually have a solvent entity to pay the claim when you send in the bill. That is the problem about deregulating these association health plans. We have learned this lesson once. We have learned this lesson twice. Why, oh why, oh why on a bill that we are trying to increase consumer protections would the majority ask us to learn it yet a third time to the disadvantage again of small employers and the people covered in those programs?

There is another adverse feature to association health plans and that is that it busts up the risk pool. The way health insurance works is you get a whole lot of folks, healthy ones, medium healthy ones, sick ones, you put all their risks together and then you have a mechanism that can pay claims on those who incur medical services. This would segment out by attracting disproportionately healthy groups least likely to incur medical services. Everybody else would be in groups that are aging, groups whose health experience was deteriorating, and the premiums would be skyrocketing.

□ 1745

Do not take my word for it, because the Congressional Budget Office has evaluated this, and the Congressional Budget Office said if AHPs were enacted, four in five workers in small firms, 20 million Americans, would actually receive a rate increase. Only 4.6 million would receive a rate decrease. Why would you have rates go up by a feature of four to one in order to advance Association Health Plans?

It is a bad idea. It is not consumer protection, it is consumer harm. Reject that amendment.

Mr. SAM JOHNSON of Texas. Mr. Chairman, our opinion is that those health plans give people insurance, and they do lower the cost.

Mr. Chairman, I yield 30 seconds to the gentlewoman from Connecticut (Mrs. JOHNSON), a member of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I just would like to point out to my colleagues that in this bill there are solvency standards and a number of reforms that were not in there a number of years ago. What is exciting about the Association Health Plan option is it provides to small businesses the opportunity to offer health plans out from under State mandates, which is exactly what the larger employers have done. My constituents tell me that if they could organize their small business plans under the ERISA law, they could lower premiums 10 percent.

Mr. STARK. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California is recognized for 30 seconds.

Mr. STARK. Mr. Chairman, the gentleman from North Dakota (Mr. POMEROY) asked, ''Why would anybody do this?'' I would answer that the one need just to look at Golden Rule Financial's contributions to find the answer: soft money, 1997 to 1998, $314,000 to the Republicans, and not a penny to the Democrats. Under this amendment, Golden Rule Insurance Company, the main company that benefits from MSAs, will get $5 billion over the next 10 years.

You guys are selling out too cheap to these lobbyists. You have taken their $300,000 and given them a bill worth 5 billion. That is what the Republicans are doing in this bill. They have sold out to the special interests; they have sold out to the insurance companies. Shame on you.

Mr. SAM JOHNSON of Texas. Shame on the trial lawyers who are trying to win millions of dollars on your bill.

Mr. Chairman, I yield 1 minute to the gentleman from South Dakota (Mr. THUNE).

Mr. THUNE. Mr. Chairman, I thank the gentleman for yielding me time.

Let me say, Mr. Chairman, that we need strong patient protection legislation. We have before us a bill that will do that, will provide access to emergency room, access to clinical trials, direct access for women to OB–Gyn and access to the courts for wrongful treatment.

But this amendment does something more. This amendment improves this legislation by expanding access to health care. There are 86,000 people in my State of South Dakota who do not have health care. Medical savings accounts and association health plans are a means by which our small businesses can make health care more affordable and more accessible to more people.

This is a good amendment, Mr. Chairman. We need to act on this amendment, act on this legislation, provide strong patient protection for people in this country, but also do something to address those who are uninsured, the many people across this country and those in my State of South Dakota who do not have access to health care today.

Let us enact the Thomas-Lipinski-Fletcher amendment and give more

people more access to health care that is affordable by increasing and expanding MSAs and association health plans.

Mr. ANDREWS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is very much in keeping in theme with the message today from the majority, which is illusions. The Norwood amendment creates the illusion of holding HMOs accountable for their misconduct, and we will discuss that in greater detail in the next amendment. This amendment creates the illusion of covering more of the uninsured Americans with health insurance. It is a remarkable miss of the target that we should be aiming at.

We hear a lot about the 43 million uninsured Americans. It is curious, first of all, that we never hear much from the majority party about the 43 million uninsured Americans in April when we are doing the budget resolution. It only seems to come up when the patients' bill of rights comes up and they need a justification for their position.

First of all, AHPs. The theory behind AHPs is that employers are going to enjoy a reduction in their premiums; and, therefore, more employers are going to buy health insurance and more individuals are going to be covered. That just does not square with the objective analyses that have been done of the AHP concept. One of them was done by the Congressional Budget Office, whose researchers concluded that AHPs would not reduce overall health insurance costs. The CBO found that four in five workers would see their health insurance costs increase under this amendment, under AHP legislation, because of disruption in health insurance markets. So the illusion that premiums would go down is not the fact.

The second problem with AHPs is that it really is a race for the bottom. It preempts and therefore repeals the consumer protection legislation adopted by States all across the country, legislation that requires a minimum length of stay after a C-section for a woman who has given birth, legislation that requires a minimum length of stay after a radical mastectomy. All of these consumer protections are repealed when the AHPs go in.

Maybe there is some argument that prices would go down, that if you eliminate quality standards and fiduciary standard, you could make it very cheap, but it would not be worth the money that people pay. So the argument that more people are going to be insured by AHPs just does not square with the facts. It does not square with the study by Rand researchers Steve Long and Susan Marque, who found that existing AHPs have not reduced insurance costs for participants.

The next idea that is going to get more people insured is individual health savings accounts. This is remarkable. The theory behind this is that a person making $21,000 or $22,000 a year who works full-time and has no health insurance is going to put all of this extra income that she has into one of these medical savings accounts at the end of the week, and that all of this extra income that she generates is going to pile up and provide her with the health benefit that her employer is either unable or unwilling to afford.

I would be curious as to how anyone in the majority could explain to us where this additional income is going to come from? I would invite the majority, I would yield to anyone over there, to tell me what present data tells us about who is participating in MSAs now, what the medium income of the participant is, how many people are participating in MSAs, whether they are in the bottom 30 percent of the wage earners in the country, since most of the uninsured working people in this country are in the bottom 30 percent of wage earners.

So this is a remarkable idea. We are giving low-income, full-time working people the right to put away money that they do not have. We perhaps should also introduce an amendment giving them the right to purchase a Rolls Royce, or a condominium at an expensive resort. It is about as useful to them, because they do not have the money to put away.

Mr. FLETCHER. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Kentucky.

Mr. FLETCHER. Mr. Chairman, would the gentleman please explain to me why MSA expansion is in your bill, and why the patient protections in that bill will not protect those patients in MSAs?

Mr. ANDREWS. Mr. Chairman, reclaiming my time, because it was necessary to build a majority coalition to pass the bill, which we would have done had the leadership brought it to the floor when it was originally promised.

Mr. Chairman, the problem with this amendment is it suffers the illusion, the continuing illusion, that we are going to cover more people. You want to cover more people? Put more money in the S-chip program. Repeal just a little piece of the tax cut that passed a couple of months ago and put more money into the program that has enrolled millions of children, and could enroll their parents, if we extended that. That is the way to enroll more people in health insurance.

You want to enroll more people in health insurance? Let seniors 55 and over buy into Medicare at their own expense. You want to cover more people by health insurance? Expand Medicaid reimbursement to the States. That is the way to do it; not this fraud, not this illusion that is before us today.

Mr. Chairman, I reserve the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, MSAs are important for more than half of the 43 million small business owners, their employees and their families, and in spite of what you say, the truth is that working-class people do use MSAs, and I am going to quote you.

''All three of us are working middle-class mothers, two of us are single moms, and we all have medical savings accounts that provide health insurance for our families. Our message to people in Washington is plain, unmistakable English that MSAs work.''

Mr. ANDREWS. Mr. Chairman, will the gentleman yield?

Mr. SAM JOHNSON of Texas. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I wonder if the gentleman could tell us the source of the quote he just read?

Mr. SAM JOHNSON of Texas. Mr. Chairman, reclaiming my time, I will get it to the gentleman. I will tell him what he tells me: I will send it to you in writing.

Mr. Chairman, let me say that it is unfortunate that the base bill we are considering does just the opposite of providing insurance for our people. We believe that creating association health plans and expanding medical savings accounts guarantees the access they need. Working together, it helps employees and employers lower the cost of health insurance and gets the benefits they may not have had.

Increasing access to Medical Savings Accounts would help those people struggling to make ends meet. Medical savings accounts empower people to save their own money, tax free, for medical expenses in conjunction with a high deductible health plan. Health expenses can break the family budget. MSAs help cushion the blow. They help people get the care they need from a doctor of their choice or a hospital of their choice. The base bill does not do that.

It is time to focus on the uninsured, focus on access and affordability. This amendment is good for America and the 43 million Americans who do not have health insurance.

Do what is right. Vote for this amendment.

Mr. Chairman, I yield the rest of my time to the gentleman from Kentucky (Mr. FLETCHER) and ask unanimous consent that he be allowed to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ANDREWS. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, it is ironic that the gentleman from California (Chairman THOMAS) calls this amendment the access amendment. It is also disingenuous.

This amendment would reduce access to health insurance, not increase it. The gentleman from California (Chairman THOMAS) knows that. He knows

this amendment has nothing to do with access; it has everything to do with helping a few individuals in a few businesses at the expense of the rest of us. It has everything to do with campaign contributions, as the gentleman from California (Mr. STARK) pointed out earlier.

Association health plans and MSAs make health insurance less expensive for a few healthy individuals and a few employers, while costs rise for every other individual and every other employer. Association health plans skim low-risk businesses from the rest of the insurance pool. Every other bill carries a larger burden when more risk is spread over fewer groups.

Medical savings accounts, they can be a great deal when you are 100 percent healthy. When you are sick, they turn into an expensive disappointment. The Congressional Research Service estimates that commercial insurance premiums will increase 2 percent or more if association plans are permitted.

Iris Lav and Emmett Keeler, two highly respected health services researchers, say that premiums for conventional insurance could more than double if MSA use becomes widespread.

Last night at midnight, the gentleman from California (Chairman THOMAS) sold this House a bill of goods, $27 billion in tax giveaways to the Nation's oil companies. I ask my colleagues, do not buy it again. A real patients' bill of rights is not going to blow the top off insurance premiums, but association health plans and medical savings accounts, sweetheart deals for the fortunate few, certainly will.

I urge Members to vote against the ill-conceived Thomas amendment.

Mr. FLETCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. BOEHNER), Chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, let me once again congratulate my colleague, the gentleman from Kentucky (Mr. FLETCHER), for his tremendous job in helping to move this entire process along this year. He has spent weeks and months, I might add, trying to build consensus for how do we break the gridlock and how do we move a real patients' bill of rights.

Now, my colleague, who was just here opposing association health plans and medical savings accounts, it should not surprise any of us, because he is one of the larger promoters of a single payer national health care system. My goodness, if we get people insured by private insurance, which is what most people want, there will not be any need for a single payer system.

□ 1800

In 1992, when this issue of health care began to be a big issue in America, we were worried about those 36 million Americans who had no health insurance. We remember the 1992 presidential campaign. We remember 1993, when we had this big effort of having a national health insurance plan, a card for every American. Then Americans stood up and said no, no, please, we do not want that. Our own health insurance is very good.

Then, over the last 6 years, all we have done is talk about patients' rights, and while they are important and we need to deal with them, let us admit that the far bigger problem in America today are the 43 million Americans who have no health insurance at all. All these patient protections, all the consumer protections my colleague just talked about mean absolutely nothing to those Americans who have no health insurance.

What we want to do under this amendment is make it easier for small businesses to offer health insurance for their employees, because 80 percent of those 43 million Americans have jobs, they have full-time jobs, and they work for smaller employers who do not have the ability to create large pools. But by allowing them to work in an association, whether it be the NFIB, whether it be the Association of American Florists, and create larger pools, they will get lower rates, they will have a better opportunity at getting health insurance. And why should we not help them?

Mr. FLETCHER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. DOOLEY), who has cosponsored the Small Business Fairness Act, which is the bill on association health plans.

Mr. DOOLEY of California. Mr. Chairman, I rise in support of the association health plan proposal before us.

The number one problem in health care facing Americans is not their problems with their managed care organization; the number one problem facing Americans today is the fact that we have 43 million of our citizens who are uninsured.

I represent a district in the Central Valley of California, one of the lowest income areas, one that has a lot of families that are farm workers. It is predominantly Latino in its makeup. Association health plans hold the promise of allowing associations to come together to offer these families and the children of these farm worker families a health insurance policy that otherwise would not be available to them.

Mr. Chairman, we have to come to understand that what we are trying to do here is to provide a mechanism for farmers and small business people to come together, to come together so that they can offer a plan that is similar to what Boeing, Microsoft and GM are offering to their employees. This holds the promise of ensuring that some of those 43 million people, some of whom are living in my district, some of whom have the lowest incomes, will have access to a quality health insurance plan that otherwise they would be denied.

Mr. FLETCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. ARMEY), our majority leader.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to thank the gentleman from Kentucky (Mr. FLETCHER) for offering this amendment. I would also like to thank the gentleman from Illinois (Mr. HASTERT), the Speaker of the House; the gentleman from California (Mr. THOMAS); the gentleman from Illinois (Mr. LIPINSKI); the gentlewoman from Connecticut (Mrs. JOHNSON); and the gentleman from Georgia (Mr. NORWOOD) for their leadership and their continuing strong commitments to the Archer Medical Savings Accounts.

Mr. Chairman, patients need more than a bill of rights, they need a declaration of independence. Millions of American families today find themselves trapped in HMOs that they did not choose and they do not like. This amendment offers them a get-out-of-jail-free card. It offers them hope, gives them options that help them find peace of mind and more control over their health care treatments. It begins to address the basic unfairness in the Tax Code that created the HMO trap in the first place.

There are too many people in this debate, Mr. Chairman, I believe, who have nothing to say except patients should have a right to sue their HMO. But I submit that, before that, they should have a right to fire their HMO.

Mr. Chairman, this is America. We should have the freedom to take our business wherever we choose. Unfortunately, today's Tax Code denies that freedom to millions of American families, especially the poor and minorities and especially Hispanics.

If we really care about the uninsured, if we really care about the waitresses, the house painters, the field workers and the others shut out of affordable health care today, then we must make the taxation of health benefits fair for everyone, regardless of where they work or how much they make. By making Archer Medical Savings Accounts available to everyone, this amendment starts us down the road towards basic tax fairness.

Medical savings accounts can be a godsend for the uninsured. According to the IRS, one-third of the MSAs sold under the current pilot project have been purchased by folks who have otherwise been uninsured for at least the previous 6 months. Imagine how many uninsured people we could help if MSAs were given a fair shot in the marketplace, as this amendment would do.

Mr. Chairman, this is an amendment with a heart. It would be heartless to defeat it.

Mr. ANDREWS. Mr. Chairman, I yield myself such time as I may consume.

Under the budget rules of the House of Representatives, when someone brings a bill to the floor that would reduce revenue flow of the Treasury, they

they normally have to show where it is going to be paid for. This amendment was given an exception to that, so it is not subject to a point of order.

I wonder if anyone on the majority side could tell us where the $5 billion over the next 10 years is going to come from to pay for this bill.

Mr. Chairman, I yield to anyone on the majority side to tell us where the $5 billion is going to come from.

Mr. THOMAS. Mr. Chairman, I thank the gentleman for yielding.

I would tell the gentleman we have a golden opportunity today to find more than $2 billion of the amount that the gentleman indicated, because as the gentleman well notes, the medical malpractice amendment that will be up after we pass the Norwood amendment is scored by the appropriate scoring agencies as saving almost $2 billion.

Mr. ANDREWS. Mr. Chairman, reclaiming my time, I wonder where the other $3 billion might come from, the other $3 billion.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from California.

Mr. THOMAS. Mr. Chairman, we have a number of other measures that we will move along. As chairman of the Committee on Ways and Means, I can assure the gentleman that $3 billion over 10 years is not that large an amount of money to find, and as chairman of the Committee on Ways and Means, I pledge to the gentleman, we will find it.

If that is the gentleman's concern about not supporting the amendment, I hope he now supports it.

Mr. ANDREWS. Mr. Chairman, will the gentleman from California (Mr. THOMAS) do it by raising other revenues by $3 billion, by raising taxes?

Mr. THOMAS. Mr. Chairman, if the gentleman would again yield, I would tell the gentleman there is no need for $3 billion to raise taxes. There are a number of administrative changes, cleaning up provisions that are already in the law that the gentleman was instrumental in putting on the books, where we can find savings of far more than that.

Mr. ANDREWS. Mr. Chairman, reclaiming my time, I look forward to that.

Mr. Chairman, I reserve the balance of my time.

Mr. FLETCHER. Mr. Chairman, I yield 30 seconds to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Chairman, I rise on behalf of those 43 million people who are America's salesmen, America's independent contractors, America's retail clerks, America's small businessmen and women, and I would ask each of those who oppose this to ask yourself this question before they vote: Why should we deny 43 million Americans the patients' rights, that those we are fighting for already enjoy, by not giving them better access to health care coverage which would otherwise not be available?

Mr. FLETCHER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. PHELPS).

Mr. PHELPS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in support of this important amendment, which I have cosponsored. While we are discussing the Patients' Bill of Rights, it is important to remember that one of the major problems facing our great Nation today is the problem of the uninsured.

As a member of the Committee on Small Business, I know the positive effect that association health plans and medical savings plans can have on employees and employers of small businesses across the Nation. Of the 43 million uninsured in America, 60 percent of those either own or work in small business.

Small business employers need the opportunity to offer their employees a strong benefits package at a reasonably low cost. AHPs allow small businesses to join together across State lines to obtain the accessibility, affordability and choice in the health care marketplace now available to employees in large companies and organized labor unions.

Medical savings accounts are extremely beneficial because they actually allow individuals to be in control of their own health care, allowing them to decide how they want their money to be spent. More than one-third of the people who currently participate in MSAs were previously uninsured. It only makes sense to provide greater access to the uninsured, and AHPs and MSAs help do this.

Mr. FLETCHER. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois (Mr. MANZULLO), chairman of the Committee on Small Business.

(Mr. MANZULLO asked and was given permission to revise and extend remarks.)

Mr. MANZULLO. Mr. Chairman, as chairman of the Committee on Small Business, I receive thousands of letters from small employers, many from northern Illinois, who are struggling with surging health care costs for their employees. We call this ''Health Care Horror Stories from America's Small Employers.''

Today, we have an opportunity to protect patients' rights and improve the quality of health care. This amendment allows small employers the ability to bring down health insurance costs for themselves and their employees by joining association health plans, similar to the way that labor unions pool their members to lower premiums for their insurance. We cannot possibly believe we are protecting patients if more small entrepreneurs stop paying for coverage.

Mr. Chairman, I encourage the adoption of this amendment.

As Chairman of the Committee on Small Business, I am troubled by the fact that of the 43 million Americans with no health insurance, more than 60 percent are the families of small entrepreneurs and their employees.

I have received thousands of letters from small employers—many from the northern Illinois district I represent—who are struggling with surging health care costs for their employees.

Geoff Brook is one of my constituents who offers health care coverage to his employees at Energy Dynamics, Inc. in Machesney Park, Illinois. The last three years especially, premiums have skyrocketed and Geoff has reluctantly been forced to cancel coverage for the families of his employees and raise deductibles for his employees themselves. He recently received a notice from his insurance company that his employees' premiums were going to increase another 34 percent for the coming year. ''As the owner of a 20-year-old small business with 18 employees, I can tell you that employee health insurance is already at the point where any further rate increases will cause us to discontinue coverage for our employees,'' Geoff said.

Mark O'Donnell is another of my constituents who employs 35 people at Kenwood Electrical Systems, Inc. in Rockford, Illinois. Mark writes, ''Our health insurance costs were raised 43 percent last year and 34 percent this year and there is nothing we can do about it. We have a real problem here.''

And Linda Taylor, who owns Taylor Auto Parts with her husband, Larry, in Woodstock, Illinois, writes, ''Health care costs and insurance are draining us. Last year, we had a 14 percent increase and had to change to $1,000 deductibles. Now, the costs are going up 21 percent again. I truthfully do not know how to handle this latest increase,'' said Linda, who provides health care coverage to four employees.

This is not a unique problem in my district. Access to healthcare is a problem our small entrepreneurs face each year they have decide between paying escalating premiums and dropping coverage of their employees. Large health plans may spread the increased costs over their large applicant pools without much of a change in enrollment. A large business or union health plan enrollee might spend slightly more on healthcare, but it will probably not push them out of the health care system.

The small entrepreneur and his or her employees, however, struggle with radical increases in health care premiums. Especially for a business with fewer than 50 employees, its health care premiums skyrocket when a member of the small enrollee pool becomes ill or injured. When the husband of a Chrysler employee goes to an emergency room, the Chrysler health insurance plan easily spreads out the cost, but for a small auto mechanic, the cost of his employee's trip to the emergency room forces a small group of workers to shoulder a significant burden.

Fortunately, today, we have an opportunity to protect patients' rights and improve the quality of health care without causing more Americans to lose their health insurance. This imperative amendment will give small employers hope to bring down health insurance costs for themselves and their employees by joining Association Health Plans and through expanded use of Medical Savings Accounts.

Association Health Plans (AHPs) will provide greater choice and access to affordable, high quality, private sector health insurance for millions of working families employed in small businesses.

AHPs empower small business owners, who currently cannot afford to offer health insurance to their employees, to access health insurance through trade and professional associations and Chambers of Commerce. In other words, AHPs allow national trade and professional associations, like the National Federation of Independent Business, the National Restaurant Association or the U.S. Chamber of Commerce, to sponsor health care plans. The small business owners who are members of the associations can buy into these plans for themselves and their employees.

These associations would cover very large groups, would enjoy large economies of scale to that of a large business or union, and could offer self-funded plans that would not have to provide any margin for insurance company profits.

AHPs give small businesses and the self-employed the freedom to design more affordable benefit options and offer their workers access to health care coverage. These new coverage options promote greater competition, lower costs and new choices in health insurance markets. By allowing individuals and small employers to join together, AHPs promote the same economies of scale and purchasing clout that workers in large companies currently realize.

Expansion of Medical Savings Accounts (MSAs) will make insurance more affordable for businesses with qualifying high deductible plans. Expansion of MSAs will encourage more individuals to place tax-deductible funds into savings accounts for use in routine medical care while still allowing a wide choice among doctors.

Initially created by Health Insurance Portability and Accountability Act of 1996, MSAs have not been fully utilized by their target sector. However, enacting simple reforms and expansions will allow more small businesses to cut down on their healthcare costs. These provisions include repealing limits on the number of MSAs, making active accounts generally available to anyone with qualifying high deductible insurance, allowing contributions up to the amount of the insurance deductible, allowing contributions to be made both by employers and account owners, lowering minimum insurance deductibles for single and family coverage, allowing use under cafeteria plans, and allowing plans not to have a deductible for preventive care, even if this is not required by state law.

AHP and MSA legislation will not directly offset the increased costs of healthcare when a Patients' Bill of Rights is enacted. However, small businesses are the sector most likely to cease offering insurance because of increase costs, and AHP and MSA legislation will allow these groups to access and afford quality healthcare.

We cannot possibly believe we are protecting patients if more small entrepreneurs stop paying for coverage—which will happen with rising premiums. Association Health Plan and Medical Savings Account provisions are the only responsible way to protect patients.

Mr. ANDREWS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the record shows that this amendment will not substantially increase coverage. The association health plans will not substantially reduce premiums; therefore, more employers will not be enticed to buy in. MSAs are not going to work for low- and modest-income people who do not have money to put into the MSAs.

This is an illusion, much like the Norwood amendment that we are going to debate next. I urge the defeat of the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. FLETCHER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, the gentleman on the other side cannot hide the truth. Associated health care plans, if you have a union or large business that has maybe 3,000 or 4,000 employees, they can go to a health care organization and negotiate lower rates because it spreads out the risk.

We are asking that maybe all the bakers get together, all the barbers get together, little groups that can form into larger groups so that they can negotiate those health care plans with lower rates. If we have lower rates, we are going to have more people access into them, so the gentleman is just flat wrong.

Another gentleman talked about taxes. The gentleman from Missouri (Mr. GEPHARDT) just last week said he wants to raise taxes. In 1993, he was proud of it. They raised taxes on the middle class. We want to give it back to the American people for medical savings accounts, not have campaign finance fund-raisers with Jane Fonda.

Mr. FLETCHER. Mr. Chairman, I yield 30 seconds to the gentleman from Indiana (Mr. PENCE).

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Chairman, I rise in strong support of the amendment and of Indiana's small business owners. For too long they have lacked access to affordable health care options to offer their employees.

The answer, Mr. Chairman, is fairness. Large corporations and labor unions can offer health insurance across State lines under a single uniform code and reap all of the benefits of the economies of scale. Congress today in this amendment must level the playing field for small business.

Let us grant small businesses the same rights as Fortune 500 companies. Association health plans are the answer, and I urge my colleagues to support this amendment.

Mr. FLETCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we look at the problem facing America and health care, the most daunting problem we have are the 43 million that are uninsured. The majority of those uninsured are working individuals. The majority of those working individuals are in small businesses. What we do with association health plans is allow those small businesses to come together, to insure themselves across the Nation.

Mr. Chairman, this last year when I was going across my district, I talked to farmers that were paying on the individual market for their family up to $800 and 900 a month. That was unaffordable for them. Now, imagine if the American Farm Bureau could provide a plan and pool across the Nation and offer that individual farmer a policy for his family that was 30 percent, maybe more than that, reduced from what he is paying now; what impact would that have on the farmers across this country?

□ 1815

Or the other 81 or number of organizations, associations that we have supporting this bill, because their associations should be able to offer their members a plan just like unions do, multi-employer plans now.

So I think in addition to that, when we combine this to the Ganske-Dingell bill and hopefully the Norwood amendment, we provide all the patient protections that ensure that patients get not only this pooled health care plan that will reduce costs, but we provide them the patient protections that everyone will get across this Nation including the accountability.

I want to encourage my colleagues to vote for this measure to improve the health care in America and provide more insurance for Americans.

Mrs. MORELLA. Mr. Chairman, while I want to increase health insurance access for all Americans, Association Health Plans (AHPs) are not the way to do it.

The provisions put forth in this amendment would exempt AHPs from State laws requiring the coverage of services for women, children, and other vulnerable groups. In my State of Maryland, AHPs would be exempt from requirements for insurance plans to cover maternity care, pediatric services for children, mammography and cervical cancer screening, contraceptives, nurse midwives, mastectomy stays and breast reconstruction.

Exempting AHPs from State insurance reform laws is also bad public policy. The National Governors Associations, National Conference of State Legislatures, and the National Association of Insurance Commissioners have written in staunch opposition to these ''access'' provisions.

Moreover, this proposal will harm many workers, while doing little to address the amount of uninsured individuals. The Congressional Budget Office (CBO) projected that 20 million people would experience a premium rate increase under this proposal, while only 5 million would see their rates decline. The CBO also found that any premium reductions by AHPs would stem from attracting healthier members from State insurance pools, which by the way, Medical Savings Accounts also end up doing, and eliminate State required health care benefits.

In 1974, Congress passed a law creating an exemption for AHPs. It was an unmitigated disaster. A report by the former chief counsel of the Senate Permanent Subcommittee on Investigations has noted that the current AHP exemption repeats the historical mistakes of the original 1974 exemption. Congress had to pass a law several years later returning regulatory authority to the States. Let's not make the same mistake twice.

The CHAIRMAN. All time for debate on this amendment has expired.

The question is on the amendment offered by the gentleman from California (Mr. THOMAS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ANDREWS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 194, not voting 4, as follows:

[Roll No. 328]

YEAS—236

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Condit
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
Mascara
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Moran (VA)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Morella
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—4

Ganske
Issa
Lipinski
Spence

□ 1840

Messrs. BERMAN, INSLEE, BAIRD, and SHOWS changed their vote from ''aye'' to ''no.''

Mrs. ROUKEMA and Ms. HARMAN changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. ISSA. Mr. Chairman, on rollcall No. 328, I was inadvertently detained. Had I been present, I would have voted ''aye''.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 107–184.

AMENDMENT NO. 2 OFFERED BY MR. NORWOOD

Mr. NORWOOD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. NORWOOD:

Amend section 402 to read as follows:

SEC. 402. AVAILABILITY OF CIVIL REMEDIES.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

''(n) CAUSE OF ACTION RELATING TO CLAIMS FOR HEALTH BENEFITS.—

''(1) CAUSE OF ACTION.—

''(A) IN GENERAL.—With respect to an action commenced by a participant or beneficiary (or the estate of the participant or beneficiary) in connection with a claim for benefits under a group health plan, if—

''(i) a designated decisionmaker described in paragraph (2) fails to exercise ordinary care—

''(I) in making a determination denying the claim for benefits under section 503A (relating to an initial claim for benefits),

''(II) in making a determination denying the claim for benefits under section 503B (relating to an internal appeal), or

''(III) in failing to authorize coverage in compliance with the written determination of an independent medical reviewer under section 503C(d)(3)(F) that reverses a determination denying the claim for benefits, and

''(ii) the delay in receiving, or failure to receive, benefits attributable to the failure described in clause (i) is the proximate cause of personal injury to, or death of, the participant or beneficiary,

such designated decisionmaker shall be liable to the participant or beneficiary (or the estate) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (4)).

''(B) REBUTTABLE PRESUMPTION.—In the case of a cause of action under subparagraph (A)(i)(I) or (A)(i)(II), if an independent medical reviewer under section 503C(d) or 503C(e)(4)(B) upholds the determination denying the claim for benefits involved, there shall be a presumption (rebuttable by clear and convincing evidence) that the designated decisionmaker exercised ordinary care in making such determination.

''(2) DESIGNATED DECISIONMAKER.—

''(A) APPOINTMENT.—

''(i) IN GENERAL.—The plan sponsor or named fiduciary of a group health plan shall, in accordance with this paragraph with respect to a participant or beneficiary, designate a person that meets the requirements of subparagraph (B) to serve as a designated decisionmaker with respect to the cause of action described in paragraph (1), except that—

''(I) with respect to health insurance coverage offered in connection with a group health plan, the health insurance issuer shall be the designated decisionmaker unless the plan sponsor and the issuer specifically agree in writing (on a form to be prescribed by the Secretary) to substitute another person as the designated decisionmaker; or

''(II) with respect to the designation of a person other than a plan sponsor or health insurance issuer, such person shall satisfy the requirements of subparagraph (D).

''(ii) PLAN DOCUMENTS.—The designated decisionmaker shall be specifically designated as such in the written instruments of the plan (under section 402(a)) and be identified as required under section 121(b)(15) of the Bipartisan Patient Protection Act.

''(B) REQUIREMENTS.—For purposes of this paragraph, a designated decisionmaker meets the requirements of this subparagraph

with respect to any participant or beneficiary if—

''(i) such designation is in such form as may be specified in regulations prescribed by the Secretary,

''(ii) the designated decisionmaker—

''(I) meets the requirements of subparagraph (C),

''(II) assumes unconditionally all liability arising under this subsection in connection with actions and failures to act described in subparagraph (A) (whether undertaken by the designated decisionmaker or the employer, plan, plan sponsor, or employee or agent thereof) during the period in which the designation under this paragraph is in effect relating to such participant or beneficiary, and

''(III) where subparagraph (C)(ii) applies, assumes unconditionally the exclusive authority under the group health plan to make determinations on claims for benefits (irrespective of whether they constitute medically reviewable determinations) under the plan with respect to such participant or beneficiary, and

''(iii) the designated decisionmaker and the participants and beneficiaries for whom the decisionmaker has assumed liability are identified in the written instrument required under section 402(a) and as required under section 121(b)(15) of the Bipartisan Patient Protection Act.

Any liability assumed by a designated decisionmaker pursuant to this paragraph shall be in addition to any liability that it may otherwise have under applicable law.

''(C) QUALIFICATIONS FOR DESIGNATED DECISIONMAKERS.—

''(i) IN GENERAL.—Subject to clause (ii), an entity is qualified under this subparagraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in subparagraph (A) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor certification of such ability. Such certification shall be provided to the plan sponsor or named fiduciary upon designation under this paragraph and not less frequently than annually thereafter, or if such designation constitutes a multiyear arrangement, in conjunction with the renewal of the arrangement.

''(ii) SPECIAL QUALIFICATION IN THE CASE OF CERTAIN REVIEWABLE DECISIONS.—In the case of a group health plan that provides benefits consisting of medical care to a participant or beneficiary only through health insurance coverage offered by a health insurance issuer, such issuer is the only entity that may be qualified under this subparagraph to serve as a designated decisionmaker with respect to such participant or beneficiary, and shall serve as the designated decisionmaker unless the employer or other plan sponsor acts affirmatively to prevent such service.

''(D) REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of subparagraphs (A)(i)(II) and (C)(i), the requirements relating to the financial obligation of an entity for liability shall include—

''(i) coverage of such entity under an insurance policy or other arrangement, secured and maintained by such entity, to effectively insure such entity against losses arising from professional liability claims, including those arising from its service as a designated decisionmaker under this subsection; or

''(ii) evidence of minimum capital and surplus levels that are maintained by such entity to cover any losses as a result of liability arising from its service as a designated decisionmaker under this subsection.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of clauses (i) and (ii) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary may prescribe and shall be maintained throughout the term for which the designation is in effect. The provisions of this subparagraph shall not apply in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State financial solvency law.

''(E) LIMITATION ON APPOINTMENT OF TREATING PHYSICIANS.—A treating physician who directly delivered the care or treatment or provided services which is the subject of a cause of action by a participant or beneficiary under paragraph (1) may not be appointed (or deemed to be appointed) as a designated decisionmaker under this paragraph with respect to such participant or beneficiary.

''(F) FAILURE TO APPOINT.—With respect to any cause of action under paragraph (1) relating to a denial of a claim for benefits where a designated decisionmaker has not been appointed in accordance with this paragraph, the plan sponsor or named fiduciary responsible for determinations under section 503 shall be deemed to be the designated decisionmaker.

''(G) EFFECT OF APPOINTMENT.—The appointment of a designated decisionmaker in accordance with this paragraph shall not affect the liability of the appointing plan sponsor or named fiduciary for the failure of the plan sponsor or named fiduciary to comply with any other requirement of this title.

''(H) TREATMENT OF CERTAIN TRUST FUNDS.—For purposes of this subsection, the terms 'employer' and 'plan sponsor', in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph, shall be construed to include a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.).

''(3) REQUIREMENT OF EXHAUSTION OF INDEPENDENT MEDICAL REVIEW.—

''(A) IN GENERAL.—Paragraph (1) shall apply only if—

''(i) a final determination denying a claim for benefits under section 503B has been referred for independent medical review under section 503C(d) and a written determination by an independent medical reviewer has been issued with respect to such review, or

''(ii) the qualified external review entity has determined under section 503C(c)(3) that a referral to an independent medical reviewer is not required.

''(B) INJUNCTIVE RELIEF FOR IRREPARABLE HARM.—A participant or beneficiary may seek relief under subsection (a)(1)(B) prior to the exhaustion of administrative remedies under section 503B or 503C (as required under subparagraph (A)) if it is demonstrated to the court, by a preponderance of the evidence, that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Any determinations that already have been made under section 503A, 503B, or 503C in such case, or that are made in such case while an action under this subparagraph is pending, shall be given due consideration by the court in any action under subsection (a)(1)(B) in such case. Notwithstanding the awarding of such relief under subsection (a)(1)(B) pursuant to this subparagraph, no relief shall be available under paragraph (1), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

''(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

''(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

''(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative processes or such action in determining the amount of the damages awarded.

''(4) LIMITATIONS ON RECOVERY OF DAMAGES.—

''(A) MAXIMUM AWARD OF NONECONOMIC DAMAGES.—The aggregate amount of liability for noneconomic loss in an action under paragraph (1) may not exceed $1,500,000.

''(B) LIMITATION ON AWARD OF PUNITIVE DAMAGES.—In the case of any action commenced pursuant to paragraph (1), the court may not award any punitive, exemplary, or similar damages against a defendant, except that the court may award punitive, exemplary, or similar damages (in addition to damages described in subparagraph (A)), in an aggregate amount not to exceed $1,500,000, if—

''(i) the denial of a claim for benefits involved in the case was reversed by a written determination by an independent medical reviewer under section 503C(d)(3)(F); and

''(ii) there has been a failure to authorize coverage in compliance with such written determination.

''(C) PERMITTING APPLICATION OF LOWER STATE DAMAGE LIMITS.—A State may limit damages for noneconomic loss or punitive, exemplary, or similar damages in an action under paragraph (1) to amounts less than the amounts permitted under this paragraph.

''(5) ADMISSIBILITY.—In an action described in subclause (I) or (II) of paragraph (1)(A) relating to a denial of a claim for benefits, any determination by an independent medical reviewer under section 503C(d) or 503C(e)(4)(B) relating to such denial is admissible.

''(6) WAIVER OF INTERNAL REVIEW.—In the case of any cause of action under paragraph (1), the waiver or nonwaiver of internal review under section 503B(a)(4) by the group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall not be used in determining liability.

''(7) LIMITATIONS ON ACTIONS.—Paragraph (1) shall not apply in connection with any action that is commenced more than 5 years after the date on which the failure described in such paragraph occurred or, if earlier, not later than 2 years after the first date the participant or beneficiary became aware of the personal injury or death referred to in such paragraph.

''(8) EXCLUSION OF DIRECTED RECORDKEEPERS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply with respect to a directed record keeper in connection with a group health plan.

''(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term 'directed record keeper' means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan, the employer, or another plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Bipartisan Patient Protection Act and whose duties do not

include making determinations on claims for benefits.

''(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

''(9) PROTECTION OF THE REGULATION OF QUALITY OF MEDICAL CARE UNDER STATE LAW.—Nothing in this subsection shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care. A cause of action that is based on or otherwise relates to a group health plan's determination on a claim for benefits shall not be deemed to be the delivery of medical care under any State law for purposes of this paragraph. Any such cause of action shall be maintained exclusively under this section. Nothing in this paragraph shall be construed to alter, amend, modify, invalidate, impair, or supersede section 514.

''(10) COORDINATION WITH FIDUCIARY REQUIREMENTS.—A fiduciary shall not be treated as failing to meet any requirement of part 4 solely by reason of any action taken by a fiduciary which consists of full compliance with the reversal under section 503C (relating to independent external appeals procedures for group health plans) of a denial of claim for benefits (within the meaning of section 503C(i)(2)).

''(11) CONSTRUCTION.—Nothing in this subsection shall be construed as authorizing a cause of action under paragraph (1) for the failure of a group health plan or health insurance issuer to provide an item or service that is specifically excluded under the plan or coverage.

''(12) LIMITATION ON CLASS ACTION LITIGATION.—A claim or cause of action under this subsection may not be maintained as a class action, as a derivative action, or as an action on behalf of any group of 2 or more claimants.

''(13) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action under subsection (a)(1)(C) and this subsection.

''(14) RETROSPECTIVE CLAIMS FOR BENEFITS.—A cause of action shall not arise under paragraph (1) where the claim for benefits relates to an item or service that has already been provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

''(15) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

''(A) a member of a board of directors of an employer or plan sponsor; or

''(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment or of plan-related duties of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

''(16) DEFINITIONS AND RELATED RULES.—For purposes of this subsection:

''(A) CLAIM FOR BENEFITS.—The term 'claim for benefits' shall have the meaning given such term in section 503A(e).

''(B) GROUP HEALTH PLAN.—The term 'group health plan' shall have the meaning given such term in section 733(a).

''(C) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term in section 733(b)(1).

''(D) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 733(b)(2).

''(E) ORDINARY CARE.—The term 'ordinary care' means, with respect to a determination on a claim for benefits, that degree of care, skill, and diligence that a reasonable and prudent individual would exercise in making a fair determination on a claim for benefits of like kind to the claims involved.

''(F) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

''(G) TREATMENT OF EXCEPTED BENEFITS.—The provisions of this subsection (and subsection (a)(1)(C)) shall not apply to excepted benefits (as defined in section 733(c)), other than benefits described in section 733(c)(2)(A), in the same manner as the provisions of part 7 do not apply to such benefits under subsections (b) and (c) of section 732.

(2) CONFORMING AMENDMENT.—Section 502(a)(1) of such Act (29 U.S.C. 1132(a)(1)) is amended—

(A) by striking ''or'' at the end of subparagraph (A);

(B) in subparagraph (B), by striking ''plan;'' and inserting ''plan, or''; and

(C) by adding at the end the following new subparagraph:

''(C) for the relief provided for in subsection (n) of this section.''.

(b) AVAILABILITY OF ACTIONS IN STATE COURT.—

(1) JURISDICTION OF STATE COURTS.—Section 502(e)(1) of such Act (29 U.S.C. 1132(e)) is amended—

(A) in the first sentence, by striking ''subsection (a)(1)(B)'' and inserting ''paragraphs (1)(B), (1)(C), and (7) of subsection (a)'';

(B) in the second sentence, by striking ''paragraphs (1)(B) and (7)'' and inserting ''paragraphs (1)(B), (1)(C), and (7)''; and

(C) by adding at the end the following new sentence: ''State courts of competent jurisdiction in the State in which the plaintiff resides and district courts of the United States shall have concurrent jurisdiction over actions under subsections (a)(1)(C) and (n).''.

(2) LIMITATION ON REMOVABILITY OF CERTAIN ACTIONS IN STATE COURT.—Section 1445 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(e)(1) A civil action brought in any State court under subsections (a)(1)(C) and (n) of section 502 of the Employee Retirement Income Security Act of 1974 against any party (other than the employer, plan, plan sponsor, or other entity treated under section 502(n) of such Act as such) arising from a medically reviewable determination may not be removed to any district court of the United States.

''(2) For purposes of paragraph (1), the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 503C(d)(2) of the Employee Retirement Income Security Act of 1974.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and omissions, from which a cause of action arises, occurring on or after the applicable effective date under section 601.

Amend section 403 to read as follows:

SEC. 403. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 402, is further amended by adding at the end the following:

''(o) LIMITATION ON CLASS ACTION LITIGATION.—Any claim or cause of action that is maintained under this section (other than under subsection (n)) or under section 1962 or 1964(c) of title 18, United States Code, in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to actions commenced on or after August 2, 2001. Notwithstanding the preceding sentence, with respect to class actions, the amendment made by subsection (a) shall apply with respect to civil actions which are pending on such date in which a class action has not been certified as of such date.

Amend section 603 to read as follows:

SEC. 603. SEVERABILITY.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), if any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

(b) DEPENDENCE OF REMEDIES ON APPEALS.—If any provision of section 503A, 503B, or 503C of the Employee Retirement Income Security Act of 1974 (as inserted by section 131) or the application of either such section to any person or circumstance is held to be unconstitutional, section 502(n) of such Act (as inserted by section 402) shall be deemed to be null and void and shall be given no force or effect.

(c) REMEDIES.—If any provision of section 502(n) of the Employee Retirement Income Security Act of 1974 (as inserted by section 402), or the application of such section to any person or circumstance, is held to be unconstitutional, the remainder of such section shall be deemed to be null and void and shall be given no force or effect.

Page 16, line 10, strike ''on a timely basis'' and insert ''in accordance with the applicable deadlines established under this section and section 503B''.

Page 29, line 14, strike ''or modify''.

Page 36, line 12, strike ''upheld, reversed, or modified'' and insert ''upheld or reversed''.

Page 39, line 23, strike ''uphold, reverse, or modify'' and insert ''uphold or reverse''.

Page 40, line 8, and page 44, line 9, strike ''or modify''.

Page 23, line 18; page 41, line 19; page 43, line 2; , , strike ''reviewer (or reviewers)'' and insert ''a review panel''.

Page 33, line 7, strike ''reviewer'' and insert ''review panel''.

Page 34, line 25, strike ''reviewer'' and insert ''review panel composed of 3 independent medical reviewers''.

Page 34, lines 8 and 13; page 36, line 8; page 37, line 3; page 38, lines 6 and 20; page 39, line

4, 20, and 21; page 40, lines 1, 2 and 14; page 41, line 6; page 43, lines 6, 17, and 20; page 44, lines 5, 9, and 14; page 45, line 24; page 61, line 5; page 67, line 3; page 68, line 25; , strike ''reviewer'' and insert ''review panel''.

Page 36, line 14; page 43, line 21; page 44, line 12; , strike ''reviewer's'' and insert ''review panel's''.

Page 41, line 4, strike ''reviewer (or reviewers)'' and insert ''review panel''.

Page 47, line 15, strike ''independent external reviewer'' and insert ''independent medical review panel''.

Page 50, line 20, strike ''1 or more individuals'' and insert ''an independent medical review panel''.

Page 51, amend lines 4 through 6 to read as follows:

''(B) with respect to each review, the review panel meets the requirements of paragraph (4) and at least 1 reviewer on the panel meets the requirements described in paragraph (5); and

Page 51, line 8, strike ''the reviewer'' and insert ''each reviewer''.

Page 53, line 21, strike ''a reviewer'' and insert ''each reviewer''.

Page 54, line 6, strike ''a reviewer (or reviewers)'' and insert ''the independent medical review panel''.

Page 61, line 5, insert ''or any independent medical review panel'' after ''reviewer''.

Page 64, lines 1 and 5, strike ''reviewers'' and insert ''review panel''.

Page 64, line 14; page 69, lines 16 and 19, strike ''reviewers'' and insert ''review panels''.

Page 8, after line 17, insert the following (and place the text from page 8, line 18, through page 16, line 20 in quotation marks):

Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by inserting after section 503 (29 U.S.C. 1133) the following:

''SEC. 503A. PROCEDURES FOR INITIAL CLAIMS FOR BENEFITS AND PRIOR AUTHORIZATION DETERMINATIONS.

Page 16, after line 21, insert the following (and place the text from page 16, line 22, through page 25, line 13 in quotation marks):

Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by section 102) is amended further by inserting after section 503A (29 U.S.C. 1133) the following:

''SEC. 503B. INTERNAL APPEALS OF CLAIMS DENIALS.

Page 25, after line 15, insert the following (and place the text from page 25, line 16, through page 69, line 22 in quotation marks):

Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by sections 102 and 103) is amended further by inserting after section 503B (29 U.S.C. 1133) the following:

''SEC. 503C. INDEPENDENT EXTERNAL APPEALS PROCEDURES.

Page 119, line 1, insert after ''treatment.'' the following: ''The name of the designated decisionmaker (or decisionmakers) appointed under paragraph (2) of section 502(n) of the Employee Retirement Income Security Act of 1974 for purposes of such section.''.

Page 138, line 21, insert after ''plan'' the following: ''and only with respect to patient protection requirements under section 101 and subtitles B, C, and D and this subtitle''.

Page 145, line 12, strike ''and the provisions of sections 502(a)(1)(C), 502(n), and 514(d) of the Employee Retirement Income Security Act of 1974 (added by section 402)''.

Page 148, line 15, after ''Act'' insert the following: ''and sections 503A through 503C of the Employee Retirement Income Security Act of 1974''.

Page 149, line 9, after ''Act'' insert the following: ''and sections 503A through 503C of the Employee Retirement Income Security Act of 1974 (with respect to enrollees under individual health insurance coverage in the same manner as they apply to participants and beneficiaries under group health insurance coverage)''.

Page 152, line 16, insert ''section 101 and subtitles B, C, D, and E of'' before ''title I''.

Page 155, strike lines 1 through 19 (and redesignate the subsequent paragraphs accordingly).

Page 158, strike lines 19 through 25 and insert the following:

''(b)(1)(A) Subject to subparagraphs (B) and (C), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of sections 503A, 503B, and 503C, and such requirements shall be deemed to be incorporated into this subsection.

''(B) With respect to the internal appeals process required to be established under section 503B, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer's failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

''(C) Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external review entity for the conduct of external appeal activities in accordance with section 503C, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

''(2) In the case of a group health plan, compliance with the requirements of sections 503A, 503B, and 503C, and compliance with regulations promulgated by the Secretary, in connection with a denial of a claim under a group health plan shall be deemed compliance with subsection (a) with respect to such claim denial.

''(3) Terms used in this subsection which are defined in section 733 shall have the meanings provided such terms in such section.''.

Page 210, line 19, after ''Act'' insert the following: ''and sections 503A through 503C of the Employee Retirement Income Security Act of 1974''.

Make such additional technical and conforming changes to the text of the bill as are necessary to do the following:

(1) Replace references to sections 102, 103, and 104 of the bill with references to sections 503A, 503B, and 503C of the Employee Retirement Income Security Act of 1974, as amended by the bill.

(2) In sections 102, 103, and 104, strike any reference to ''enrollee'' or ''enrollees'' and insert ''in connection with the group health plan'' after ''health insurance coverage'', and make necessary conforming grammatical changes.

The CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Georgia (Mr. NORWOOD) and a Member opposed each will control 30 minutes.

Mr. ANDREWS. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey will be recognized for 30 minutes.

The gentleman from Georgia (Mr. NORWOOD) is recognized on his amendment.

Mr. NORWOOD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to bring before the House an effort at bridging the gap on this very difficult and contentious issue. I realize that my decision to bring forth this amendment is a controversial one, but I hope my colleagues will set aside for an hour their bitterness and consider the substance of our proposal.

I have heard some of my colleagues come to the floor to say that my amendment was written by the insurance industry. It is just silly, I think, for people to say that. The insurance industry cannot stand me. They have had me on dart boards for years, and everyone in the House knows that. So let us set aside those insane accusations. Instead, Mr. Chairman, let us talk about the substance of the amendment.

My amendment is consistent with the principles of the underlying bill. My amendment creates a cause of action for a negligent denial of a claim for benefits. This cause of action against insurers will be heard in State court. So does the underlying bill.

The amendment protects employers by allowing them to have a designated decisionmaker to be liable. So does the underlying bill.

□ 1845

It requires all administrative remedies be exhausted before a case can go to court. So the underlying bill, my amendment only allows punitive damages in cases where the insurer refuses to follow the determination of the external reviewer. So does the underlying bill.

There are, however, some significant differences. My amendment caps liability at $1.5 million for noneconomic damages. Punitive damages are capped at $1.5 million. I argued long and hard with almost every friend I have against putting caps in a bill for 4 years because we had a President who said he would veto a patient protections bill with caps. Now we have a President who says he will veto a bill without caps.

This compromise is a simple recognition of political reality. I have made a compromise to create a rebuttal presumption in favor of the insurer when the external reviewers rule in favor of the plan.

I have listened to my colleagues complain long and loud about the inequity of that, but I have one simple question in response: If the external reviewer says the plan was right in turning down a treatment, how could the plan have been negligent in turning down a treatment?

I know some of my colleagues feel I have made a significant change moving away from the simple lifting of the ERISA preemption, but before Members condemn differences because they are changes, think about what has really changed. Under my amendment, a patient will have a cause of action against an insurer in every State in America, in a State court using State

rules and procedures. Is that significantly different from the underlying bill?

I know some of my colleagues believe that the language of my amendment preempts the direction of current case law. We worked deep into the night last night on that language. I am not completely satisfied with the provision in our bill that protects State law, and I pledge to Members to work to further clarify the language in conference because I know Members know my intent.

But before Members offhandedly reject the language, I think they should explain to us how Americans will be left without a remedy under this amendment.

Mr. Chairman, the key difference between the amendment I am bringing before Members today and the underlying bill is that the President has agreed to sign the bill with the amendment I am bringing today. With all due respect to the gentleman from Kentucky, the amendment I bring today is a significant departure from the Fletcher bill.

The President has moved our way. I know this is not the ideal way to offer a potential hand of compromise. I really would not blame Members if they voted against the amendment, our Democratic friends, solely because of the process issue. But before slapping away the hand that is being extended to us, Members, I hope, will consider the substance and realize how close we truly are to a law, not a bill. We have done that, folks. But a law.

Mr. Chairman, I reserve the balance of my time.

Mr. ANDREWS. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas (Mr. TURNER), a Member who understands the flaws of writing a complicated bill overnight.

Mr. TURNER. Mr. Chairman, we have heard a lot today from the other side about the need for balance between giving patients protections and holding down the cost of health insurance premiums.

In Texas, we have had 4 years of experience under our patient protection laws. Health insurance premiums in Texas have gone up at less than half the national average, 1,400 patients have exercised their right to appeal, and only 17 lawsuits have occurred.

The original Ganske-Dingell-Norwood bill is modeled after the Texas law. I submit to Members, in Texas, it is working. The Norwood amendment that is offered here today destroys that balance and tips the scales of justice in favor of the insurance companies.

Let us look at what the Norwood amendment does to the Ganske-Dingell-Norwood bill. First, it establishes procedural rules that favor the insurance company. For example, if the external review panel makes a ruling and you decide as a patient to appeal it, you go into court with the legal presumption that the medical review panel is correct. And to overcome that, patients have to do it by clear and convincing evidence, not the usual preponderance of the evidence in most civil cases.

Secondly, the Norwood amendment imposes this cap on noneconomic damages. The gentleman from Florida mentioned that the President would not sign a bill without a noneconomic damages cap. That is unusual because when the President pushed tort reform in Texas in 1995, there was no cap on noneconomic damages. In Texas today, there are no caps on noneconomic damages in lawsuits brought against HMOs.

Thirdly, the Norwood amendment grants the HMO industry special protection from accountability that no other business or industry in this Nation has to date.

Fourth, the Norwood amendment requires patients to prove that the wrongful and negligent acts of the HMO are the proximate cause of their injury rather than a proximate cause of the injury, as in the underlying bill. Some Members might ask, What is the big deal, ''A'' or ''the''? Very simple.

In a case involving an automobile accident, somebody runs a red light, causes an accident, it is pretty easy to say that the running of the red light is the proximate cause of the injury. But in malpractice cases, there is seldom a single cause of an injury.

Consider a woman with breast cancer. Her HMO denies her a mammogram which would have detected the nodule, she gets cancer and dies. The family brings a lawsuit against the HMO. The truth of the matter is, if we go with the Norwood amendment requiring the proximate cause, she would not recover. Her family would not recover because the proximate cause of her death was the cancer. So ''a proximate cause'' is what the law should say.

We need to make sure that the Norwood amendment is defeated.

Yet under the Norwood amendment, state laws like the Texas Patient Protection Law are preempted and patients end up in federal court with less protection.

It leaves the doctor at a disadvantage when the doctor is subject to a malpractice lawsuit along with an HMO. The claim against the doctor would be in state court under state law. The suit against the HMO would be under federal law and in every event would be subject to more favorable procedural protections. When HMOs make medical decisions they should have no less accountability than doctors must face in this country today.

The Norwood amendment is worse than current law in a lot of ways. It rolls back the protections that have been given to patients and their doctors in both statutory and common law. Why should we turn our backs on the original Ganske-Dingell-Norwood-Berry bill that has already passed in a bipartisan fashion in the Senate, a bill that passed this House in October of 1999 by an overwhelming majority of the House.

Mr. NORWOOD. Mr. Chairman, I yield 30 seconds to the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, my colleague from the other side said this was modeled, the Ganske-Dingell bill was modeled after the Texas law, and it was a wonderful bill.

Mr. Chairman, I wonder if the gentleman has read page 167 of the bill which provides to certain health care plans sponsored by very large group providers absolute immunity for nonmedical injuries? The language of the gentleman's bill says if there is a self-funded, self-insured plan, it gets absolute immunity when someone is injured or killed by a nonmedical determination.

So let us say they wrongfully decide coverage and a patient is injured, there is absolute immunity, there is no recovery whatsoever.

Mr. NORWOOD. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. PETERSON).

(Mr. PETERSON of Minnesota asked and was given permission to revise and extend his remarks.)

Mr. PETERSON of Minnesota. Mr. Chairman, I rise today to support the Norwood amendment. I first started working on a patient protections bill back in September 1992 when I introduced what I think was the first patient protection legislation in the House, H.R. 6027.

Among other things, it tried to make sense out of the way that ERISA impacted health services in this country. I have been working on these issues ever since.

It seems to me that we have finally reached the point where both sides in this debate have moved enough towards the middle we might be able to finally resolve these issues. The Fletcher-Peterson bill that I have been involved in has helped move everyone toward the center.

When the Senate was doing their bill, the Senate passed amendments that moved their bill toward the Fletcher-Peterson position. During the last few days, the Ganske-Dingell bill has added language to cover some of these same provisions, such as including the dedicated decision-maker language, requiring the full exhaustion of internal and external reviews before going to court, keeping contract disputes in Federal courts and making adjustments to MSAs.

The patients' rights issue has come a long way since 1992 when we first started on this. Last night we continued that progress with the gentleman from Georgia (Mr. NORWOOD) helping to put together a compromise that we could actually pass into law. Last night, to the credit of the gentleman from Georgia (Mr. NORWOOD) and President Bush, each gave a little to get a little, and the product of that compromise is what we have before us today.

But are we grateful for this compromise? Are we praising everyone for having reached an agreement that is essentially the majority of the base bill itself? No. Instead, now, we have shifted the argument to other issues, like preemption of State law.

As I understand it, the Ganske-Dingell bill develops a State cause of action in that it modifies it with things

such as a dedicated decision-maker and other things which are a preemption of State law, as far as I can see. That leaves us with the question of whether or not, if we are doing that, it is constitutional.

Can we make Federal conditions on a State cause of action, and is this not preemption of State law? The Norwood amendment has created a Federal cause of action modified in the same ways. I think it is more workable, and I think clearly it will withstand the test of constitutionality.

With regard to the liability provisions, as a result of the negotiation with the President, the Norwood amendment increased the caps on damages to $1.5 million from the $500,000 that was advocated in the Fletcher-Peterson bill.

The Norwood amendment will protect small businesses and mitigate against possible increases of uninsured, as well as improving, health care delivery. This amendment finally moves H.R. 2563 to a place of agreement, a place where the Patients' Bill of Rights can pass the House; and if the other body is willing to work with us in good faith, we can ultimately get the President's signature and put this legislation into law.

Mr. Chairman, I encourage each and every one of my colleagues to support a real solution to the issue of patients' rights. Support the Norwood amendment.

Mr. ANDREWS. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. WAXMAN), who is a champion of consumer groups across the Nation that strongly oppose the Norwood amendment.

(Mr. WAXMAN asked and was given permission to revise and extend his remarks.)

Mr. WAXMAN. Mr. Chairman, I am sorry to say it is hard to escape the conclusion that last night President Bush finally put so much pressure on the gentleman from Georgia (Mr. NORWOOD) that in the words of the New York Times editorial today he, quote, ''apparently sold out his own cause.'' That is sad for Americans who need and deserve a strong and enforceable Patients' Bill of Rights.

Mr. Chairman, I just want to review what the American Medical Association concluded about the deal agreed to by their former ally: It overturns the good work done by States in protecting patients; it reverses developing case laws that allow patients to hold plans accountable when they play doctor. In other words, it makes things worse instead of better for patients. It provides patient protections, but does not allow enforcement of those rights.

If the White House operatives thought they could defend the so-called ''compromise'' President Bush talked the gentleman from Georgia (Mr. NORWOOD) into, why did they insist that he make a commitment without talking it over with his allies in and out of the government? Why did they insist that drafting be rushed through in the wee hours of the morning, and insist that they move forward before consumer and physician groups and the American public could see and understand the provisions?

Why do we find ourselves here on the House floor voting on an amendment that either deliberately or accidentally preempts State laws, disadvantages patients, and provides HMOs with a presumption that they are right and the patient and physicians are wrong.

Mr. Chairman, I think the answer is obvious. They knew that if people really got a chance to look at this, they would see it for the sham that it is.

This is not the way to enact a Patients' Bill of Rights. This is the way to ensure another stalemate. Reject this amendment.

□ 1900

Mr. NORWOOD. Mr. Chairman, everybody knows that the New York Times is not all of our Bible. They get it wrong frequently. They even reported I lost 60 pounds; and you know darn well it was 40, so they do not get it right.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BARTON).

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, my father was a combat navigator in World War II. He flew a B–24 liberator on 50 combat missions. He won every combat award the Army Air Corps could award except the Congressional Medal of Honor. I am glad he did not win that one or I would not be here.

When I got elected to Congress I went to him and I asked him for some advice.

I said: Dad, what should I do when I get up there?

He said: Son, always pick a good pilot.

I said: Pick a good pilot. What do you mean?

He said: There are going to be lots of rascals in Washington and they're going to try to flimflam you; but if you've got a good pilot, he'll set the right course and he'll always get you home.

Last week the gentleman from Georgia (Mr. NORWOOD) was the toast of the town on the liberal side because he was holding out for the Patients' Bill of Rights. He negotiated an agreement with the White House and President Bush which I have looked at this afternoon, it looks pretty good to me, and all of a sudden today he is accused of selling out.

Mr. Chairman, the gentleman from Georgia is a good pilot. I would fly with him anywhere. The day the gentleman from Georgia sells out is the day ''In God We Trust'' that is on the facade behind us falls off that facade.

I am with the gentleman from Georgia, I am going to vote for this bill, and I say God bless the gentleman from Georgia, he is a good man.

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE), who represents a State that just enacted a very strong patient protection law that will be repealed by this amendment.

Mr. PALLONE. Mr. Chairman, when you are sick and you have been denied care and often do not have the energy to fight, the Norwood amendment puts all sorts of roadblocks in the way of a real independent review. The real Patients' Bill of Rights allows you to quickly and informally go to an independent review board. They look at the patient, they look at the medical record, look at whatever they want and decide what care you need. Norwood turns this around and puts roadblocks in your way. It makes it a judicial-type procedure stacked against you. The HMO picks the information it sends to the board, the patient has no right to see it and no right to ask witnesses any questions. You will need a lawyer under Norwood in order to make your case. You have to prove that the HMO's decision was wrong and should be either affirmed or overturned. There is no flexibility with the board to craft a plan of care somewhere in between.

Worse, if the board agrees with the HMO, a presumption in favor of the HMO makes an appeal to the courts almost impossible.

Norwood stacks the deck against you. And it gives all the cards to the HMO.

Mr. ANDREWS. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa (Mr. GANSKE), one of the two principal authors of this bill.

Mr. GANSKE. Mr. Chairman, I thank the gentleman for yielding time.

Here we are. This is the nitty-gritty of the debate. We have sort of been fooling around until we get to the Norwood amendment.

My colleague from Georgia is an acknowledged expert on this issue. I wonder if my colleague would clarify some issues for me.

The gentleman from Georgia (Mr. NORWOOD) last night at the Committee on Rules agreed that he had said that, quote, ''HMOs will be treated better than others in the Norwood amendment.''

Is that because HMOs are being given affirmative defenses?

Mr. NORWOOD. Mr. Chairman, will the gentleman yield?

Mr. GANSKE. I yield to the gentleman from Georgia.

Mr. NORWOOD. Because there is no way that you can make it exactly the same between the physician and the HMO, I do not believe. If the gentleman is talking about the rebuttable presumption, and I presume he is, what I would say to him there is that I did the best I could do in negotiations to continue to allow the patient to have the recourse to going into court.

Mr. GANSKE. But it is fair to say, then, that he stands by his statement?

Mr. NORWOOD. I stand by the fact that if an insurance company does exactly what they are told to do by a group of physicians in the external review model, then we have to encourage them to offer the treatment and not put them in a position so that they have always the fear of being drug into court. But as the gentleman knows, I agree that that patient should have the right to go into court.

Mr. GANSKE. So he stands by his statement that HMOs are treated better in his amendment than others.

Now, is it the gentleman's understanding that his bill would abrogate State laws on patients' rights?

Mr. NORWOOD. It is my understanding and the intent of this bill that, first of all, we have a Federal cause of action for denial of care or the delay of care in State court. We intend, and it is going to be this way before we get it out of that conference if there is any question about it, because the gentleman knows how it is with lawyers: ''is'' doesn't mean ''is.'' One lawyer says it means this; another lawyer says it means that. But our intent is not to preempt any cause of action at the State level.

Mr. GANSKE. Let me just read to the gentleman a statement by Ari Fleischer today on this issue. The question to him was:

Republicans and Democrats believe that the deal struck between Mr. NORWOOD and the President would abrogate State laws on patients' bill of rights. Is that the White House understanding?

Here is what Mr. Fleischer said:

Yes. Yes. And I think you can get into a good discussion of that at the background.

Question: So he doesn't believe that it would not abrogate State laws?

Fleischer: There are a certain series of preemptions in there.

Does the gentleman agree with Mr. Fleischer's assessment there?

Mr. NORWOOD. In some States that presently have a managed care, an HMO reform bill, we are going to have a preemption and a replacement in that.

Mr. GANSKE. The gentleman from Georgia has respected the opinion of Sara Rosenbaum, David Frankfurt and Rand Rosenblatt. He has sent out Dear Colleagues on them. This is what they have to say about the Norwood amendment:

''In preempting State law, the Norwood amendment goes beyond conduct that involves negligent medical judgment to a particular patient's case. The amendment made by virtue of the words ''based on'' stipulate that State malpractice law does not apply to any treatment decision made by the managed care organization, whether it be negligent, reckless, willful or wanton. For example,'' Rosenbaum continues, ''no State cause of action could be maintained against a designated decisionmaker for its decision to discharge a patient early from a hospital even if the likely result of that discharge would result in a patient's death. In short, all forms of vicarious liability under State law would be preempted.''

Is that an accurate representation?

Mr. NORWOOD. The key word here is ''may.'' We do not believe that it does that. We do not intend for it to do that. And I do not intend for it to do that when we have the opportunity to get into conference.

Mr. GANSKE. I thank the gentleman.

Mr. NORWOOD. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Chairman, our State's motto is ''Wisdom, Justice and Moderation.'' A favorite son of ours today, Dr. CHARLES NORWOOD, exhibited those three qualities and those three characteristics absolutely.

I do not think a thing in the world I am going to do is going to change a mind in here, what I say; but I hope maybe we will get back and change our hearts for just a second.

My granddaddy had a saying in south Georgia when he got into a confusing controversy. He said, ''You know, if you want to get the mud out of the water, you've got to get the hogs out of the spring.''

We are at a point in this debate where the focus on self-interest of all the diverse interests on this bill is clouding the water. We have made steps forward in patients' rights. We have made steps forward in the amount that can be received in noneconomic and punitive damages. We have made steps forward in protecting the fact that Americans are still going to have insurance and joint and several liability will not sweep through American business.

Some can poke fun at the gentleman from Georgia if they like, and you can ask me hard questions I cannot answer; but successful legislation in America on behalf of the people we are here to represent who are our citizens, are going to be the patients, are better than the muddy water interests of any lawyer, any business employer, any physician, any HMO or any insurance company.

There comes a time and a place for a man to do what is right. Dr. CHARLES NORWOOD has done what is right. You may disagree, but we are light years ahead of where we have ever been; and we owe this debate better than some of the things that have been said.

I urge your support for the Norwood amendment.

Mr. ANDREWS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GREEN) to comment on the bill that is before us rather than the one he wishes was before us.

Mr. GREEN of Texas. Mr. Chairman, first I want to say that I respect the gentleman from Georgia (Mr. NORWOOD) and the hard work that he has done; but I also disagree with the language that was agreed to, and I can stand here on this floor and still respect him but disagree with him.

The President and the gentleman from Georgia stood last night on the podium and proclaimed they reached a compromise. But it is really not a compromise. It is not a compromise because not everybody was involved. Only one Member was involved in it. The Norwood amendment holds HMOs to different standards than doctors and hospitals. That was the base reason for the bill. We are going to hear lots of Members come up tonight and talk about how this is a great bill, but they were for the Fletcher bill. They were not for a real patients' bill of rights, anyway. So we are going to hear that tonight. Even though HMOs act like doctors if they deny or delay care, they are not held accountable like doctors under this amendment. They are the only health care providers that are shielded. That is what is wrong.

What is more troubling about this proposal is that it destroys the important patient protections that we have had in Texas for 4 years. The gentleman from Arizona (Mr. SHADEGG) may quote Texas law, but the amendment that the gentleman from Georgia negotiated with the President goes against Texas law. It does not have anything to do with holding an employer who runs the business. That is Texas law. We wanted to correct that in this bill. But it does change the liability. And it does change the presumption.

There is nothing in Texas law that gives the HMO or the insurance company the presumption that they are right. That is wrong. That is why our appeals are so successful in Texas. That is why 52 percent of the 1,400 appeals were in favor of the patient. The HMOs that you are defending were wrong more than half the time. That is what is wrong with this law. That is why it is so bad. It is going to hurt what we have successfully done in Texas where the insurance policies are under State law. But we need to do a real patients' bill of rights for everyone in the country. Sixty percent of my constituents do not come under Texas law; they come under ERISA. That is why we need to make sure we pass a strong patients' bill of rights, not a patients' bill of wrongs, not an HMO bill of rights. That is what this is.

You heard the gentleman from Texas (Mr. TURNER) talk about just the changing of an ''a'' to a ''the'' will make sure our patients are shafted by this bill.

Mr. ANDREWS. Mr. Chairman, I am pleased to yield 1½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me simply say I am trained as a lawyer. But today I stand on this floor as someone who has been, as many of us, a patient. I would like to cast my lot with the physicians. And though I agree with the gentleman, I do not want a bill; I would like to have a law. But I am prepared as a patient

fight to the last breath so that patients around the country can have the privilege of knowing that decisions between them and their physician are not interfered with by HMOs.

I know the gentleman from Georgia means well and we do respect him. But his amendment interferes and puts a wedge between the patient-physician relationship. Our people understand what is right and what is wrong. Under the presumption in his amendment, patients are wrong, physicians are wrong and HMOs are right. Interestingly enough, the George Washington University in a letter dated today said that this amendment stipulates that State malpractice law does not apply to any treatment decision made by a managed care organization whether it be negligent, reckless, willful or wanton.

Picture yourself in a relationship with a doctor. They recommend a diagnosis; they ask for a procedure. And there you are with an HMO that denies it, recklessly, willfully and wantonly and God help that you live and if you do not, look at your relatives going in to challenge them, not because they want to be in court but because they want to right the wrong and the HMO stands as the right and you stand as the wrong.

I fight for the patients, and I fight for the physicians. I think this amendment should go down.

□ 1915

Mr. NORWOOD. Mr. Chairman, I yield 2 minutes to my lawyer, the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. I thank the gentleman for yielding me time.

Mr. Chairman, let me begin by saying I respect greatly our colleague, the gentleman from Iowa (Mr. GANSKE), who has worked very hard on this bill; but I think it is important to note he talked about the issue of affirmative defenses. In the negotiations between the gentleman from Georgia (Mr. NORWOOD) and the President, all of the affirmative defenses were stricken from the bill because the gentleman from Georgia (Mr. NORWOOD) wanted them stricken and they are gone.

Let us talk about this, the other issue of preemption. I need to talk about preemption, because a great deal has been made here. Let us talk about the issue of preemption, because that seems to be of great concern here.

It needs to be understood that, number one, ERISA today preempts a claim for benefits in all 50 States. If you try to bring a claim for benefits and bring that as a cause of action in State court, you cannot bring it in a single State, including Texas. Indeed, the corporate healthcare case, Corporate HealthCare v. Texas right here, says specifically that. If you seek to bring a claim for benefits case in State court, it is preempted by Federal law.

There is a good reason for that. It is so that the management of claims in all 50 States can be uniform, because this law, ERISA, was intended to govern multi-State employers and multi-State unions.

Now, let us talk about a second issue, that is the Ganske bill. They would have you believe that the Norwood amendment is the only thing that preempts anything. That is ridiculous. The Ganske-Dingell bill preempts issue after issue within the State cause of action. It says you can bring a State cause of action, but then it preempts pieces of that. It says you can only bring it against a designated decision-maker, it says you can only bring it after exhausting external review. The preemption issue is in your bill as well as our bill, although it is 19 pages long in your bill.

Let us talk about its effort at preemption in this bill. In this bill, we say what current law says, and that is if you are bringing a claim for benefits, that belongs in Federal court. But, do you know what? We give a remedy for damages.

But we also go beyond and codify existing State law on the issue of the claims you can bring in States. If you bring a negligence claim against a plan or its doctor, you can bring that for the services they delivered, you can bring that under existing State law, and this bill specifically says you can continue to bring it.

This is a red herring. I urge the adoption of the Norwood amendment.

Mr. ANDREWS. Mr. Chairman, I yield myself 15 seconds.

I believe the gentleman from Arizona said affirmative defenses are not spelled out in the Federal cause of action. That is right. Of course, that means it is up to the judiciary to invent them as we go along. We do not know whether there will be affirmative defenses or not, what they will mean, because it is not included in here. Because when you draft a cause of action overnight, you cannot think of those things.

Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me time.

Make no mistake, the Norwood amendment guts the patients' bill of rights, and what is left behind? Nothing more than an ''HMO Bill of Slights.''

The Norwood amendment slights patients with weakened accountability provisions; it slights patients by preempting stronger State laws, which would allow patients to sue HMOs for bad medical decisions; it slights patients by prohibiting class action lawsuits against HMOs; and it slights patients by allowing HMOs to delay a patient's day in court by choosing Federal court over State court.

Mr. Chairman, justice delayed is justice denied. The American people have waited too long for a real HMO bill of rights. Vote no on the Norwood amendment, the ''HMO Bill of Slights.''

Mr. NORWOOD. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Georgia (Mr. DEAL), a good friend of mine.

Mr. DEAL of Georgia. Mr. Chairman, I thank the gentleman for yielding me time.

As a trial attorney, I am both amused and somewhat dismayed by some of the things that have been said here today. First of all, as a trial attorney, it is amusing it see my good friend the plastic surgeon cross-examining my other good friend, a dentist. But be that as it may, there are a lot of things that have been said here.

First of all, on the issue of preemption, I think the gentleman from Arizona (Mr. SHADEGG) said it well. If States could do the things that we are seeking to do in this legislation, then let States to it. It is the very fact they cannot that is the necessity for the Federal legislation that we are attempting to put in place here today.

On behalf of my friend the gentleman from Georgia (Mr. NORWOOD), let me say this in conclusion. Many who would speak against his efforts have been here for decades and saw no reason to go forward with the effort of a patients' bill of rights, and to them I say, the gentleman from Georgia (Mr. NORWOOD) should be your hero.

For those who would denigrate his methods or motives, I would simply say to them, this issue would not be here today on the brink of becoming law had it not been for his dedication.

For those of you who think the gentleman from Georgia (Mr. NORWOOD) has sold out, it simply proves to me, you do not know the gentleman from Georgia (Mr. NORWOOD).

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LOFGREN), one of our advocates for a strong and forceful patients' bill of rights.

Ms. LOFGREN. Mr. Chairman, it has been quite a week here in the House of Representatives. On Tuesday, we made it a felony for scientists to cure disease with stem cells; Wednesday, we gave $36 billion in tax goodies to big oil, gas and others, and allowed drilling in national refuges; and today, we see the perversion of a good idea, a law that would protect patients from insurance companies has been transformed into a bill that protects insurance companies from patients.

The President's deal was obviously written by, or at least for, special interests. It would repeal California's responsible law and replace it with a new Federal preemption that would prevent wrongdoers who are insurers, even intentional wrongdoers, from being held responsible for their actions.

Now, why is it that doctors, lawyers, nurses can be held responsible for their wrongdoing, but not insurance companies? It looks to me that the bigger the campaign contributions to the Republicans, the bigger the payoff with laws to benefit those same contributors.

This body has morphed from a place where legislation is deliberated upon to the White House ATM machine. This

week, start by making scientists criminals; midweek, trash the environment; today, destroy the patients' bill of rights.

It is a good thing Congress is about to recess. I do not know if the country could stand another week like this one of Republican ''victories,'' where the special interests rule to the detriment of ordinary Americans.

Mr. ANDREWS. Mr. Chairman, we hear often about the benefits of the Texas patients' bill of rights, which will be repealed as a result of this amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, let me start out by saying I have nothing but the highest respect for the gentleman from Georgia (Mr. NORWOOD). The problem is, the gentleman from Georgia (Mr. NORWOOD) went as far as could go, and he ran into the White House. It is ironic, after being here for 7 years, coming from a State where my former Governor used to say, let Texans run Texas, and where my Texas colleagues up here on the other side of the aisle said, let the States do it, because the States can do it better, what always happens, whenever it gets in the way of the powerful special interests, this idea of devolving power to the States becomes wholly inconvenient.

The bill before us today would upend the law in Texas that passed under George Bush's watch, the law he talked about during the campaign that he was so proud about. But the fact is, that it upends the interests of very powerful insurance companies who do not like the Texas law, they do not like the California law, they do not like the New Jersey law.

Now we are told we have to pass a bill in the House before conference so we can get to conference, and then the gentleman from Georgia (Mr. NORWOOD) has turned around and told us if there are problems with it, we will work it out in conference.

It all seems rather inconsistent. Defeat the Norwood amendment, and let us pass a real patients' bill of rights.

Mr. ANDREWS. Mr. Chairman, the American Medical Association, health care providers across the country, want the Norwood amendment defeated.

Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. CAPPS), a representative of the nursing profession before she came here.

Mrs. CAPPS. Mr. Chairman, I rise in opposition to the Norwood amendment.

In the absence of action by the Federal Government, my State of California recently acted to protect its citizens from overzealous cost-cutters in the HMOs. One of the strengths of Ganske-Dingell is it creates a Federal floor for patient protections, allowing States like my own to have stronger protections.

But this amendment would override those State laws in order to protect HMOs from accountability. As was confirmed in an exchange just now between the gentleman from Iowa (Mr. GANSKE) and the gentleman from Georgia (Mr. NORWOOD), this amendment obliterates the cause of action defined by the State of California, my State, and so many other States as well.

If this amendment were to pass, patients in my home State would have fewer protections than they do right now, and HMOs in California would have more freedom to abuse them.

This amendment will do worse than take the teeth out of the Ganske-Dingell bill; it will take the teeth out of state protections. So I oppose the Norwood amendment, and I urge my colleagues to do the same.

Mr. NORWOOD. Mr. Chairman, it is my pleasure to yield 1 minute to my friend, the gentleman from New York (Mr. HOUGHTON).

Mr. HOUGHTON. Mr. Chairman, before I begin, I just want to thank a couple of people who have spent an enormous amount of time on this, Francesca Tedesco and also Kathy Rafferty. I want to thank the gentleman from Georgia (Mr. NORWOOD).

What the gentleman from Georgia (Mr. NORWOOD) has done is very, very significant. I say this because I come from the world of business. You can have a patient, you can have a patient's rights, but if you do not have the funding for that patient, it does not do any good.

What the gentleman from Georgia (Mr. NORWOOD) has done is bridge the gap and made it possible for those people, not only in large and small businesses, and small businesses, as you know, comprise 75 percent of the employment in this country, it enables them now to buy into a program which they feel they can afford, without having the sword of liability, unending liability, hanging over their head.

I think a lot of people are going to be thanking the gentleman from Georgia (Mr. NORWOOD) for bridging this gap, because it would not have happened without him.

Mr. ANDREWS. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Texas (Mr. SANDLIN), another Texan who does not want his State law repealed by the Norwood amendment.

Mr. SANDLIN. Mr. Chairman, I rise in strong opposition to this outrageous amendment. For patients, this amendment is a lose-lose situation. It is heads, the HMOs win, and tails, the patients lose.

Just a couple of points. This presumption, do you realize there is a rebuttable presumption that creates a hurdle so high that patients will never be able to recover? I have been in this situation before.

Do you know that courts will be giving written instructions to juries to say the insurance company won before and the insurance company ought to win again, and that is the burden you are putting on them.

You are also increasing the burden on punitives. You are making it outrageous. You are increasing it to clear and convincing. That will never happen.

The biggest fraudulent change of all was done in the dark of the night where the standard was changed from a proximate cause to the proximate cause. That was not done by accident, it was done to gut the entire bill. If someone dies from a heart attack, for example, and was denied treatment, the death will not be from the lack of treatment, it will be from the heart attack, and they lose.

This entire bill has been gutted. We all know what happened. We worked 5 years on this bill, and last night it was undone in a matter of minutes, and we know what happened.

Mr. ANDREWS. Mr. Chairman, I am pleased to yield 1½ minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, I rise in opposition to the Norwood amendment. It overturns the painstaking work that has been done over the past 5 years to craft a good piece of legislation that said that we are going to protect patients in this country, that we are going to protect their families.

It essentially establishes an HMO bill of rights. It affords insurance companies and HMOs a special status. It literally gives them the ability to act with impunity, that is, to make medical decisions that overrule doctors and harm patients; and, my friends, they never have to face the consequences of their actions.

It is the first time, and now legally the presumption is that the HMO is right, and you have to prove them wrong. That is what happened at the White House last night.

The Bush-Norwood amendment is just another example of President Bush siding with the special interests over hardworking American families by carving out special protections for the HMOs. This amendment rolls back patient protection, it walks all over States' rights.

My God, the other party is always talking about States making their decisions, individuals making the decisions, except when it conflicts with the rewards for their special interest friends.

Vote against the Norwood amendment.

Mr. ANDREWS. Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from Ohio (Mrs. JONES), a strong voice against special interest legislation.

Mrs. JONES of Ohio. Mr. Chairman, I rise in opposition to the Norwood amendment. It is very easy to speak in a vacuum about the impact that legislation has on the Federal level in State courts.

□ 1930

But the reality is, with the lack of time dedicated to this particular legislation, we do not really know what in

heck it will have. In fact, we worry, and I am sure the gentleman from Georgia (Mr. NORWOOD) worries as well, that people's ability to bring claims in State courts have been, in fact, affected by this legislation.

Many of my colleagues may have had the opportunity to think about what happens in a courtroom, but I served in a courtroom for 10 years. One of the dilemmas about having legislation that is passed and saying in the State court, this is the impact we think it is going to have, is that it will ultimately take someone's case to work its way through the State court, through the appellate court, and then to the Supreme Court to resolve it.

So why, when we are people of good sense, can we not resolve it right here and understand and put in place legislation that will not have that type of impact?

Mr. Chairman, I rise in opposition to this legislation.

Mr. NORWOOD. Mr. Chairman, it is a pleasure to yield 1½ minutes to the gentleman from Tennessee (Mr. HILLEARY).

(Mr. HILLEARY asked and was given permission to revise and extend his remarks.)

Mr. HILLEARY. Mr. Chairman, I am a proud supporter of the Norwood amendment and I commend the gentleman from Georgia and the President last night for breaking the logjam on the Patients' Bill of Rights.

The Norwood amendment affects only liability. We are all in agreement on the medical care side of this debate. The only debate is over where the available money for health care will go, to the patients or the cost of litigation.

The Norwood amendment calls for full compensation to the patient for economic damages caused by an HMO. In other words, patients are completely compensated and reimbursed for the money the HMO actually caused them to lose. In addition, the Norwood amendment allows up to $3 million for pain and suffering and punitive damages. That is a lot of money, but not so much money as to create massive numbers of new, frivolous lawsuits.

The Ganske bill, on the other hand, allows for unlimited punitive and economic damages. This will be a tremendous enticement for frivolous lawsuits. Thus, way too much of the precious limited money available for patient health care will be chewed up in the litigation of these lawsuits, not for health care.

The bill of the gentleman from Iowa (Mr. GANSKE) also makes an effort, although an inadequate effort, to close off lawsuits against businesses which had absolutely nothing to do with the HMO's unlawful act. No business in its right mind will offer insurance or any kind of health care benefits to its employees if they can be sued for something they did not do.

If we want a legitimate Patients' Bill of Rights that actually wants a chance to become law this year and help these people we keep talking about, I strongly urge my colleagues to vote for the Norwood amendment.

Mr. NORWOOD. Mr. Chairman, it is a pleasure to yield to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, let me thank the gentleman for yielding me time, and let me say that all of us, I think, owe the gentleman from Georgia (Mr. NORWOOD) a great big thank-you. The gentleman has been at this for 6½ years as a Member of Congress.

I know when I went to his district in 1994 and campaigned with him, we went around his district, we spent 16 hours in a bus going to about 16 small towns in eastern Georgia. Those constituents in that district wanted a Patients' Bill of Rights.

The gentleman came up here, and we all know, every Member of Congress knows, there is nobody in this body who has worked harder, nobody who has put more heart and soul into trying to find the right language that will be signed into law than the gentleman from Georgia (Mr. NORWOOD), and we owe him a great big thanks.

Everybody thinks there is some big fight here, that there is some huge difference. Let us put it all back in perspective.

The bill we have here is an identical bill. We have one bill. The only big argument is over how much more liability we are going to impose on insurers and on employers.

The amendment offered by the gentleman from Georgia basically says that we are going to expand remedies and we are going to expand liability from where we are today, and we are going to give people easier access to courts. Our friends on the other side have an even greater expansion of liability in State and Federal courts, and what their language will do is drive employers out of the system, will drive up costs for employers and their employees. It will damage the foundation of our health insurance system today, which is employer-provided coverage.

What we are trying to do here is to find some common ground, and I think the gentleman from Georgia (Mr. NORWOOD), working with the President, has found common ground that will give patients in America greater access to the courts, greater remedies, bringing greater accountability. Not as much as we have on the other side, but our bill will not drive employers out of the system; it will not drive up costs. It is a reasonable compromise that the American people expect us to deliver for them.

Mr. ANDREWS. Mr. Chairman, it is my privilege to yield 2 minutes to the gentleman from Iowa (Mr. GANSKE), the principal voice for patients around America.

Mr. GANSKE. Mr. Chairman, I have here a ''Dear Colleague'' that was sent out by the gentleman from Georgia on August 1. It says, ''An explanation of how ERISA preemption works.'' It says, ''Under H.R. 2563,'' that is the base bill, the Ganske-Dingell bill, ''if an insurer injures you by denying or delaying medically necessary care, you can go to State court under common law to hold the insurer accountable.'' That has been a fundamental part of the bill.

So it surprised me greatly when I read on page 20 of the Norwood amendment these words: ''A civil action brought in any State court under section'' such and such ''against any party other than the employer plan, plan's sponsor or any other entity, i.e., dedicated decision-maker, arising from a medically reviewable determination may not be removed from any district court.''

What this basically means is that all of those groups can go into Federal, and that gets to then this interesting part of the Norwood bill. I mean, this could be interpreted as unconstitutional under Pegram v. Hedrick.

But then, at the end, we have a nonseverability clause, so that the entire enforcement section becomes inoperative if one section in the Norwood amendment is unconstitutional.

Mr. Chairman, I am just amazed at this. I know the gentleman from Georgia in the past has fought against putting nonseverability clauses in.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. GANSKE. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, all of that dies, but the preemption clause remains, and, as a result of this, the subscriber to the health care plan is left totally naked and devoid of any protection or any rights to enforce his interests in his policy.

Mr. NORWOOD. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Chairman, I thank the gentleman from Georgia.

I just want to make the point that we just heard from the other side that somehow cases that are in State court would be removed to Federal district court. That would not happen under the Norwood amendment. It would be in State court with a Federal cause of action.

So I do not know what the point of that last statement was, but we are in State court, and that is a change. That is a change that the gentleman from Georgia (Mr. NORWOOD) brought to this debate.

I am a strong supporter of the Norwood amendment and I am also a strong supporter of the underlying bill.

I want to back up for a second and talk about why we are here. Eight years ago when I got elected to Congress, we were talking about the Patients' Bill of Rights, and it was about access to emergency room care, it was about access to OB–GYNs, it was about access to specialists, it was about access to clinical trials. All of this is in

this underlying legislation. This is the Patients' Bill of Rights we have been talking about for all of the 8 years I have been here.

But while this bill provides all of these patient rights, it also provides the single most important protection of all, and that is health care insurance coverage. It provides the right balance, yes, making HMOs and other insurance companies accountable; yes, providing access to the courts when one is aggrieved; but not raising the cost of health care insurance to the point that we is risking health care coverage for literally millions of Americans. That is the most fundamental protection of all. It is the right balance.

It is easy around this place to criticize. It is easy to be partisan, and we have heard some of that today on the floor. We have even heard some allegations of bad motives. We have even heard some allegations of corruption earlier on the floor. That is easy. What is harder is to get something done for the American people.

The American patient has waited too long. I commend the gentleman from Georgia (Mr. NORWOOD) for working hard on this issue not only for all of the time he has been in Congress, but over the last month, for working hard to find a bill that this President can sign and that provides the fundamental patients' rights that we have talked about and that provides the fundamental accountability for HMOs, and that delivers for the American people.

That is what this place is all about. That is the heavy lifting. I commend the gentleman from Georgia (Mr. NORWOOD).

Mr. ANDREWS. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. BERRY), one of the leaders throughout this effort, a real expert on this matter.

Mr. BERRY. Mr. Chairman, I thank the gentleman from New Jersey, and I thank him for his leadership, along with many others that have worked hard on this issue. The gentleman from Iowa (Mr. GANSKE) has worked tirelessly and continues to work tirelessly in the interests of patients, particularly children.

It has been an interesting day. We have heard a lot of rhetoric on this floor. I have been almost amused. I say ''almost.'' This would be funny, it would be amusing if it was not such serious business. I have heard my colleagues on this side of the aisle stand in the well and talk about how our bill allows us to sue like they are proud of it. But this bill over here is a terrible thing; it lets you sue also.

Like I say, if it was not for the serious nature of this, it would be funny.

Meryl Haggart, a great country singer, has this song that he sings, made probably back in the 1980s, called Rainbow Stew. It says, ''When a President goes through the White House door and does what he says he will do, we will all be drinking that free bubble-up and eating that rainbow stew.''

This is the biggest batch of rainbow stew I have ever seen. That is what it is, folks. It is rainbow stew. That is what your constituents are going to get is rainbow stew.

I carry this buckeye in my pocket. It is a worthless little old thing. Folklore in Arkansas says if you carry one, it will bring you good luck and keep rheumatism away if you rub it just right. You have got to know how to rub it. That is what this is going to be worth to the American people.

Now, we have heard over and over that the real important thing about this is, it will be signed into law. If this ever gets signed into law, I will come to this floor, ask for unanimous consent, and stand on my head and stack BBs. And I am not in too good a shape. I think it would be very difficult.

I urge this body not to do something so foolish as to vote for this amendment.

Mr. NORWOOD. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. CULBERSON), a new Member of Congress who, I think, is a great addition to this Chamber.

Mr. CULBERSON. Mr. Chairman, I rise in very strong support of the Norwood amendment, because I am completely committed to protecting the 10th amendment right of the States to enact a Patients' Bill of Rights.

I came here on January 3 after serving 14 years in the Texas house. I am a coauthor of the Texas patients' bill of rights. I served longer under Governor Bush than any other governor. I helped carry all of his tort reforms in 1995. I helped pass this patients' bill of rights in Texas in 1997. So I know firsthand that this legislation the gentleman has drafted does not preempt the Texas patients' bill of rights, as has been stated. This bill protects the rights of States to regulate health care and to pass medical malpractice laws.

Mr. Chairman, I know that George W. Bush is a man of honor, integrity, and a man of his word; and he and the gentleman from Georgia (Mr. NORWOOD) have both given us their word that if there is any doubt that this bill would in any way preempt or restrict the rights of the States to regulate health care or protect patients' rights, they will fix it in conference. I believe the language they have now protects the rights of States.

I strongly support the amendment, and I urge Members who believe in the rights of States to protect the rights of patients at the State level to support this legislation.

□ 1945

Mr. ANDREWS. Mr. Chairman, I yield 2½ minutes to the gentleman from Michigan (Mr. DINGELL), a giant in this institution, the dean of the House of Representatives and our great friend.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, I think it is time for us to look at this as what it is. I am told by my good friend on the other side that the problem here is lawsuits. I am sure they have trouble with that.

My problem is without some mechanism for the American citizen to think his rights are being properly protected in the courts of law, there is no sustainable right for that American citizen.

I had a good friend who called me up not long back. He is a doctor of medicine, very much respected. He had been serving as an appeals officer for an HMO since he retired. He said, DINGELL, you do not know it but they just fired me. I said, Doc, tell me why they did it. He said, They said I was making medical decisions instead of insurance decisions.

That is the issue here before us. We want to see to it that we still have medical decisions being made in favor of, and on behalf of, the patients. This is to see to it that the HMOs are treated the same as anybody else, not given preferential and reverential treatment.

That is what the Norwood amendment does. It shelters them against litigation. Worse than that it preempts State law; and in the process it jiggers the rules of evidence, the weight of the proceedings, the manner of proceedings, so that the hand of the Government is weighing heavily on the scales of justice against the citizen who has lost a leg or a wife or a husband or who has been injured by HMOs engaging in the practice of medicine.

If an American citizen cannot go to court to get relief and help under those situations, the value of his citizenship has been shrunk, and it will be shrunk by the Norwood amendment if it is adopted. Just remember what I stated about my friend who was fired for making medical decisions instead of insurance decisions.

Now, it does preempt the laws of the States now in existence; and it weighs the new proceedings against the person who wishes to complain to his government about having been wronged by an HMO. I have here in my hands a letter which I will insert in the RECORD at the appropriate time from the insurance commissioner from the State of Michigan, a good Republican official, who complains that the law of the State of Michigan is being usurped by the amendment offered by my good friend from Georgia. Protect my citizens, if you will not protect your own, against that kind of outrage.

OFFICE OF FINANCIAL AND INSURANCE SERVICES,
Lansing, MI, August 2, 2001.

MICHIGAN CONGRESSIONAL DELEGATION,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVES: I am contacting you again with regard to an amendment that is being proposed to the patients' bill of rights legislation. It has come to our attention that the Norwood amendment contains a provision that would preempt all State internal and external review laws. States would not be allowed to certify and retain these laws. The internal and external review process would be federalized.

I oppose the portion of the Norwood amendment that would preempt the Michigan Office of Financial and Insurance Services' ability to implement, oversee and enforce Michigan's statutory internal and external grievance procedures. Michigan was one of the first states to implement both an internal and external grievance procedure when it enacted its patient's bill of rights in 1996. Then again in 2000, the Michigan Legislature, with Governor Engler's support, enacted the Patient's Right to Independent Review Act (PRIRA–2000 PA 251) that provided sweeping changes to the external review procedure and shortened (considerably) the time frames for the internal review procedures. PRIRA took effect October 1, 2000.

I am asking for your help in resolving this preemption issue as the process moves forward. The Senate bill allows states to certify state laws and therefore retain their internal/external reviews, so this issue will be a point of negotiation in conference. It would be very helpful if enough Members objected to this provision in the Norwood amendment so that it is highlighted for those conference negotiations. If States are not allowed to retain jurisdiction over the internal and external review process then their ability to oversee other protections will be severely limited.

Very truly yours,

FRANK M. FITZGERALD,
Commissioner.

Mr. NORWOOD. Mr. Chairman, I yield myself such time as I may consume.

The CHAIRMAN. The gentleman from Georgia has 7 minutes.

Mr. NORWOOD. Mr. Chairman, this is not the ideal process I would have designed for this debate today. I am disappointed that some of my colleagues have allowed their passionate feelings about process to lead them into making dubious statements about substance, because this debate most assuredly should be about substance.

I would like to remind my colleagues of what my amendment provides for injured patients. A patient who is injured when an insurer makes a negligent denial of claim for benefits will have the opportunity to hold that insurer accountable in State court. The patient will have access to the State courts that we have together supported for years. The patient will hold the insurer liable under the same State rules and procedures that a doctor will be held accountable under. Is not this what we have been fighting for all these years?

My amendment includes those protections to prevent frivolous lawsuits that we have all fought to include in a bill. All of us. My amendment protects employers by allowing them to choose a designated decision-maker, so very important to all of us.

My amendment requires patients exhaust all administrative remedies. My amendment also includes a rebuttable presumption in favor of the plan if the reviewer rose in favor of the plan. While I know my friends have raised concerns about this provision, I continue to raise just one simple question: If an expert reviewer says an insurer was right in denying care, how was the insurer negligent in denying care? Should not they have some extra consideration?

My amendment includes limitations on damages. There is a $1.5 million cap on noneconomic damages. There is a cap on punitive damages of $1.5 million. That is only available when an insurer ignores an external reviewer. I believe personally in limitation of damages. Some of my colleagues do not, obviously. This is a legitimate area for debate, is it not?

Mr. Chairman, these issues I have raised are issues we should be debating. I am sorry that the debate has deteriorated some. I am disappointed that they feel that they have not been given adequate time for a debate. I will understand if they feel they cannot support my amendment solely because of process, because they have heard me complain before of similar things.

But before Members cast this vote against this bill, I ask them to consider what the amendment actually does; and more importantly, I want Members to support who supports this bill.

The President has committed to signing our bill with this amendment. I have been working for 5 years to get a bill signed into law, not just pass another bill. Like it or not, we have to work with this President who has to sign this bill.

I think my colleagues are deluding themselves, maybe, if they think we can force a bill down this President's throat. It is simply not going to happen with this honorable man from Texas. So I accept the President's offer to bridge the gap.

I know this is not the final bill, and so do the Members. I know there are words that need to be changed. I think my colleagues are missing the boat by treating every interpretation of a problem in my amendment, real or imagined, as a life-or-death decision.

Instead, we should be looking at the underlying offer and asking ourselves, is this an offer that accomplishes what we set out to do in creating a real remedy for patients?

Mr. Chairman, the answer to that question is yes. I encourage my colleagues, all my colleagues, to join me in accepting the President's offer of a compromise to go into conference. I would encourage my colleagues who will vote no today to set aside their feelings and ask themselves, what are they holding out for? What is it that they need to say yes to, once and for all changing the law of this great Nation to protect patients?

Mr. Chairman, I have found the answer, I believe. The working answer is in this amendment and in a conference. I would encourage my colleagues to join me in supporting this amendment. I am saddened deeply that it will not be bipartisan; and I know it will not, because I believe now and I have believed for years the true answer to this is a bipartisan solution.

I want to take a minute of personal privilege to thank all the Members. Many Members on both sides of the aisle have worked as hard as I have. I know who they are. I have worked as hard against my friend, the gentleman from Kentucky (Mr. FLETCHER), as anybody I know; but by golly, he has worked hard in his own way to protect patients, too.

Nobody I know has been around this issue consistently and constantly and every time I turn around more than my friend, the gentleman from Arizona (Mr. SHADEGG). He has added tremendously to this debate in many ways, which I do not have time to go over right now.

I want to say to all of my Democratic colleagues, I believe them very much when they say they want a patient protections bill. I believe that our Members do, too. I know how hard they have worked. I know who they are, too. I have had a few hours with them to try to work this out.

I just have to point out to all the Members, I want Members to know who Bridget Taylor is, a lady that I have the greatest respect and admiration for who has worked her little heart out for the benefit of patients of this Nation.

I want to say to my staff, I thank them. I know what I have done to them. My friend, Rodney Whitlock, has been with me 7 years; and I do not know many people who have taken a worse beating on my behalf than Rodney Whitlock in the last 2 weeks. I thank him.

And to my friend, the gentleman from Michigan (Mr. DINGELL), he knows I love him and respect him, and I know where he wants to go. He knows where I want to go. It has been a great honor working with the gentleman from Michigan. I appreciate his efforts on behalf of patients, too.

Lastly, I want to say to my friend, and I do mean that, to the gentleman from Iowa (Mr. GANSKE), I do not know anybody, including me, that has worked as hard as the gentleman has. I admire the gentleman so. I know he is trying to do the right things for his patients. God knows, there is nobody more persistent and tough and stubborn and willing to fight and stand up, and I have admired the gentleman so, because he has taken some tough hits. I know the people of Iowa need to be grateful to have you as their Representative in Congress.

Lastly, I want to say to all of the Members about the President of the United States, I do not make any bones about it, I love this man. I have gotten to know him. I have the greatest respect in the world for him. Whatever Members may think of him, I promise them, the President and his staff have worked me good for the last 2 weeks. What they have been trying to do is to get a patients' protection bill out that they can agree with.

I thank them for their efforts and thank all of the Members. I hope that at some point tonight we will have a bipartisan vote.

Mr. ANDREWS. Mr. Chairman, I yield myself the balance of my time.

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Chairman, let me begin by expressing my appreciation to my good friend, the gentleman from Michigan (Mr. DINGELL), whom I admire so much; to the gentleman from Iowa (Mr. GANSKE); and to all those involved.

The vote we are about to take is not about the good intentions of good and decent people, because there are many in this debate. It is about making a good choice for the people of our country, the people who are sitting in a hospital waiting-room tonight with their stomachs and their hearts in their throats, not just because they are worried about whether their loved one is going to recover, but whether they are going to have a hassle over who pays the bill. That is who we have to think about here tonight.

I respect those who are here tonight to try to help the President. I am here to try to help the patients of the United States of America here tonight.

To understand why I oppose this flawed amendment, Members need to understand the following situation. A person goes to her primary care provider. The primary care provider says, You really ought to see a specialist. She does not get the right to see the specialist because the HMO says no.

Because of the time delay, she develops a malignant tumor. She is in the hospital. She dies as a result of the malignant tumor. But before she dies, the wrong medications are administered to her wrongly by an employee of the hospital. Her estate sues the hospital and sues the HMO, not because they want to recover a lot of money, but because they have been wronged.

The way I read this bill, there is one word that denies that family's claim. Because despite whatever good intentions there might be, the law is about words, not good intentions. The words in this bill say that the actions of the HMO have to be the proximate cause of the injury.

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And a good lawyer, and, boy, the HMOs have really good lawyers, is going to figure out in a heartbeat how to beat that case. Because he or she is going to say the death here was not ''the'' proximate cause by the HMO, it was ''a'' proximate cause. So the claim gets tossed out.

This is not just about words, it is about values. If we want to hold the HMOs of this country accountable, this is the vote. There will not be another one. I do not think so. If my colleagues want to hold them accountable, they should come to floor, take out their card, and vote for the patients of this country. Vote ''no'' on the Norwood amendment.

Mr. WEXLER. Mr. Chairman, I would like to state for the record my enthusiastic support for the Dingell-Ganske Bi-Partisan Patients' Bill of Rights (H.R. 2563) and my opposition to the Norwood amendment. The Dingell-Ganske is the only true patient protection bill in Congress. H.R. 2563 allows patients to sue an HMO in state courts when they are denied care. Further, the bill allows patients to sue in federal court for breach of contract.

H.R. 2563 would return medical decision-making to patients and health care professionals. Americans would have greater access to specialists, including pediatric specialists for children and gynecologists for women. Coverage for emergency room care would be available, as well as the right to talk freely with doctors and nurses about every medical option. The Patients' Bill of Rights would end financial incentives for doctors and nurses to limit the care they provide. It would also provide an appeals process and real legal accountability for the decisions made by insurance companies.

Opponents of this bill claim that the Dingell-Ganske Patients' Bill of Rights would unnecessarily expose employers to lawsuits. In fact, the newly filed Dingell-Ganske bill includes amendments adopted in the Senate which shield employers from liability if they are not directly involved in the decisionmaking process.

In light of the passage of the McCain, Kennedy, Edwards Bipartisan Patients' Bill of Rights in the Senate, the Republican leadership has drafted a weak amendment that purports to protect patients' rights while at the same time protecting the insurance industry. At the last minute, the President, the Republican leadership and Congressman Norwood crafted an amendment that basically negates the Dingell-Ganske bill. While the Norwood Amendment claims to allow lawsuits to be filed in state courts, such suits would be limited by federal law. Further, the Norwood amendment allows employers to unilaterally remove an action from state to federal courts. Federal courts are the wrong venue for bringing medical suits. Federal courts are backlogged with cases that would take priority over civil actions. Further, federal courts do not have experience with medical suits because they are typically brought before state courts.

Additionally, the Norwood amendment unreasonably caps non-economic damages. Those without substantial income—the elderly, children and homemakers would suffer the most under these limited damage provisions. The Amendment also caps punitive damages and heightens the bar required to obtain compensation by asking juries to meet the ''clear and convincing'' standard prior to awarding damages. In short, the Amendment creates legal hurdles that make it almost impossible for a patient who is being denied care to get help from the courts.

All concerns over the Bipartisan Patient Protection bill have been resolved in the Senate and have been adopted in the newly drafted Dingell-Ganske. There is no reason to oppose this bill, unless you are trying to appease the insurance companies.

Ms. MILLENDER-McDONALD. Mr. Chairman, I rise in support of the base bill, Dingell-Norwood-Ganske-Berry. However, I am concerned about provisions in the Norwood amendment, if adopted, that will have a deleterious impact on women.

H.R. 2563, in its original form, provides protections for women and mothers and provides them with direct access to a physician specializing in obstetrics or gynecology, without them having to obtain prior authorization or referral from their primary physicians. The base bill requires that plans permit parents to designate a pediatrician as their child's primary provider. My district constituents will derive substantial benefits from this provision. Furthermore, the base bill provides vital protection regarding medical and surgical benefits for women afflicted with cancer, including coverage that a doctor deems medically necessary.

Mr. Speaker, it is paramount for us to pass a bill that establishes both internal and external appeals processes, and which allows women a mechanism to appeal a denial of a benefit claim to services and/or treatment that a doctor feels is necessary. Today I stand and champion the needs of all Americans, but particularly for women. I applaud the authors of the Dingell-Ganske-Berry bill. Their legislation is a beacon of good policy and intentions. On the other hand, the negotiated agreement, crafted under the cloak of secrecy and darkness, must not be tolerated nor condoned. I implore my colleagues to support the base bill, support women's needs contained within it, and support Americans who want and need a true patients bill of rights.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, opponents of the Bipartisan Patients' Bill of Rights contend that allowing the public to sue their HMOs will lead to a litigation explosion, a rise in health care costs, and insurance companies going bankrupt. Regardless of the fact that none of these theories have been proven, and that the facts actually show the opposite to be true, they are inundating the public with this misleading rhetoric. Well, those who live in glass houses should not throw stones. The managed care industry does not hesitate to sue when it protects its bottom line, regardless of the effect it has on patients.

Mr. Chairman, we must pass a Patients' Bill of Rights that no longer allows HMOs to maintain their privileged immunity from being held legally responsible to their patients. Though this is what we should do, many of my colleagues are willing to keep medical decisions in the hands of unqualified HMOs and support the Norwood amendment.

The amendment provides for a one-sided preemption of state damage caps. For states with no damage caps, the damage caps in this amendment would apply. States that currently do not cap damages would be forced to accept the damage limitations provided in this bill. Mr. Chairman, a $500,000 cap to cover damages for pain and suffering is not enough. Placing a cap on punitive damages erodes the deterrent effect of punitive awards.

Mr. Chairman, I would like to conclude with an example that may provide my colleagues with a clearer picture of what the Norwood amendment does to patients who depend on their insurance companies to provide for them.

Consider the woman with breast cancer. Her HMO denies her a mammogram, which could have detected it. The undetected cancer worsens. When it is finally diagnosed, it is beyond treatment. The woman dies. Her family brings a lawsuit against the HMO for failure to provide the mammogram that could have identified her condition and led to life saving treatment. Even if the jury finds fault with the HMO, $500,000 will not bring that woman back. $500,000 is not enough for pain and suffering. $500,000 is a slap on the wrist for an HMO that prevented a woman from receiving a mammogram that may have detected breast cancer, and possibly saved her life.

Now, I ask my colleagues to imagine that this woman was their mother, their wife, their

daughter. Would $500,000 be enough to raise your kids? Would $500,000 be enough to put your kids through college? Would $500,000 be enough to explain where their mother is? How then would they feel about the Norwood amendment—the amendment that stacks the deck against patients, the amendment that could possibly stack the deck against one of their loved ones?

Mr. OWENS. Mr. Chairman, I rise in opposition to the Norwood amendment to H.R. 2563, the Bipartisan Patient Protection Act, aka, the Patients' Bill of Rights.

The deception being debated here today is quite reminiscent of Orwell's novel when each day citizens wake up to a new reality. Yesterday, we left the Hill and Mr. Norwood was one of the leading proponents of a significant and fair Patient's Bill of Rights that was truly bipartisan. We arrived today and the Patients' Bill of Rights has been transformed into a HMO Bill of Rights, stripping both patients and states of the right to hold these ''sacred cows'' accountable. The extent to which the American people are being counted upon to ignore the details and simply ''don't worry, be happy'' that something was done is shameful and frightening.

A system of checks and balances is only fair and just. Why should the patient and their family members be left without recourse in the event of a tragic error simply because they belong to an HMO. This is a government of, by, and for the people, not HMO's. Our responsibility is to ensure a patient's right to sue health plans for injuries sustained as a result of a delay or denial of medical care. If anyone deserves a privileged status when involved in or affected by medical decisions it should be the potential victim.

A patient's right to recourse is an important check and balance in a system that must balance profit margins with patient needs. To take such an important protection away from American citizens is wrong. To further limit a state's right to protect its citizens from self serving decisions made by HMO's may be unconstitutional. To abandon our commitment to a meaningful Patient's Bill of Rights for political expedience is unconscionable. Mr. NORWOOD conceded too much. The Ganske/Dingell Bill offers us a chance to pass a true bipartisan Patient's Bill of Rights that is fair and just.

Mr. Chairman, to preserve states' rights and consumer rights; and to block one more path toward the corporate takeover of America, I urge my colleagues to defeat this poison amendment, and pass a fair Patient's Bill of Rights.

Mrs. CHRISTENSEN. Mr. Chairman, I rise in opposition to the Bush/Norwood amendment and I urge my colleagues to oppose its passage.

I agree with the American Medical Association, which oppose the Norwood amendment for four very good reasons.

First, the Norwood amendment overturns the good work that states like Texas and Georgia have done in protecting patients. It reverses developing case law that allows patients to hold plans accountable when they make decisions that harm them.

Second, the Norwood amendment takes away states power to set the standards by which HMOs can be punished with punitive damages creating a one-way preemption of states rights in favor HMOs.

Third, it gives HMOs an unfair advantage by raising the bar making it harder for patients to make their case in court.

Finally, and most troubling, the Norwood amendment provides patients protections on the one hand but does not allow them to enforce those same protections in court.

Mr. Chairman, the Norwood amendment and all of the amendments offered today, are nothing more than poison pills designed to kill the meaningful Ganske/Dingell patient protection bill by forcing a conference with the Senate.

I urge my colleagues to oppose the Norwood amendment, which is nothing more than a gift to the HMO industry. The American people want us to give them a real Patients' Bill of Rights with real enforcement provisions and real protections.

Mr. McGOVERN. Mr. Chairman, I rise today to urge this House vote against the Norwood-Bush amendment for Ganske-Dingell.

Norwood-Bush is not real reform. President Bush doesn't want to sign any meaningful patient protection legislation. As Governor, he never signed any Texas patient protection law, and now he is attempting to use this Congress to kill real patient protections.

For five years, the Republicans ignored patients by forcing through hollow patient protection bills that only benefit insurance companies. Today we have an opportunity to finally put patients ahead of bureaucrats and beancounters.

President Bush wants the House to pass a bill just different enough that the Senate cannot support it. The House Republican leadership can then kill the bill in conference.

Patients, their families and their physicians deserve much better.

The Norwood-Bush proposal is about bad politics, not good policy.

Let's get past the politics. Let's do this right. Pass the Ganske-Dingell bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. NORWOOD).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ANDREWS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 218, noes 213, not voting 3, as follows:

[Roll No. 329]

AYES—218

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (TX)
Souder
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—213

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Ganske
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George

Mink	Rodriguez	Stenholm
Mollohan	Roemer	Strickland
Moore	Ross	Stupak
Moran (VA)	Rothman	Tanner
Morella	Roukema	Tauscher
Murtha	Roybal-Allard	Taylor (MS)
Nadler	Rush	Thompson (CA)
Napolitano	Sabo	Thompson (MS)
Neal	Sanchez	Thurman
Oberstar	Sanders	Tierney
Obey	Sandlin	Towns
Olver	Sawyer	Turner
Ortiz	Schakowsky	Udall (CO)
Owens	Schiff	Udall (NM)
Pallone	Scott	Velazquez
Pascrell	Serrano	Visclosky
Pastor	Sherman	Waters
Payne	Shows	Watson (CA)
Pelosi	Skelton	Watt (NC)
Phelps	Slaughter	Waxman
Pomeroy	Smith (NJ)	Weiner
Price (NC)	Smith (WA)	Wexler
Rahall	Snyder	Woolsey
Rangel	Solis	Wu
Reyes	Spratt	Wynn
Rivers	Stark	

NOT VOTING—3

Lipinski	Paul	Spence

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Mr. ISTOOK changed his vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider Amendment No. 3 printed in House Report 107–184.

AMENDMENT NO. 3 OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. THOMAS:

Add at the end the following new title (and amend the table of contents of the bill accordingly):

TITLE VIII—REFORMS RELATING TO HEALTH CARE LIABILITY CLAIMS

SEC. 801. TABLE OF CONTENTS OF TITLE.

The table of contents of this title is as follows:

Sec. 801. Table of contents of title.
Sec. 802. Application in States.
Sec. 803. Encouraging speedy resolution of claims.
Sec. 804. Compensating patient injury; fair share rule.
Sec. 805. Authorization of payment of future damages to claimants in health care lawsuits.
Sec. 806. No punitive damages for health care products that comply with FDA standards.
Sec. 807. Effect on other laws.
Sec. 808. Definitions.
Sec. 809. Effective date; general provisions.

SEC. 802. APPLICATION IN STATES.

The provisions of this title relating to any requirement or rule shall not apply with respect to a health care lawsuit brought under State law insofar as the applicable statutory law of that State with respect to such lawsuit specifies another policy with respect to such requirement or rule.

SEC. 803. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

Health care lawsuits shall be commenced no later than 2 years after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury for which the lawsuit was brought. In all cases, a health care lawsuit shall be filed no later than 5 years after the date of the injury. The time periods for filing health care lawsuits established in this section shall not apply in cases of malicious intent to injure. To the extent that chapter 171 of title 28, United States Code, relating to tort procedure, and, subject to section 802, State law (with respect to both procedural and substantive matters), establishes a longer period during which a health care lawsuit may be initiated than is authorized in this section, such chapter or law is superceded or preempted.

SEC. 804. COMPENSATING PATIENT INJURY; FAIR SHARE RULE.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, the full amount of a claimant's economic loss may be fully recovered, subject to section 809(d)(2), without limitation.

(b) ADDITIONAL NON-ECONOMIC DAMAGES.—Subject to section 809(d)(2), in any health care lawsuit, the amount of non-economic damages may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(c) NO DISCOUNT OF AWARD FOR NON-ECONOMIC DAMAGES.—In any health care lawsuit, an award for future non-economic damages shall not be discounted to present value. The jury shall not be informed of the maximum award for non-economic damages. An award for non-economic damages in excess of the amount specified in subsection (b) (or the amount provided under section 809(d)(2), if applicable) shall be reduced either before the entry of judgment, or by amendment of the judgment after entry, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future non-economic damages and the combined awards exceed the amount so specified, the future non-economic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for the party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

(e) ADDITIONAL HEALTH BENEFITS.—In any health care lawsuit, any party may introduce evidence of collateral source benefits. If any party elects to introduce such evidence, the opposing party may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of such opposing party to secure the right to such collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit. This subsection shall apply to a health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder.

(f) TREATMENT OF PUNITIVE DAMAGES.—

(1) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded in any health care lawsuit in any Federal or State court against a defendant if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct—

(A) specifically intended to cause harm; or

(B) conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(2) APPLICABILITY.—This subsection shall apply to any such health care lawsuit on any theory where punitive damages are sought. This subsection does not create a cause of action for punitive damages.

(3) LIMITATION ON PUNITIVE DAMAGES.—The total amount of punitive damages that may be awarded to a claimant for losses resulting from the injury which is the subject of such a health care lawsuit may not exceed the greater of—

(A) 2 times the amount of economic damages, or

(B) $250,000,

regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury. Subject to section 802, this subsection does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages.

(4) BIFURCATION.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such award. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether actual damages are to be awarded.

(g) LIMITATIONS ON APPLICABILITY OF THIS SECTION.—This section applies only to health care lawsuits. Furthermore only to the extent that—

(1) chapter 171 of title 28, United States Code, relating to tort procedure, permits the recovery of a greater amount of damages than authorized by this section, such chapter shall be superseded by this section; and

(2) only to the extent that either chapter 171 of title 28, United States Code, relating to tort procedure, or, subject to section 802, State law (with respect to procedural and substantive matters), prohibits the introduction of evidence regarding collateral source benefits or mandates or permits subrogation or a lien on an award of damages for the cost of providing collateral source benefits, such chapter or law is superseded or preempted by this section.

SEC. 805. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a period payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws in July 1990. This section applies to all actions which have not been first set for trial or retrial prior to the effective date of this title.

(b) LIMITATION ON APPLICABILITY OF THIS SECTION.—Only to the extent that chapter 171 of title 28, United States Code, relating to tort procedure, or, subject to section 802, State law (with respect to both procedural and substantive matters), reduces the applicability or scope of the regulation of periodic payment of future damages as authorized in this section, is such chapter or law preempted or superseded.

SEC. 806. NO PUNITIVE DAMAGES FOR HEALTH CARE PRODUCTS THAT COMPLY WITH FDA STANDARDS.

(a) GENERAL RULE.—In the case of any health care lawsuit, no punitive or exemplary damages may be awarded against the manufacturer of a medical product based on a claim that the medical product caused the claimant's harm if the medical product complies with FDA standards.

(b) EXCEPTION.—Subsection (a) shall not apply in any health care lawsuit in which—

(1) before or after the grant of FDA permission to market a medical product, a person knowingly misrepresents to or withholds from the FDA required information that is material and relevant to the performance of such medical product, if such misrepresentation or withholding of information is causally related to the harm which the claimant allegedly suffered; or

(2) a person makes an illegal payment to an official of FDA for the purpose of either securing or maintaining approval of such medical product.

SEC. 807. EFFECT ON OTHER LAWS.

This title does not affect the application of title XXI of the Public Health Service Act (relating to the national vaccine program). To the extent that this title is judged to be in conflict with such title XXI, then this title shall not apply to an action brought under such title. If any aspect of such a civil action is not governed by a Federal rule of law under such title, then this title or otherwise applicable law (as determined under this title) will apply to that aspect of the action.

SEC. 808. DEFINITIONS.

As used in this title:

(1) ALTERNATIVE DISPUTE RESOLUTION.—The term ''alternative dispute resolution'' means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal Court.

(2) AMOUNT RECOVERED BY CLAIMANTS.—The term ''amount recovered by claimants'' means the total amount of damages awarded to a party, after taking into account any reduction in damages required by this title or applicable law, and after deducting any disbursements or costs incurred in connection with prosecution or settlement of a claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose. Such term does not include any punitive or exemplary damages.

(3) CLAIMANT.—The term ''claimant'' means any person who asserts a health care liability claim or brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity, or subrogation, arising out of a health care lawsuit, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(4) COLLATERAL SOURCE BENEFITS.—The term ''collateral source benefits'' means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident or workers' compensation act;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(5) COMPLIES WITH FDA STANDARDS.—The term ''complies with FDA standards'' means, in the case of any medical product, that such product is either—

(A) subject to pre-market approval or review by the Food and Drug Administration under section 505, 506, 510, 515 or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S. C. 355, 356, 360, 360e, 360j) or section 351 of the Public Health Service Act (42 U.S. C. 262) and such approval or review concerns the adequacy of the packaging or labeling of such medical product or the safety of the formulation or performance of any aspect of such medical product which a health care lawsuit claims caused the claimant's harm, and such medical product was marketed in conformity with the regulations under such sections, or

(B) generally recognized as safe and effective pursuant to conditions established by the FDA and applicable FDA regulations, including those related to packaging and labeling.

(6) CONTINGENT FEE.—The term ''contingent fee'' includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(7) ECONOMIC LOSS.—The term ''economic loss'' means reasonable amounts incurred for necessary health treatment and medical expenses, lost wages, replacement service losses, and other pecuniary expenditures due to personal injuries suffered as a result of injury.

(8) FDA.—The term ''FDA'' means the Food and Drug Administration.

(9) HEALTH CARE GOODS OR SERVICES.—The term ''health care goods or services'' means any medical product, or any service provided by a health care provider or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(10) HEALTH CARE LAWSUIT.—The term ''health care lawsuit'' means any health care liability claim concerning the provision of health care goods or services, or any civil action concerning the provision of health care goods or services brought in a State or Federal Court or pursuant to an alternative dispute resolution procedure, against a health care provider or the manufacturer, distributor, supplier, marketer, promoter or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action in which the claimant alleges a health care liability claim.

(11) HEALTH CARE LIABILITY CLAIM.—The term ''health care liability claim'' means a demand by any person (whether or not pursuant to an alternative dispute resolution system, an action in State court, or an action in Federal court) concerning the provision of health care goods or services, if made against a health care provider or the manufacturer, distributor, supplier, marketer, promoter or seller of a medical product, including third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision or use of (or the failure to provide or use) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action.

(12) HEALTH CARE PROVIDER.—The term ''health care provider'' means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care goods or services or whose health care goods or services are required to be so licensed, registered, or certified, or which are exempted from such requirement by other statute or regulation.

(13) INJURY.—The term ''injury'' means any illness, disease, or other harm that is the subject of a health care liability claim.

(14) MALICIOUS INTENT TO INJURE.—The term ''malicious intent to injure'' means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(15) MEDICAL PRODUCT.—The term ''medical product'' means a drug (as defined in section 201(g)(1) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(g)(1)) or a medical device as defined in section 201(h) of such Act (21 U.S.C. 321(h)), including anycomponent or raw material used therein, but excluding health care services.

(16) NON-ECONOMIC LOSS.—The term ''noneconomic loss'' means physical impairment, emotional distress, mental anguish, disfigurement, loss of enjoyment, loss of companionship, loss of services, loss of consortium, and any other non-pecuniary losses.

(17) RECOVERY.—The term ''recovery'' means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of a claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

(20) STATE LAW.—The term ''State law'' includes all constitutional provisions, statutes, laws, judicial decisions, rules, regulations, or other State action having the effect of law in any State.

SEC. 809. EFFECTIVE DATE; GENERAL PROVISIONS.

(a) IN GENERAL.—This title shall apply to any health care lawsuit brought in a Federal or State court, and to any health care liability claim subject to an alternative dispute resolution system, that is initiated on or after the date of enactment of this Act, except that any health care lawsuit arising from an injury occurring before the date of enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

(b) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this title supersede chapter 171 of title 28, United States Code, relating to tort claims procedure and, subject to section 802, preempt State law to the extent that State law differs from any provisions of law established by or under this title.

(c) PROTECTION OF STATES' RIGHTS.—Any issue that is not governed by any provision of law established by or under this title (including State standards of negligence) will be governed by otherwise applicable State or Federal law. Subject to subsection (d)(2) and section 802, this title does not preempt or supersede any law that imposes greater protections for health care providers, plans, and organizations from liability, loss, or damages that those provided by this title.

(d) RULE OF CONSTRUCTION.—No provision of this title shall be construed to preempt—

(1) the implementation of any State sponsored or private alternative dispute resolution program;

(2) pursuant to section 802, any State statutory limit (whether enacted before, on, or after the date of the enactment of this Act) on the total amount of economic, non-economic, or punitive damages that may be awarded in a health care lawsuit, whether or not such State statutory limit permits the recovery of a greater or lesser amount of such damages than is provided for under section 804; or

(3) any defense available to a party in a health care lawsuit under any other provision of Federal law.

The CHAIRMAN. Pursuant to House Resolution 219, the gentleman from California (Mr. THOMAS) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS.)

Mr. THOMAS. Mr. Chairman, I yield myself 3 minutes. Subsequent to that I yield the balance of my time to the gentleman from California (Mr. COX) and ask unanimous consent that he control the balance of the time.

The CHAIRMAN. Without objection, the gentleman from California (Mr. COX) will control the balance of the time.

There was no objection.

(Mr. THOMAS asked and was given permission to revise and extend his remarks.)

Mr. THOMAS. Mr. Chairman, the amendment that was just passed puts a limit on the amount that can be received in terms of damages. One side of the equation has been adjusted properly. Notwithstanding the fact you can seek damages, there is a limit.

This amendment proposes to create balance, put a limit on the other side of the equation. What you see here is a quote from a letter from the American College of Surgeons to the President of the United States on February 7. It says:

If the Congress seriously entertains caps on punitive and noneconomic damages—we have just done that—we believe it would be difficult if not impossible to explain why Federal policymakers did not at the same time address the liability exposure faced by physicians, hospitals and other health care practitioners.

It would be unfair, the College of Surgeons said, to enact a patients' bill of rights that caps damages for suits against health plans without capping damages for suits brought against physicians and other health care providers. This is exactly what this amendment does. It does not intrude on any State that has in place its own desired medical malpractice structure, but where there is none, this amendment will provide one unless and until the State passes its own and the State's prerogative would then prevail. It is simply an opportunity to provide a degree of uniformity where there is none today.

Mr. Chairman, it is my pleasure to include for the RECORD a letter, I might say a long overdue letter, from the American Medical Association.

It says, and I quote, on behalf of the American Medical Association, we would like to express our support for medical liability reform consistent with the general tort reform provisions included in the amendment to H.R. 2563 being offered by the gentleman from California (Mr. COX), myself, Chairman TAUZIN, Chairman BOEHNER and Chairman SENSENBRENNER.

The American Medical Association has gone on record in support of this medical malpractice amendment. Let us bring symmetry to this package. Let us put limits on plans. Let us put limits on physicians. Let us move forward in a way in which, as we go to conference, we will know for sure that at long last there is balance in the way in which assessment and the metering out is done where patients' health is concerned.

AMERICAN MEDICAL ASSOCIATION,
Chicago, Illinois, August 2, 2001.

Hon. CHRIS COX,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE COX: On behalf of the American Medical Association (AMA) we would like to express our support for medical liability reform consistent with the general tort reform provisions included in the amendment to H.R. 2563 being offered by you and Representatives Bill Thomas, Billy Tauzin, John Boehner, and Jim Sensenbrenner.

AMA policy has long supported medical liability reform and we appreciate your efforts in this regard. As you know we have expressed concerns in the past about coupling such reforms with the Patients' Bill of Rights. As we enter conference it continues to be our hope that controversy surrounding this amendment will not interfere with the ultimate passage of meaningful patients' rights legislation.

This issue remains a high priority for the AMA and we stand ready to work with you on this or any other matter.

Respectfully,

ROBERT W. GILMORE, MD

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Ladies and gentlemen of the House, we are now reaching perhaps the worst amendment on medical malpractice that has ever been brought forward to the House of Representatives. I say that carefully because the one that the Republicans brought forward in 1995 was a real doozy, but this one goes further than that one. This caps doctors and hospitals. What makes it worse than 1995 is that it extends medical malpractice protection to insurance and HMO companies.

Secondly, it lowers punitive damage caps to only two times the economic damages, or $250,000, where the 1995 bill in its generosity limited it to three times economic damages, or $250,000.

Third, it has new limitations on accruing interest on noneconomic damages.

Finally, it applies limitations to private settlements as well as court cases.

So here in a system where each State has heretofore determined what the economic damages would be, what the noneconomic damages would be, what the punitive damages would be, here the majority party in this body has now determined that we are not only going to protect HMOs, we are going to cap suits against doctors and hospitals.

In a single stroke, the Thomas amendment, which is joined in by several chairmen on the other side as well, would place an arbitrary and capricious cap on the ability of the millions of persons harmed by medical negligence to recover in their own State courts. This amendment is even worse than the coverage in the Norwood amendment; and as I have said, this is the most severe and limiting malpractice amendment ever considered by the House.

If it were adopted, Congress would be saying to the American people, We don't care if you lose your ability to bear children; we don't care if you're forced to bear excruciating pain for the remainder of your life; we don't care if you're permanently disfigured or crippled, because under this amendment, a medical professional who fell asleep in the operating room or operated on the wrong patient would be completely insulated from punitive damages. The language goes so far as to cap the liability of a doctor, heaven forbid, who even rapes his patient. Do Members not know that punitive damages are the only way to deter such outrageous conduct?

The new statute of limitations takes no account of the fact that many injuries caused by malpractice or faulty drugs take years, sometimes decades, to manifest themselves. Under this proposal, a patient who is negligently inflicted with HIV-infected blood and develops AIDS 6 years later would be forever barred from filing a liability claim.

The so-called periodic payment provisions are nothing less than a Federal installment plan for HMOs. The bill allows insurance companies teetering on the verge of bankruptcy to delay and then completely avoid future financial obligations. Have you no shame? They would have no obligation to pay interest on amounts they owe their victims.

And guess what else happens under this sweetheart deal of an amendment? The drug companies, the producers of killer devices like the Dalkon Shield, the Cooper-7 IUD, high absorbency tampons linked to toxic shock syndrome and silicone gel implants, all would have completely avoided billions of dollars in damages had this bill been law.

Somewhere between 80 to 100,000 people die in this country each year from medical malpractice. It is the third leading cause of preventable deaths in America. If we pass this amendment, there is no question that the pain and suffering and deaths will increase. And this Congress will be to blame.

Therefore, I urge a ''no'' vote on the Thomas amendment.

Mr. Chairman, this ''poison pill'' amendment represents the most far reaching and dangerous malpractice provision ever considered by the Congress, and is even worse than previous malpractice limitations passed during the

''Contract with America.'' Unlike previous malpractice amendments taken up the Republican House, this would apply to limit HMO and insurance company liability. It would also supersede state laws to severely limit recoveries by harmed patients. The following is a more detailed description.

Scope and Preemption (Secs. 802,809)—the amendment preempts state law and the federal torts claims act with regard to any health care actions, even privately negotiated claims and those submitted to arbitration. This means the bill would limit the liability of physicians, drug companies, and hospitals. In addition, it would limit the liability of HMO's and insurance companies in a far more severe fashion that the Norwood amendment or the Fletcher bill.

Statute of limitations/repose (Sec. 803)—provides for a statute of limitations that prohibits victims from bringing any health care lawsuit more than two years after an injury is discovered. It also provides for a statute of repose that prohibits victims from bringing any health care lawsuit more than five years after the negligent conduct that caused the injury first occurred. The above time limitations for initiating a health care lawsuit will not apply in cases where there is a ''malicious'' intent to injure—an almost impossible standard to meet. Thus under the proposal, a patient who is negligently inflicted with HIV-inflected blood and develops AIDS 6 years later would be forever barred from filing a medical malpractice or product liability claim.

Cap on Non-economic Damages (Sec. 804(b), (c))—caps the award of non-economic damages in health care lawsuits at $250,000 regardless of the number of defendants involved. These caps are far more restrictive than the caps on non-economic damages proposed in the Norwood amendment of $1.5 million. Although harder to scientifically measure, non-economic damages compensate victims for real losses—such as loss of sight, disfigurement, inability to bear children, incontinence, inability to feed or bathe oneself, or loss of a limb—that are not accounted for in lost wages. Caps on non-economic damages would unfairly penalize those victims who suffer the most severe injury and are most in need of financial security. Non-economic damage caps have also been found to have a disproportionately negative impact on women, minorities, the poor, the young, and the unemployed; since they generally have lower wages, a greater proportion of their losses is non-economic. The bill also provides that an award for future non-economic damages will not be discounted to present value, which would appear to mean that there will be no adjustment made for inflation when non-economic damages are awarded. This restriction has never been proposed in any previous malpractice amendment.

Joint and Several Liability (804)(d))—provides that in any health care lawsuit concerning the provision of health care goods or services, each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. This provision eliminates the state doctrine of joint and several liability for non-economic damages, and raises the concern that instead of placing the burden of financial loss on the identifiable defendant, victims who prevail on a liability claim may not be able to recover all of their damages.

Collateral Source (804(e))—eliminates the collateral source rule by allowing defendants in medical malpractice cases to unilaterally introduce evidence of collateral source payments received or to be received by the claimant, such as health or disability insurance. In most states under the collateral source rule, a victim is able to obtain compensation for the full amount of damages incurred, and his or her health insurance provider is able to seek subrogation in respect of its own payments to the victim. This ensures that the true cost of damages lies with the wrongdoer while eliminating the possibility of double recovery by the victim. The Thomas amendment would turn this system on its head by allowing tortfeasors to introduce evidence of potential collateral payments owing from the insurer to the victim. This would have the effect of shifting costs from negligent health care providers at the expense of injured victims.

Limits on Punitive Damages (804(f))—caps punitive damage awards at the greater of $250,000 or two times economic damages and limits the state law standard for the award of punitive damages to intentional or ''consciously indifferent'' conduct; and allows for a bifurcated proceeding to determine issues relating to punitive damages. Again, the cap on punitive damages in the Thomas amendment is far worse than even the Norwood amendment which caps punitive damages at $1.5 million. It is also more severe than previously considered malpractice amendments. Punitive damages impose punishment for outrageous and deliberate misconduct and they deter others from engaging in similar behavior. Collectively, these restrictions on punitive damages are likely to completely eliminate not only the incentive for seeking punitive damages, but any realistic possibility of obtaining them. Permitting defendants to bifurcate proceedings concerning the award of punitive damages will lead to far more costly and time-consuming proceedings, again working to the disadvantage of injured victims.

Periodic Payments (805)—grants wrongdoers the option of paying damage awards in excess of $50,000 on an ''installment plan.'' This provision would apply not only to future economic damages realized over time, such as lost wages, but to non-economic losses, like the loss of a limb, that are realized all at once. Also, in contrast to many state law periodic payment provisions, the Thomas proposal does not seek to protect the victim from the risk of nonpayment resulting from future insolvency by the wrongdoer or to specify that future payments should be increased to account for inflation or to reflect changed circumstances.

Elimination of Punitive Damages for FDA approved health care products—completely bans punitive damages in the case of drugs or other devices that have been approved by the FDA or any other drug ''generally recognized as safe and effective'' pursuant to FDA-established conditions. Injuries from medical devices have an estimated cost of $26 billion annually. It is problematic to use compliance with the FDA as a basis for immunity from punitive damages when those regulations have proven inadequate to protect patients numerous times in the past. Government safety standards, at their best, establish only a minimum level of protection for the public. At their worst, they can become outdated, under-protective or under-enforced. Providing immunity from punitive damages to these manufacturers would eliminate the possibility of recovering these costs and would shift the burden to the injured patient. Banning punitive damages for FDA-approved products will also have a disproportionate impact on women and seniors, since they make up the largest class of victims of medical products.

The Thomas amendment also ignores a number of complex legal issues. For example, in the state law context, various damage caps have been held to violate state constitutional guarantees relating to equal protection, due process, and rights of trial by jury and access to the courts; and these very same concerns will surely be present at the Federal level. And by layering a system of Federal rules on top of a two-century old system of State common law, the Thomas amendment will inevitably lead to confusing conflicts, not only within the Federal and State courts, but between Federal and State courts.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. SHAW).

(Mr. SHAW asked and was given permission to revise and extend his remarks.)

Mr. SHAW. Mr. Chairman, I rise in strong support of the Patients' Bill of Rights and this amendment to reform malpractice.

Mr. Chairman, in the last Congress I cosponsored the Bipartisan Consensus Managed Care Improvement Act, known as the Dingell-Norwood bill, after much serious consideration. I decided to support this reform legislation, in opposition to Republican leadership, in order to send a strong message to patients and the managed care industry about the importance of addressing managed care abuses. Notwithstanding my support for the Dingell-Norwood bill in 1999, I remained concerned that implementation of that bill could increase health insurance costs and expand liability to employers and health plans, and therefore voted for several less litigious substitutes last year. As a result, this year I am cosponsor of H.R. 2315, Patients' Bill of Rights Act of 2001, which was introduced by Representative Ernie Fletcher and endorsed by President George W. Bush.

Because of my concern that the new Ganske-Dingell bill could result in a tidal wave of medical malpractice lawsuits against health plans, HMOs—and, make no mistake about it—doctors, hospitals and other health care providers, I rise in strong support of the Thomas-Cox Medical Malpractice Reform Amendment.

Currently, even before the drastic expansion of medical malpractice lawsuits that would certainly result from passage of the new Ganske-Dingell bill, it was estimated that the direct and indirect costs of medical malpractice reform cost the Medicare program approximately $1.5 billion over a 10 year period. Why? Because the threat of lawsuits results in physicians practicing defensive medicine—for example, ordering extra tests or treatments that they might not otherwise do. This adds *indirectly* to Medicare costs at a time when the Medicare program, like the Social Security program, will be running a deficit in the near future as millions of baby boomers become eligible for Medicare.

Yet, we know from a 1996 study of Medicare heart attack victims that the additional tests and treatments did not help or harm these Medicare heart patients. Yet the defensive medicine test increased these heart attack patient's hospital and doctor's bills from five to nine percent. Medical malpractice premiums are also incorporated as *direct* Medicare costs that determine how much a doctor or hospital is paid for each Medicare patient they treat. Again, Medicare is currently paying every day for direct and indirect medical malpractice costs that do not improve the quality of health care that Medicare patients receive.

We have to remember that this is a *patient's* bill of rights, so why would we want to drive up a patient's hospital and doctor bills if the patient's recovery are not improved? Medicare savings that would result from these medical malpractice reforms—which, as I mentioned earlier, the CBO estimated to be $1.5 billion over 10 years—could be applied to a new Medicare prescription drug benefit or to improving Medicare's preventive health care benefits like breast, cervical or prostate cancer screening. Likewise, patients who have private health insurance would ultimately benefit from lower medical bills, which keep health insurance premiums down, helping to ensure that health insurance remains affordable for individuals and employers. In the absence of this Thomas-Cox Medical Malpractice Reform Amendment, the health care dollars that are diverted from providing patient care and into the legal system will explode. Will redirecting health care dollars into trial lawyers' pockets and the courts provide patients with any better care—which should be the true measure of a patients bill of rights? Research has shown that the threat of medical malpractice lawsuits will not improve patient care.

What I have concluded, as a Member committed to ensuring that managed care plans should be held liable for their decisions, is that Congress needs to:

First enact a bill which ensures that patients have a indisputable right to hold health plans and all health care providers legal accountable for quality health care.

Second, that the new limited right to sue created by Congress be balanced by pairing it with the medical malpractice reforms in the Thomas-Cox Medical Malpractice Reform Amendment—reforms that are similar to the reforms 20 states already have.

In closing, I support a strong Patients' Bill of Rights that is balanced by holding health care providers legally accountable with the reasonable limits on medical malpractice lawsuits contained in the Thomas-Cox Medical Malpractice Reform Amendment.

Mr. COX. Mr. Chairman, I yield myself 30 seconds for the purpose of correcting the record because the gentleman from Michigan has just stated several things that are factually in error.

First, he said that this amendment would apply to health plans, that it would provide relief from damages to health plans. It does not. It has no application to health plans or insurers. If it did, the American Medical Association would not endorse it.

Second, he said that it preempts State law. It preempts no State law. None.

Third, he said that intentional conduct such as a rape would somehow go scott free under this. That is flat wrong. Intentional conduct is excepted.

Lastly, he said that if a professional fell asleep or were negligent that he/she would not be responsible for punitive damages. That is simply false.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute. I just want to ask the floor manager, the gentleman from California (Mr. COX), if I heard him correctly when he said that this measure before us preempts no State law.

I yield to him for a yes or no response.

Mr. COX. Mr. Chairman, that is correct. Section 802 specifically states that.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT), a member of the Committee on the Judiciary.

Mr. SCOTT. Mr. Chairman, I thank the gentleman for yielding time. It is ironic that when you have a bill entitled Patients' Bill of Rights, we are spending all of our time stripping the patients of those rights.

There are many issues in this amendment, about 10 different issues, we have got 20 minutes to explain them all which is about 2 minutes per issue as we strip our patients of their fundamental rights and traditional laws when they are victims of negligence.

Questions like the statute of limitations. When do you lose your right to sue? What is a reasonable amount of time before you have to file your suit or lose your rights? Two minutes is not enough time to explain that.

A cap on noneconomic damages. When you lose your sight, lose a limb, what is fair, particularly if you were nonworking, did not have any economic losses? What is fair when you suffer a situation like that? States have dealt with that. The amount in this bill is one of the lowest found anywhere in the country.

The complicated issue of joint and several liability. If everybody agrees that you have got a $100,000 case, how do you ever collect if the HMO is partly at fault, the doctor is partly at fault, maybe the nurse is, maybe the hospital, how do you ever get recovery, particularly if one of them is about to go bankrupt?

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We cannot discuss that in 2 minutes.

The collateral source rule, where you have a person who has paid an insurance premium and has a benefit, who ought to get the benefit of that? Should it be the one that paid the premium, should it be Blue Cross/Blue Shield getting their money back, or should it be the one that created the damage altogether? This bill provides that out of the three, the one that created the problem gets the benefit.

The calculation of the periodic payments, that is a calculated issue. We know with lottery proceeds, you can get a lump sum or get your money strung out. You know if you get the lump sum, you only get half the money. How does this work out? Do they get to just pay half the money, or do they get to spread it out? We do not have time to show that calculation and how unfair this is.

This is not only bad policy, it is a bad process, and I would hope that we would defeat this amendment.

Mr. COX. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, in fact, the purpose of this legislation is to make sure that we do not have runaway health care costs and that we have more people insured. The legislation states, and it is worth pointing out, because we have heard something slightly different here, that there will be unlimited damages paid to compensate patients for their medical injuries. Unlimited, without limit.

We are, however, putting some regulations on abuses by lawyers. For example, we want to make sure that there is a fair share rule. If you cause 95 percent of the problem, you pay 95 percent of the damage. That is not the rule today.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Chairman, I rise today in opposition to the Thomas malpractice amendment. I want you to know that throughout my tenure in the State legislature I supported malpractice reform. I agree with the gentleman from California (Mr. THOMAS) that we do need to address this issue, and I am saddened that this amendment was developed in the middle of the night.

Malpractice reform is too big and too important an issue to be addressed in this hasty, unclear manner. If you want to ask any member of the State legislature over the last few years how they feel about that, I am sure they will reflect that opinion.

I am just not sure if you realize how enormous an issue it is. Do you realize that this bill would put medical malpractice cases in Federal courts for the first time? It is not a small, minor change. It is a major policy decision that should be debated on its own, rather than as a sideline discussion to another major bill.

I am pleased that the gentleman from California (Mr. THOMAS) brought up the letter from the AMA, because if he had only read the second paragraph, I think you would have gotten a different feeling about this letter. It goes on to say, in fact, the AMA policy has long supported medical liability reform. They have in California, it is called MICRA. They appreciate the efforts. But they also say that they have expressed concerns in the past about coupling such reforms with the patients' bill of rights. They are concerned that this amendment could interfere with the ultimate passage of meaningful patients' rights legislation.

I spoke to a physician earlier today who said, yes, complicate it and kill it.

I hope that is not what we are trying to do here.

I know in the State assembly I tried to bring together attorneys and physicians around this matter to develop a compromise on malpractice reform. There is just no way that this House can find the right answer to this important issue without bringing all the parties involved to the table.

If we want effective and responsible malpractice reform, I urge Members to vote against the Thomas amendment.

Mr. COX. Mr. Chairman, I yield myself 10 seconds to point out that the American Medical Association has strongly been in support of these reforms every year I have been in Congress, for 15 years, and their only concern, as the gentlewoman did not let on, is President Clinton, representing the trial lawyers, threatened to veto the legislation if they included the provision they wanted.

Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Chairman, the purpose of this amendment is to make sure that health care coverage is more available and affordable to all Americans.

These medical malpractice reform provisions will benefit the American people by limiting costs to doctors, hospitals, and other health care providers, which in turn will improve access to affordable health care insurance for all. Unfortunately, the current medical malpractice litigation is a wealth redistribution lottery that benefits trial lawyers, instead of an efficient system designed to fairly compensate those injured by the wrongful acts of others.

Medical malpractice lawyers often simply target the perceived deep pockets of doctors, hospitals and insurance companies. In many cases, defendants know a lawsuit would not succeed on its merits, but agree to settle out of court just to avoid the endless and expensive legal process. In the end, the lawyers often walk away with as much money as the plaintiff. This injustice raises the price of health care, causes unwarranted personal anguish and unfairly damages reputations.

Doctors and hospitals should be held responsible for truly negligent behavior resulting in actual harm. But a system that perpetuates the concept of joint and several liability has no effective mechanism, such as the cap on noneconomic damages, to deter frivolous lawsuits is simply not just.

America is the only country in the world that provides unlimited compensation for noneconomic damages. Of course, noneconomic damages are separate from and do not include payment for medical costs, lost wages and other out-of-pocket expenses. Therefore, a cap on noneconomic damages would not in any way limit the amount of money an injured plaintiff could receive for their hospital costs, doctor bills, other medical expenses, and lost wages.

Malpractice insurance is expensive because many of the claims brought against doctors and other health care providers are lengthy and frivolous. In the year 2000, the average medical malpractice claim took more than 5 years to settle. Statistics also show that 80 percent of all medical malpractice claims do not even involve a negligent adverse event to the plaintiff. Furthermore, only one out of six plaintiffs who receive compensation from these claims present any evidence of negligent medical injury.

We also have the ever more prevalent problem of doctors practicing defensive medicine. Many doctors are ordering unnecessary and costly medical tests and procedures solely to insulate themselves from potential lawsuit and not for the medical benefit of their patients. For example, conservative estimates predict that with effective medical malpractice tort reform, $600 million a year would be saved in Medicare payments in just the area of treating cardiac disease.

Let me be perfectly clear about who benefits from our current health care liability system: the trial lawyers in America, who continue to line their pockets with each outrageous verdict or settlement. Congress' concern should be helping improve America's health care system, not helping the trial lawyers purchase fancier homes, cars, boats, and country club membership.

This amendment is clearly needed if we are going to make a definitive step today to improve the health care system. The AMA supporters of the Ganske-Dingell patients' bill of rights approach recognized this fact, as was stated by the chairman of the Committee on Ways and Means earlier tonight.

My colleagues, the choice is simple: the more dollars which are spent on medical malpractice lawsuits, insurance premiums and lawyers, the fewer dollars there are for Americans to receive quality medical care. Let us put patients' rights ahead of lawyers' avarice, and support this much needed amendment.

Mr. CONYERS. Mr. Chairman, I yield myself 20 seconds merely to point out to the distinguished floor manager, the gentleman from California (Mr. Cox), that on page 10, section 809, lines 21 and 22, it says, ''This title shall apply to any health care lawsuit brought in a Federal or State court.'' I presume the State court is operating under State law.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York (Mr. NADLER), a member of the Committee on the Judiciary.

Mr. NADLER. Mr. Chairman, a few minutes ago this House by a party-line vote adopted the Norwood amendment which caps punitive damages at $1.5 million and caps noneconomic damages at $1.5 million.

This amendment will take both noneconomic damages, pain and suffering, loss of a limb, and say that a child who lost a limb should be compensated at only $250,000, and punitive damages should be compensated at only $250,000.

If this amendment passes, both amendments will be in place and the bill will totally contradict itself, because in one place it will say $1.5 million and in the other place, $250,000. The attempt by the Republican majority is to kill this bill through poison pill amendments. They have done two contradictory amendments.

Secondly, let me point out that by capping punitive damages at $250,000, the purpose of punitive damages is to deter willful, grossly negligent misconduct. We know of companies that have calculated that they will let people die, they will put unsafe things in their cars or other things, because it is cheaper to pay the damages than to change what they are doing.

Punitive damages are designed to stop that. By limiting punitive damages to $250,000, you will get HMOs that will calculate that it is cheaper to deny medical care, cheaper to pay the economic damages, cheaper to pay the $250,000 limited punitive damages, no matter how willful, how grossly negligent, how deceitful, how willful they may be. It is cheaper to kill people and save money, because we have removed the one deterrent the law has.

This is an amendment that should never be passed. But, of course, it does not really matter, since we already killed the bill, which will never pass the Senate, by putting in the Norwood amendment. But we should not set the precedent of saying to large corporations, calculate the cost benefit. Do things that may kill or maim people if it is cheaper for your bottom line.

Mr. COX. Mr. Chairman, I yield myself 20 seconds to correct the gross, egregious and ought to be subject to punitive damages if we have the kinds of standards we are talking about here in the Congress misstatements of what this amendment is all about.

Punitive damages under this legislation are unlimited. They are not limited to $250,000. The gentleman apparently did not read the amendment. There is a base of $250,000, or twice economic damages, and economic damages are unlimited under this legislation.

He said punitive damages also are limited for health insurance plans or HMOs. This amendment has no application to HMOs or health insurance plans. None.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a valued member of the Committee on the Judiciary.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I am glad the distinguished gentleman from California made the

point about this amendment. It has nothing to do with HMOs, so he says, and the patients' bill of rights.

This is the very point that we are making about this amendment. It is clearly a poison pill. It is the adding of a medical malpractice issue. No matter how relevant it may be to the general discussion of medical malpractice, both Federal and State law, it has no relevance in this debate.

The real issue becomes that those who have been fighting for the medical malpractice revisions have done so and have been refuted and rejected for session after session, and they use the patients' bill of rights when we are trying to reestablish the sanctity of the patient and physician relationship to now do this.

The most egregious part of this particular amendment is the cap on noneconomic damages, for what that says is that if you have a child age 5 with the potential of growth, education and opportunity, and through some tragic accident at age 5 they lose their limbs, then you will limit the ability of that child growing into adulthood to be able to be cared for independently by capping the noneconomic damages.

□ 2100

This is not a case of frivolousnes; this is not a case where we are suggesting that there are frivolous lawsuits. This is mean-spirited.

Then, secondarily what this does is it gives the medical device companies, the ones that have the MRI, the ones that have the needles, a buyout. The buyout is, even if they are approved by the FDA, they get a buyout. We know that government agencies are not perfect, so that means if we got some blanket approval 25 years ago for a device, we have no ability, if someone is injured, to recover.

This is heinous. This is, I would say, one of the worst amendments we have, and the American Medical Association will have nothing to do with it, and they should not be misused as they are being misused. Vote this amendment down.

Mr. COX. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce.

Mr. TAUZIN. Mr. Chairman, as a cosponsor of the amendment, let me first make the point that no one argues, no one can argue, that unnormally high, runaway malpractice jury awards harms our health care. First of all, it raises costs, it absolutely raises the cost of medical malpractice insurance of physicians and gets passed on to all of us.

Secondly, we all know what it does to physicians. It sends a chilling effect to physicians around the country who end up practicing defensive medicine; in fact, doing things not necessary, not required, just to protect themselves from the lawyers who might end up suing them.

Today, we can do something about it. We can pass this amendment modeled after the California law.

What is beautiful about this amendment is that not only does this amendment place some caps on those runaway charges that juries sometimes make that we all pay for, but it does so in a way that does not preempt the State law. For example, if your State caps noneconomic damages at $500,000, so be it. If your State has any cap on punitive damages, then your State law in that area is preserved. If your State wants to place a $500,000 cap on punitive damages 3 years from now, it is permitted to do so under this amendment.

In short, our authors have put this amendment together in such a way that it helps a number of States restrain runaway malpractice costs and, at the same time, preserves your State's ability to do it differently if you want to do it differently in your State.

Mr. Chairman, this is modest medical malpractice reform. We passed some recently on medical devices that were going out of business, not because they were losing lawsuits; simply because the cost of defending the lawsuits was driving the companies out of the business of making things, like shunts for kids with hydrocephalic cases or limbs for children who have lost their limbs to cancer.

When we passed that medical malpractice reform a few years ago, those manufacturers went back into business. Today, we have a chance to keep our health care system in business. Pass this good amendment.

Mr. CONYERS. Mr. Chairman, I yield myself 1½ minutes to first, hopefully correct the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), who asserted that lawyers were getting huge fees. All fees, most Members know, are controlled by the court. Any exorbitant fees are not permitted. And from time immemorial, lawyers get one-third of the recovery. If that is what we are complaining about, we should make it clear that anything more excessive is controlled by the court.

Then, the gentleman from California (Mr. COX), the floor manager, has asserted that the bill does not cap punitive damages. Now if, unfortunately, a physician rapes a patient, many would say she has no economic damages, she may have no lost wages and negligible medical costs. So the Cox amendment would, in that case, cap her punitive damages at $250,000.

Mr. COX. Mr. Chairman, that is false. That is false. The gentleman must yield on that point.

Mr. CONYERS. Sir, control yourself.

So, I say to the gentleman from California (Mr. COX), it is incorrect, I repeat, incorrect to assert that this amendment does not cap punitive damages. If the gentleman takes issue with that, he may use his own time and explain to the membership what he disagrees about.

Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Chairman, I stood on this floor arguing for medical malpractice reform, and I continued before that, but not on this bill.

Let me read to my colleagues from a letter from the AMA on this. ''AMA policy has long supported medical liability reform, and we appreciate your efforts in this regard. As you know, we have expressed concerns in the past about coupling such reforms with the Patients' Bill of Rights. As we enter into the conference for the Patients' Bill of Rights, it continues to be our hope that controversy surrounding this amendment will not interfere with the ultimate passage of a meaningful Patients' Bill of Rights.''

We have just passed an amendment that I think will make the conference more difficult. I think if this amendment to this bill passes, the conference will be really difficult. I continue to be a supporter for medical malpractice reform. I would like to see it come up another time.

I urge a no vote on this amendment.

Mr. COX. Mr. Chairman, I yield myself 45 seconds to correct the record.

We have the right of free speech here on the floor of the House, but it is very important that we stick to the facts. The bill says very clearly that, first of all, punitive damages are not limited, but rather, they are fixed in amount, in a variable amount that can rise to infinity at twice economic damages.

Second, the gentleman from Michigan stated an outrageous example. He says if a physician rapes someone, that they would somehow be shielded from liability by this amendment or some other act of Congress. What this amendment very clearly states is that anyone who specifically intends to cause harm has no place in this provision. It does not apply.

Mr. Chairman, I yield 1 minute to the gentleman from Kentucky (Mr. FLETCHER), the author of so much of the good work that the President and the Congress are bringing to the floor today.

Mr. FLETCHER. Mr. Chairman, as a practicing physician, the possibility of malpractice was always there in the back of your mind, because you wanted to make sure you delivered the most quality care you could to your patients.

I can think of generally, probably a day did not go by when there were things that you felt like, well, I do not really think we need this, but because of the way malpractice is, we are going to order a specific test. A patient that comes in with a headache, you may not see them again for a while, and you order an $800 or a $1,000 MRI just to make sure that if something happens way in the future that you do not incur some sort of frivolous lawsuit.

But let me talk about a couple of things. One, according to Daniel P. Kessler, an associate professor at Stanford Business School, when he looked

at direct costs, he said they may be relatively small, the direct costs of liability. I think clearly we can say they are fairly significant. But they are small relative to the indirect costs which he estimates five times.

For that reason and for the quality of care, to make sure that we do not promote defensive medicine, I urge my colleagues to support this, as most of the physicians across the country would agree.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from Ohio (Mrs. JONES), a lawyer, prosecutor, and former judge.

Mrs. JONES of Ohio. Mr. Chairman, as we sit here debating a Patients' Bill of Rights, we stopped talking about the patients' rights and started reading letters from the AMA saying, well, I do not want the doctors to be any more liable, the HMOs, so we are happy with the legislation.

I would suggest to those of my colleagues on the floor of this House, walk a mile in the shoes of someone who has been injured, walk a mile in the shoes of a family member who has a child that has been maimed or blinded, and you will not be talking about limits, you will be talking about, let me get to court and establish my damages, and if I establish them, pay me; and if they have been negligent or extremely negligent, let me get punitive damages.

Let us get realistic, I say to my colleagues. We as significant Members of Congress can pass legislation that will not be questionable, that will not be left to a court to interpret. We can make it clear to the people of these United States that we are going to stand up for patients' rights, that we are going to stand up and allow them to collect if they are damaged.

Mr. COX. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Chairman, I thank the gentleman from California for yielding time.

I would like to commend the sponsors of this amendment. I introduced bills both in the previous Congress and in this Congress that are substantially the same as this amendment, so I am grateful that we are going to have a chance to include this in legislation that is moving.

Why do we need medical malpractice reform? It is simple. Medical malpractice awards are out of control. Medical malpractice awards are draining millions of dollars from health care and putting it into courtrooms and trial lawyers. They are contributing significantly to the staggering increase in health care costs. They are forcing doctors to practice defensive medicine to protect themselves against, very often, meritless claims, and these awards are forcing some doctors to leave their specialties altogether.

My State of Pennsylvania has been particularly hard hit by what is now a legal system run amok. We rank second in the Nation in medical malpractice judgments. We suffer through jury verdicts that are amongst the highest, twice the level of California, which has this kind of medical malpractice reform. As a result, doctors in my State often pay premiums that are twice the level of California, often over $100,000 a year just for insurance; good doctors who have never harmed a soul, who have never been negligent.

Mr. Chairman, this is long overdue. This provision applies to all health care providers; it provides reasonable parameters on awards. It eliminates the insidious application of joint and several liability; and that, in layman terms, simply means that defendants will be required to pay judgments in proportion to their responsibility, not in proportion to the thickness of their wallet.

Finally, Mr. Chairman, many of us are concerned that what we do here in Washington respect the rights of the States. This amendment does exactly that. This amendment says that if there is a State that has a medical malpractice law on the books, then that State law will prevail. If a State has no law whatsoever, then this amendment would prevail. If a State has no law and subsequently chooses to pass a law, then this would become irrelevant in that State; the State law would then once again prevail. This respects States' rights. This is going to help restore funding to health care instead of to trial lawyers.

I urge my colleagues to support this amendment.

Mr. CONYERS. Mr. Chairman, I reserve my time.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana (Mr. MCCRERY), a member of the Committee on Ways and Means.

Mr. MCCRERY. Mr. Chairman, placing reasonable caps on medical malpractice will help us, as the gentleman from Louisiana pointed out (Mr. TAUZIN), to fight health care inflation. In 1999, fully 13 percent of our gross domestic product went to health care expenses. That number will climb to almost 16 percent before this decade is over. At some point, this trend becomes unsustainable and some sort of national health care system in which politicians ration health care becomes inevitable.

Our medical malpractice system is a drag on the health care system in many ways. Dollars spent on lawyers, enormous jury awards and settlements to avoid litigation are not being spent on patient care. Data from the insurance analyst A.M. Best show that injured claimants received less than one-third of total malpractice premiums in 1996, while attorneys' fees, the cost of expert witnesses and other court costs eat up more than half.

The fear of being sued encourages defensive medicine, extra tests and procedures which may help insulate physicians from being sued, but do nothing for patients, other than add to their bills. The amendment before us strikes an appropriate balance. It permits States to enact their own medical malpractice laws, if they wish, but it does set a standard which will govern malpractice actions in States which have failed to enact their own reforms.

Finally, it is critical to remember that nothing in this amendment denies injured plaintiffs from obtaining adequate redress, including compensation for 100 percent of their economic losses, their medical costs, their lost wages, future lost wages. Instead, though, this amendment places reasonable limits on noneconomic and punitive damages.

As the American Medical Association noted in testimony in 1996, ''While these can be emotionally charged issues, the fact remains that the current tort system, driven as it is by the potential for unlimited attorneys' fees and unlimited compensation for intangible losses, is unable to resolve medical liability claims effectively and efficiently.''

□ 2115

''Moreover, even with the cap of a quarter of a million dollars, the United States would be the most generous country in the world in compensating for noneconomic losses.''

This is a balanced amendment. It will do great good for our health care system in this country.

Mr. CONYERS. Mr. Chairman, I reserve my time.

Mr. COX. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. GREENWOOD), a member of the Committee on Energy and Commerce.

Mr. GREENWOOD. Mr. Chairman, I thank the gentleman for yielding me time.

In my State of Pennsylvania, it was not very long ago that when I looked at the medical community I saw a group of folks doing pretty well. They seemed to have a nice income. They seemed to be enjoying their profession. They seemed to be on top of the world.

In the last 15 years or so I have seen a dramatic change in my doctors from the State of Pennsylvania. I have seen them hit with medical malpractice rates that are phenomenal, a 45 percent increase in the medical malpractice rates just in the last year in the State of Pennsylvania.

I knew a physician. He was a good orthopedist, one of the best. All he liked to do was get up in the morning and fix broken bones. His medical malpractice rates got so high that his daughter secretly paid his premiums for him just so he would not give up and quit. Finally, when he found out how high those premiums were, he left the State of Pennsylvania and we lost one of our finest physicians.

The doctors in my State of Pennsylvania have had it. We have got to pass this medical malpractice tonight.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Chairman, last night one could watch network TV or C–SPAN and by switching back and forth one could watch two shows, ''Let's Make a Deal'' and ''The Price Is Right.'' If one listened very closely in the middle of night, one could almost hear the White House say, Come on down. You are our next contestant.

We still do not know what was behind doors 1, 2, or 3; and we are wondering what the grand prize was. We know this amendment was filed for political cover. Let us be straight about it. That being said, let us get to the facts.

All of us are concerned about the high cost of medical care. However, medical malpractice does not contribute to that. An October 1992 study of the Congressional Budget Office concluded and said:

> Malpractice insurance premiums account for less than one penny of each dollar spent annually on the Nation's health care.

A study funded by the Texas Medical Association, the Trial Lawyers' Association, the Texas Hospital Association said:

> Changing the medical professional liability system will have minimal cost savings impact on their overall health care delivery system in Texas.

Many factors contribute to increased medical costs. This is not one of them. Vote no on Thomas-Cox. It is pure politics. We know it. It is nothing more and the patients lose.

PARLIAMENTARY INQUIRY

Mr. COX. Mr. Chairman, does the minority have the right to close?

The CHAIRMAN. The gentleman from California has the right to close.

Mr. COX. Mr. Chairman, I yield myself 5 seconds to observe that this Chamber has on many occasions passed legislation of this type, and it has been scored by the Congressional Budget Office as saving $1.5 billion.

Mr. Chairman, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. CONYERS. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The chair finds that the gentleman from Michigan is not a ''manager'' of the pending measure within the meaning of clause 3(c) of rule XVII. Consequently, the gentleman from California has the right to close.

Mr. CONYERS. Mr. Chairman, I thank the Chair for answering my anticipated question.

Mr. Chairman, I yield the balance of my time to the gentlewoman from Colorado (Ms. DEGETTE).

The CHAIRMAN. The gentlewoman is recognized for 1¼ minutes.

Ms. DEGETTE. Mr. Chairman, if this amendment passes, this bill will have completed its transformation from the Patients' Bill of Rights, to the providers' bill of rights. Make no mistake about it, under the Norwood amendment which just passed, patients will never be able to hold HMOs legally accountable because of an unreasonable burden of proof.

If this amendment is passed, patients will now not be adequately compensated for their damages that they incur as a result of malpractice by doctors or any other providers.

My colleague, the gentleman from California (Mr. COX), says incorrectly that the bill provides unlimited economic damages. But he knows as well as everybody else here that State statutes limit economic damages to actual money paid out of pocket. So if there is someone who has medical bills of $2,000 and they have noneconomic damages of $1 million, too bad. They are out of court. The only noneconomic damages they can get would be $4,000 under this amendment.

Now where will this apply? In some of the most tragic situations, loss of a limb or sight, the loss of mobility, the loss of fertility, excruciating pain and permanent and severe disfigurement, also, the loss of a child or a spouse. There are a number of other damages that are limited. Do not take this out on the patients. Vote no on this amendment.

Mr. COX. Mr. Chairman, I yield myself 15 seconds while they are setting up the chart to correct the misunderstanding of the gentlewoman.

She described a situation in which there were for some reason, under State law, a limit on economic damages, there is no such limit in this bill, and that the limit amounted to $2,000 in a case and that that would mean twice the economic damages would be a $4,000 limit under this bill. But she misunderstands it because the limit in that case would be a quarter million dollars. That is the limit that would apply, the greater, not the lesser, of twice the economic damages or a quarter million dollars.

Mr. Chairman, I will inquire how much time remains.

The CHAIRMAN. The gentleman from California has 2 minutes remaining.

Mr. COX. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, I wish to address the Chamber from the floor because I wanted to draw attention to this chart.

This describes the situation in America today in which insurance premiums paid by all of us here in this Chamber are distributed unequally to pay the costs of lawsuit abuse: 32.46 percent going to pay injured claimants; and 52 percent to pay attorneys, witnesses, expert witnesses, and other court expenses. That is wrong, and we are here to fix it.

There is virtually a constitutional right in America to bring a bad lawsuit, and we count on the courts to throw the bad ones out. But in the Federal system today, because the courts are so busy, 93 percent of cases never get a single day of trial.

That creates enormous opportunity for mischief, because then people can extort settlements, since everyone knows how expensive it is to wait it out and pay their lawyers while they finally might be one of the 7 percent of cases that get their day in court.

We want to adopt a ''fair share'' rule. We want to say that if one committed 5 percent of the problem, then pay 5 percent of the damages. Let us say that a rapist drug dealer staggers into the emergency room with a knife wound and demands, in his drug-induced haze, to be operated on, and gives the emergency room fits.

The surgeon that works on him does the best he can, but it is not perfect. The drug dealer and rapist sues. The jury finds he is 95 percent responsible for his own knife wounds, but 5 percent of the problem lies with the hospital, because the physician was working too long.

Today the hospital, us, the premium payer, can be made to pay 100 percent because the drug dealer is without means. We want a fair share rule because if one pays premiums, one should not be denied health care in that way.

Everyone knows this bill, which is very important, which we are going to pass, which expands patient protections, is going to raise the cost of insurance. We are trying to find ways to regulate it.

If Members believe that all doctors are bad and all lawyers are good, this amendment is not for them. But if Members believe that some lawyers need some regulation, as well as HMOs getting regulation properly in this bill, vote aye for lower health care premiums and more access to health care.

Mr. SHAYS. Mr. Chairman, I rise in support of the Thomas-Cox amendment. As one who has long supported reforming our medical malpractice laws, I am pleased to support this amendment.

This amendment is similar to legislation Mr. GREENWOOD and I introduced, the Medical Malpractice Rx Act, which will help prevent frivolous, excessive lawsuits that are driving up the cost of health care, forcing doctors to practice defensive medicine, and making access to affordable health insurance more difficult for the average American.

Only 40 cents of every dollar paid to litigate and settle malpractice cases is ever paid to the actual victims. Lawsuits impose unnecessarily high litigation costs on all parties and these costs are then passed along to consumers. The rate of malpractice cases has doubled in the past ten years and on average 120,000 lawsuits are filed against America's 500,000 physicians at any one time. That's one lawsuit for every four doctors.

It is imperative we adopt the Thomas-Cox amendment to discourage abuse of our legal system and curb the unsustainable growth of medical costs in our country. I urge my colleagues on both sides of the aisle to vote in favor of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. THOMAS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 207, noes 221, not voting 5, as follows:

[Roll No. 330]

AYES—207

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Coble
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Doolittle
Dreier
Dunn
Ehlers
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson
Wolf
Young (AK)
Young (FL)

NOES—221

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Chambliss
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Ganske
Gephardt
Gilman
Gonzalez
Gordon
Graham
Green (TX)
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nethercutt
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Terry
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Wicker
Woolsey
Wu
Wynn

NOT VOTING—5

Lipinski
Markey
Paul
Spence
Thompson (CA)

□ 2146

Mr. ENGLISH changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BEREUTER) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2563) to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage, pursuant to House Resolution 219, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BERRY

Mr. BERRY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BERRY. Yes, Mr. Speaker, in its current form I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BERRY moves to recommit the bill H.R. 2563 to the Committee on Ways and Means, the Committee on Energy and Commerce, and the Committee on Education and the Workforce with instructions that each report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Bipartisan Patient Protection Act''.

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

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

Sec. 101. Utilization review activities.
Sec. 102. Procedures for initial claims for benefits and prior authorization determinations.
Sec. 103. Internal appeals of claims denials.
Sec. 104. Independent external appeals procedures.
Sec. 105. Health care consumer assistance fund.

Subtitle B—Access to Care

Sec. 111. Consumer choice option.
Sec. 112. Choice of health care professional.
Sec. 113. Access to emergency care.
Sec. 114. Timely access to specialists.
Sec. 115. Patient access to obstetrical and gynecological care.
Sec. 116. Access to pediatric care.
Sec. 117. Continuity of care.
Sec. 118. Access to needed prescription drugs.
Sec. 119. Coverage for individuals participating in approved clinical trials.
Sec. 120. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.

Subtitle C—Access to Information

Sec. 121. Patient access to information.

Subtitle D—Protecting the Doctor-Patient Relationship

Sec. 131. Prohibition of interference with certain medical communications.
Sec. 132. Prohibition of discrimination against providers based on licensure.
Sec. 133. Prohibition against improper incentive arrangements.
Sec. 134. Payment of claims.
Sec. 135. Protection for patient advocacy.

Subtitle E—Definitions

Sec. 151. Definitions.
Sec. 152. Preemption; State flexibility; construction.

Sec. 153. Exclusions.
Sec. 154. Treatment of excepted benefits.
Sec. 155. Regulations.
Sec. 156. Incorporation into plan or coverage documents.
Sec. 157. Preservation of protections.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

Sec. 201. Application to group health plans and group health insurance coverage.
Sec. 202. Application to individual health insurance coverage.
Sec. 203. Cooperation between Federal and State authorities.

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS

Sec. 301. Application of patient protection standards to Federal health insurance programs.

TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 401. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 402. Availability of civil remedies.
Sec. 403. Limitation on certain class action litigation.
Sec. 404. Limitations on actions.
Sec. 405. Cooperation between Federal and State authorities.
Sec. 406. Sense of the Senate concerning the importance of certain unpaid services.

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Application of Patient Protection Provisions

Sec. 501. Application of requirements to group health plans under the Internal Revenue Code of 1986.
Sec. 502. Conforming enforcement for women's health and cancer rights.

Subtitle B—Health Care Coverage Access Tax Incentives

Sec. 511. Expanded availability of Archer MSAs.
Sec. 512. Deduction for 100 percent of health insurance costs of self-employed individuals.
Sec. 513. Credit for health insurance expenses of small businesses.
Sec. 514. Certain grants by private foundations to qualified health benefit purchasing coalitions.
Sec. 515. State grant program for market innovation.

TITLE VI—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

Sec. 601. Effective dates.
Sec. 602. Coordination in implementation.
Sec. 603. Severability.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. No impact on Social Security Trust Fund.
Sec. 702. Customs user fees.
Sec. 703. Fiscal year 2002 medicare payments.
Sec. 704. Sense of Senate with respect to participation in clinical trials and access to specialty care.
Sec. 705. Sense of the Senate regarding fair review process.
Sec. 706. Annual review.
Sec. 707. Definition of born-alive infant.

TITLE VIII—REVENUE OFFSETS

Subtitle A—Extension of Custom User Fees

Sec. 801. Further extension of authority to levy customs user fees.

Subtitle B—Tax Shelter Provisions

PART I—CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE

Sec. 811. Clarification of economic substance doctrine.

PART II—PENALTIES

Sec. 821. Increase in penalty on underpayments resulting from failure to satisfy certain common law rules.
Sec. 822. Penalty on promoters of tax avoidance strategies which have no economic substance, etc.
Sec. 823. Modifications of penalties for aiding and abetting understatement of tax liability involving tax shelters.
Sec. 824. Failure to maintain lists.
Sec. 825. Penalty for failing to disclose reportable transaction.
Sec. 826. Registration of certain tax shelters without corporate participants.
Sec. 827. Effective dates.

PART III—LIMITATIONS ON IMPORTATION OR TRANSFER OF BUILT-IN LOSSES

Sec. 831. Limitation on importation of built-in losses.
Sec. 832. Disallowance of partnership loss transfers.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

SEC. 101. UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section and section 102.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms ''utilization review'' and ''utilization review activities'' mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for a participant, beneficiary, or enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(C) REVIEW OF SAMPLE OF CLAIMS DENIALS.—Such a program shall provide for a periodic evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

(B) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits.

(C) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary and appropriate.

SEC. 102. PROCEDURES FOR INITIAL CLAIMS FOR BENEFITS AND PRIOR AUTHORIZATION DETERMINATIONS.

(a) PROCEDURES OF INITIAL CLAIMS FOR BENEFITS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall—

(A) make a determination on an initial claim for benefits by a participant, beneficiary, or enrollee (or authorized representative) regarding payment or coverage for items or services under the terms and conditions of the plan or coverage involved, including any cost-sharing amount that the participant, beneficiary, or enrollee is required to pay with respect to such claim for benefits; and

(B) notify a participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional involved regarding a determination on an initial claim for benefits made under the terms and conditions of the plan or coverage, including any cost-sharing amounts that the participant, beneficiary, or enrollee may be required to

make with respect to such claim for benefits, and of the right of the participant, beneficiary, or enrollee to an internal appeal under section 103.

(2) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an initial claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the claim. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of subsection (b)(1), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER'S OBLIGATIONS.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) ORAL REQUESTS.—In the case of a claim for benefits involving an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may make an initial claim for benefits orally, but a group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for benefits, the making of the request (and the timing of such request) shall be treated as the making at that time of a claim for such benefits without regard to whether and when a written confirmation of such request is made.

(b) TIMELINE FOR MAKING DETERMINATIONS.—

(1) PRIOR AUTHORIZATION DETERMINATION.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a prior authorization determination on a claim for benefits (whether oral or written) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the request for prior authorization and in no case later than 28 days after the date of the claim for benefits is received.

(B) EXPEDITED DETERMINATION.—Notwithstanding subparagraph (A), a group health plan, and a health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on a claim for benefits described in such subparagraph when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE.—

(i) CONCURRENT REVIEW.—

(I) IN GENERAL.—Subject to clause (ii), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan or issuer must provide by telephone and in printed form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an appeal under section 103(b)(3) to be completed before the termination or reduction takes effect.

(II) CONTENTS OF NOTICE.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(2) RETROSPECTIVE DETERMINATION.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a retrospective determination on a claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but not later than 30 days after the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the claim, or, if earlier, 60 days after the date of receipt of the claim for benefits.

(c) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial made under an initial claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of the determination (or, in the case described in subparagraph (B) or (C) of subsection (b)(1), within the 72-hour or applicable period referred to in such subparagraph).

(d) REQUIREMENTS OF NOTICE OF DETERMINATIONS.—The written notice of a denial of a claim for benefits determination under subsection (c) shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(1) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(2) the procedures for obtaining additional information concerning the determination; and

(3) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with section 103.

(e) DEFINITIONS.—For purposes of this part:

(1) AUTHORIZED REPRESENTATIVE.—The term ''authorized representative'' means, with respect to an individual who is a participant, beneficiary, or enrollee, any health care professional or other person acting on behalf of the individual with the individual's consent or without such consent if the individual is medically unable to provide such consent.

(2) CLAIM FOR BENEFITS.—The term ''claim for benefits'' means any request for coverage (including authorization of coverage), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage.

(3) DENIAL OF CLAIM FOR BENEFITS.—The term ''denial'' means, with respect to a claim for benefits, a denial (in whole or in part) of, or a failure to act on a timely basis upon, the claim for benefits and includes a failure to provide benefits (including items and services) required to be provided under this title.

(4) TREATING HEALTH CARE PROFESSIONAL.—The term ''treating health care professional'' means, with respect to services to be provided to a participant, beneficiary, or enrollee, a health care professional who is primarily responsible for delivering those services to the participant, beneficiary, or enrollee.

SEC. 103. INTERNAL APPEALS OF CLAIMS DENIALS.

(a) RIGHT TO INTERNAL APPEAL.—

(1) IN GENERAL.—A participant, beneficiary, or enrollee (or authorized representative) may appeal any denial of a claim for benefits under section 102 under the procedures described in this section.

(2) TIME FOR APPEAL.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall ensure that a participant, beneficiary, or enrollee (or authorized representative) has a period of not less than 180 days beginning on the date of a denial of a claim for benefits under section 102 in which to appeal such denial under this section.

(B) DATE OF DENIAL.—For purposes of subparagraph (A), the date of the denial shall be deemed to be the date as of which the participant, beneficiary, or enrollee knew of the denial of the claim for benefits.

(3) FAILURE TO ACT.—The failure of a plan or issuer to issue a determination on a claim for benefits under section 102 within the applicable timeline established for such a determination under such section is a denial of a claim for benefits for purposes this subtitle as of the date of the applicable deadline.

(4) PLAN WAIVER OF INTERNAL REVIEW.—A group health plan, or health insurance issuer offering health insurance coverage, may waive the internal review process under this section. In such case the plan or issuer shall provide notice to the participant, beneficiary, or enrollee (or authorized representative) involved, the participant, beneficiary, or enrollee (or authorized representative) involved shall be relieved of any obligation to complete the internal review involved, and may, at the option of such participant, beneficiary, enrollee, or representative proceed directly to seek further appeal through external review under section 104 or otherwise.

(b) TIMELINES FOR MAKING DETERMINATIONS.—

(1) ORAL REQUESTS.—In the case of an appeal of a denial of a claim for benefits under this section that involves an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may request such appeal orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for an appeal of a denial, the making of the request (and the timing of such request) shall be treated as the

making at that time of a request for an appeal without regard to whether and when a written confirmation of such request is made.

(2) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an appeal of a denial of a claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the appeal. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of paragraph (3), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER'S OBLIGATIONS.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) PRIOR AUTHORIZATION DETERMINATIONS.—

(A) IN GENERAL.—Except as provided in this paragraph or paragraph (4), a group health plan, and a health insurance issuer offering health insurance coverage, shall make a determination on an appeal of a denial of a claim for benefits under this subsection in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 28 days after the date the request for the appeal is received.

(B) EXPEDITED DETERMINATION.—Notwithstanding subparagraph (A), a group health plan, and a health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on an appeal of a denial of a claim for benefits described in subparagraph (A), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for such appeal is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE DETERMINATIONS.—

(i) IN GENERAL.—Subject to clause (ii), in the case of a concurrent review determination described in section 102(b)(1)(C)(i)(I), which results in a termination or reduction of such care, the plan or issuer must provide notice of the determination on the appeal under this section by telephone and in printed form to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an external appeal under section 104 to be completed before the termination or reduction takes effect.

(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(4) RETROSPECTIVE DETERMINATION.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a retrospective determination on an appeal of a denial of a claim for benefits in no case later than 30 days after the date on which the plan or issuer receives necessary information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 60 days after the date the request for the appeal is received.

(c) CONDUCT OF REVIEW.—

(1) IN GENERAL.—A review of a denial of a claim for benefits under this section shall be conducted by an individual with appropriate expertise who was not involved in the initial determination.

(2) PEER REVIEW OF MEDICAL DECISIONS BY HEALTH CARE PROFESSIONALS.—A review of an appeal of a denial of a claim for benefits that is based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, or requires an evaluation of medical facts—

(A) shall be made by a physician (allopathic or osteopathic); or

(B) in a claim for benefits provided by a non-physician health professional, shall be made by reviewer (or reviewers) including at least one practicing non-physician health professional of the same or similar specialty;

with appropriate expertise (including, in the case of a child, appropriate pediatric expertise) and acting within the appropriate scope of practice within the State in which the service is provided or rendered, who was not involved in the initial determination.

(d) NOTICE OF DETERMINATION.—

(1) IN GENERAL.—Written notice of a determination made under an internal appeal of a denial of a claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of completion of the review (or, in the case described in subparagraph (B) or (C) of subsection (b)(3), within the 72-hour or applicable period referred to in such subparagraph).

(2) FINAL DETERMINATION.—The decision by a plan or issuer under this section shall be treated as the final determination of the plan or issuer on a denial of a claim for benefits. The failure of a plan or issuer to issue a determination on an appeal of a denial of a claim for benefits under this section within the applicable timeline established for such a determination shall be treated as a final determination on an appeal of a denial of a claim for benefits for purposes of proceeding to external review under section 104.

(3) REQUIREMENTS OF NOTICE.—With respect to a determination made under this section, the notice described in paragraph (1) shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(A) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(B) the procedures for obtaining additional information concerning the determination; and

(C) notification of the right to an independent external review under section 104 and instructions on how to initiate such a review.

SEC. 104. INDEPENDENT EXTERNAL APPEALS PROCEDURES.

(a) RIGHT TO EXTERNAL APPEAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide in accordance with this section participants, beneficiaries, and enrollees (or authorized representatives) with access to an independent external review for any denial of a claim for benefits.

(b) INITIATION OF THE INDEPENDENT EXTERNAL REVIEW PROCESS.—

(1) TIME TO FILE.—A request for an independent external review under this section shall be filed with the plan or issuer not later than 180 days after the date on which the participant, beneficiary, or enrollee receives notice of the denial under section 103(d) or notice of waiver of internal review under section 103(a)(4) or the date on which the plan or issuer has failed to make a timely decision under section 103(d)(2) and notifies the participant or beneficiary that it has failed to make a timely decision and that the beneficiary must file an appeal with an external review entity within 180 days if the participant or beneficiary desires to file such an appeal.

(2) FILING OF REQUEST.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group health plan, or health insurance issuer offering health insurance coverage, may—

(i) except as provided in subparagraph (B)(i), require that a request for review be in writing;

(ii) limit the filing of such a request to the participant, beneficiary, or enrollee involved (or an authorized representative);

(iii) except if waived by the plan or issuer under section 103(a)(4), condition access to an independent external review under this section upon a final determination of a denial of a claim for benefits under the internal review procedure under section 103;

(iv) except as provided in subparagraph (B)(ii), require payment of a filing fee to the plan or issuer of a sum that does not exceed $25; and

(v) require that a request for review include the consent of the participant, beneficiary, or enrollee (or authorized representative) for the release of necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity only for purposes of conducting external review activities.

(B) REQUIREMENTS AND EXCEPTION RELATING TO GENERAL RULE.—

(i) ORAL REQUESTS PERMITTED IN EXPEDITED OR CONCURRENT CASES.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request for such review may be made orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. Such written confirmation shall be treated as a consent for purposes of subparagraph (A)(v). In the case of such an oral request for such a review, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for such a review without regard to whether and when a written confirmation of such request is made.

(ii) EXCEPTION TO FILING FEE REQUIREMENT.—

(I) INDIGENCY.—Payment of a filing fee shall not be required under subparagraph (A)(iv) where there is a certification (in a form and manner specified in guidelines established by the appropriate Secretary) that

the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).

(II) FEE NOT REQUIRED.—Payment of a filing fee shall not be required under subparagraph (A)(iv) if the plan or issuer waives the internal appeals process under section 103(a)(4).

(III) REFUNDING OF FEE.—The filing fee paid under subparagraph (A)(iv) shall be refunded if the determination under the independent external review is to reverse or modify the denial which is the subject of the review.

(IV) COLLECTION OF FILING FEE.—The failure to pay such a filing fee shall not prevent the consideration of a request for review but, subject to the preceding provisions of this clause, shall constitute a legal liability to pay.

(c) REFERRAL TO QUALIFIED EXTERNAL REVIEW ENTITY UPON REQUEST.—

(1) IN GENERAL.—Upon the filing of a request for independent external review with the group health plan, or health insurance issuer offering health insurance coverage, the plan or issuer shall immediately refer such request, and forward the plan or issuer's initial decision (including the information described in section 103(d)(3)(A)), to a qualified external review entity selected in accordance with this section.

(2) ACCESS TO PLAN OR ISSUER AND HEALTH PROFESSIONAL INFORMATION.—With respect to an independent external review conducted under this section, the participant, beneficiary, or enrollee (or authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide the external review entity with information that is necessary to conduct a review under this section, as determined and requested by the entity. Such information shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in clause (ii) or (iii) of subsection (e)(1)(A), by such earlier time as may be necessary to comply with the applicable timeline under such clause.

(3) SCREENING OF REQUESTS BY QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) IN GENERAL.—With respect to a request referred to a qualified external review entity under paragraph (1) relating to a denial of a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that—

(i) any of the conditions described in clauses (ii) or (iii) of subsection (b)(2)(A) have not been met;

(ii) the denial of the claim for benefits does not involve a medically reviewable decision under subsection (d)(2);

(iii) the denial of the claim for benefits relates to a decision regarding whether an individual is a participant, beneficiary, or enrollee who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage); or

(iv) the denial of the claim for benefits is a decision as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage unless the decision is a denial described in subsection (d)(2).

Upon making a determination that any of clauses (i) through (iv) applies with respect to the request, the entity shall determine that the denial of a claim for benefits involved is not eligible for independent medical review under subsection (d), and shall provide notice in accordance with subparagraph (C).

(B) PROCESS FOR MAKING DETERMINATIONS.—

(i) NO DEFERENCE TO PRIOR DETERMINATIONS.—In making determinations under subparagraph (A), there shall be no deference given to determinations made by the plan or issuer or the recommendation of a treating health care professional (if any).

(ii) USE OF APPROPRIATE PERSONNEL.—A qualified external review entity shall use appropriately qualified personnel to make determinations under this section.

(C) NOTICES AND GENERAL TIMELINES FOR DETERMINATION.—

(i) NOTICE IN CASE OF DENIAL OF REFERRAL.—If the entity under this paragraph does not make a referral to an independent medical reviewer, the entity shall provide notice to the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) filing the request, and the treating health care professional (if any) that the denial is not subject to independent medical review. Such notice—

(I) shall be written (and, in addition, may be provided orally) in a manner calculated to be understood by a participant or enrollee;

(II) shall include the reasons for the determination;

(III) include any relevant terms and conditions of the plan or coverage; and

(IV) include a description of any further recourse available to the individual.

(ii) GENERAL TIMELINE FOR DETERMINATIONS.—Upon receipt of information under paragraph (2), the qualified external review entity, and if required the independent medical reviewer, shall make a determination within the overall timeline that is applicable to the case under review as described in subsection (e), except that if the entity determines that a referral to an independent medical reviewer is not required, the entity shall provide notice of such determination to the participant, beneficiary, or enrollee (or authorized representative) within such timeline and within 2 days of the date of such determination.

(d) INDEPENDENT MEDICAL REVIEW.—

(1) IN GENERAL.—If a qualified external review entity determines under subsection (c) that a denial of a claim for benefits is eligible for independent medical review, the entity shall refer the denial involved to an independent medical reviewer for the conduct of an independent medical review under this subsection.

(2) MEDICALLY REVIEWABLE DECISIONS.—A denial of a claim for benefits is eligible for independent medical review if the benefit for the item or service for which the claim is made would be a covered benefit under the terms and conditions of the plan or coverage but for one (or more) of the following determinations:

(A) DENIALS BASED ON MEDICAL NECESSITY AND APPROPRIATENESS.—A determination that the item or service is not covered because it is not medically necessary and appropriate or based on the application of substantially equivalent terms.

(B) DENIALS BASED ON EXPERIMENTAL OR INVESTIGATIONAL TREATMENT.—A determination that the item or service is not covered because it is experimental or investigational or based on the application of substantially equivalent terms.

(C) DENIALS OTHERWISE BASED ON AN EVALUATION OF MEDICAL FACTS.—A determination that the item or service or condition is not covered based on grounds that require an evaluation of the medical facts by a health care professional in the specific case involved to determine the coverage and extent of coverage of the item or service or condition.

(3) INDEPENDENT MEDICAL REVIEW DETERMINATION.—

(A) IN GENERAL.—An independent medical reviewer under this section shall make a new independent determination with respect to whether or not the denial of a claim for a benefit that is the subject of the review should be upheld, reversed, or modified.

(B) STANDARD FOR DETERMINATION.—The independent medical reviewer's determination relating to the medical necessity and appropriateness, or the experimental or investigational nature, or the evaluation of the medical facts, of the item, service, or condition involved shall be based on the medical condition of the participant, beneficiary, or enrollee (including the medical records of the participant, beneficiary, or enrollee) and valid, relevant scientific evidence and clinical evidence, including peer-reviewed medical literature or findings and including expert opinion.

(C) NO COVERAGE FOR EXCLUDED BENEFITS.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage, provide coverage for items or services for which benefits are specifically excluded or expressly limited under the plan or coverage in the plain language of the plan document (and which are disclosed under section 121(b)(1)(C)). Notwithstanding any other provision of this Act, any exclusion of an exact medical procedure, any exact time limit on the duration or frequency of coverage, and any exact dollar limit on the amount of coverage that is specifically enumerated and defined (in the plain language of the plan or coverage documents) under the plan or coverage offered by a group health plan or health insurance issuer offering health insurance coverage and that is disclosed under section 121(b)(1) shall be considered to govern the scope of the benefits that may be required: *Provided*, That the terms and conditions of the plan or coverage relating to such an exclusion or limit are in compliance with the requirements of law.

(D) EVIDENCE AND INFORMATION TO BE USED IN MEDICAL REVIEWS.—In making a determination under this subsection, the independent medical reviewer shall also consider appropriate and available evidence and information, including the following:

(i) The determination made by the plan or issuer with respect to the claim upon internal review and the evidence, guidelines, or rationale used by the plan or issuer in reaching such determination.

(ii) The recommendation of the treating health care professional and the evidence, guidelines, and rationale used by the treating health care professional in reaching such recommendation.

(iii) Additional relevant evidence or information obtained by the reviewer or submitted by the plan, issuer, participant, beneficiary, or enrollee (or an authorized representative), or treating health care professional.

(iv) The plan or coverage document.

(E) INDEPENDENT DETERMINATION.—In making determinations under this section, a qualified external review entity and an independent medical reviewer shall—

(i) consider the claim under review without deference to the determinations made by the plan or issuer or the recommendation of the treating health care professional (if any); and

(ii) consider, but not be bound by, the definition used by the plan or issuer of ''medically necessary and appropriate'', or ''experimental or investigational'', or other substantially equivalent terms that are used by the plan or issuer to describe medical necessity and appropriateness or experimental or investigational nature of the treatment.

(F) DETERMINATION OF INDEPENDENT MEDICAL REVIEWER.—An independent medical reviewer shall, in accordance with the deadlines described in subsection (e), prepare a written determination to uphold, reverse, or modify the denial under review. Such written determination shall include—

(i) the determination of the reviewer;

(ii) the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific evidence used in making the determination; and

(iii) with respect to a determination to reverse or modify the denial under review, a timeframe within which the plan or issuer must comply with such determination.

(G) NONBINDING NATURE OF ADDITIONAL RECOMMENDATIONS.—In addition to the determination under subparagraph (F), the reviewer may provide the plan or issuer and the treating health care professional with additional recommendations in connection with such a determination, but any such recommendations shall not affect (or be treated as part of) the determination and shall not be binding on the plan or issuer.

(e) TIMELINES AND NOTIFICATIONS.—

(1) TIMELINES FOR INDEPENDENT MEDICAL REVIEW.—

(A) PRIOR AUTHORIZATION DETERMINATION.—

(i) IN GENERAL.—The independent medical reviewer (or reviewers) shall make a determination on a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days after the date of receipt of information under subsection (c)(2) if the review involves a prior authorization of items or services and in no case later than 21 days after the date the request for external review is received.

(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i) and subject to clause (iii), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination, and a health care professional certifies, with the request, that a determination under the timeline described in clause (i) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for external review is received by the qualified external review entity.

(iii) ONGOING CARE DETERMINATION.—Notwithstanding clause (i), in the case of a review described in such clause that involves a termination or reduction of care, the notice of the determination shall be completed not later than 24 hours after the time the request for external review is received by the qualified external review entity and before the end of the approved period of care.

(B) RETROSPECTIVE DETERMINATION.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retrospective determination on an appeal of a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in no case later than 30 days after the date of receipt of information under subsection (c)(2) and in no case later than 60 days after the date the request for external review is received by the qualified external review entity.

(2) NOTIFICATION OF DETERMINATION.—The external review entity shall ensure that the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) receives a copy of the written determination of the independent medical reviewer prepared under subsection (d)(3)(F). Nothing in this paragraph shall be construed as preventing an entity or reviewer from providing an initial oral notice of the reviewer's determination.

(3) FORM OF NOTICES.—Determinations and notices under this subsection shall be written in a manner calculated to be understood by a participant.

(f) COMPLIANCE.—

(1) APPLICATION OF DETERMINATIONS.—

(A) EXTERNAL REVIEW DETERMINATIONS BINDING ON PLAN.—The determinations of an external review entity and an independent medical reviewer under this section shall be binding upon the plan or issuer involved.

(B) COMPLIANCE WITH DETERMINATION.—If the determination of an independent medical reviewer is to reverse or modify the denial, the plan or issuer, upon the receipt of such determination, shall authorize coverage to comply with the medical reviewer's determination in accordance with the timeframe established by the medical reviewer.

(2) FAILURE TO COMPLY.—

(A) IN GENERAL.—If a plan or issuer fails to comply with the timeframe established under paragraph (1)(B) with respect to a participant, beneficiary, or enrollee, where such failure to comply is caused by the plan or issuer, the participant, beneficiary, or enrollee may obtain the items or services involved (in a manner consistent with the determination of the independent external reviewer) from any provider regardless of whether such provider is a participating provider under the plan or coverage.

(B) REIMBURSEMENT.—

(i) IN GENERAL.—Where a participant, beneficiary, or enrollee obtains items or services in accordance with subparagraph (A), the plan or issuer involved shall provide for reimbursement of the costs of such items or services. Such reimbursement shall be made to the treating health care professional or to the participant, beneficiary, or enrollee (in the case of a participant, beneficiary, or enrollee who pays for the costs of such items or services).

(ii) AMOUNT.—The plan or issuer shall fully reimburse a professional, participant, beneficiary, or enrollee under clause (i) for the total costs of the items or services provided (regardless of any plan limitations that may apply to the coverage of such items or services) so long as the items or services were provided in a manner consistent with the determination of the independent medical reviewer.

(C) FAILURE TO REIMBURSE.—Where a plan or issuer fails to provide reimbursement to a professional, participant, beneficiary, or enrollee in accordance with this paragraph, the professional, participant, beneficiary, or enrollee may commence a civil action (or utilize other remedies available under law) to recover only the amount of any such reimbursement that is owed by the plan or issuer and any necessary legal costs or expenses (including attorney's fees) incurred in recovering such reimbursement.

(D) AVAILABLE REMEDIES.—The remedies provided under this paragraph are in addition to any other available remedies.

(3) PENALTIES AGAINST AUTHORIZED OFFICIALS FOR REFUSING TO AUTHORIZE THE DETERMINATION OF AN EXTERNAL REVIEW ENTITY.—

(A) MONETARY PENALTIES.—

(i) IN GENERAL.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion of a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(ii) ADDITIONAL PENALTY FOR FAILING TO FOLLOW TIMELINE.—In any case in which treatment was not commenced by the plan in accordance with the determination of an independent external reviewer, the Secretary shall assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant, beneficiary, or enrollee involved.

(B) CEASE AND DESIST ORDER AND ORDER OF ATTORNEY'S FEES.—In any action described in subparagraph (A) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such subparagraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity to be covered, or has failed to take an action for which such person is responsible under the terms and conditions of the plan or coverage and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

(i) to cease and desist from the alleged action or failure to act; and

(ii) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(C) ADDITIONAL CIVIL PENALTIES.—

(i) IN GENERAL.—In addition to any penalty imposed under subparagraph (A) or (B), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(I) any pattern or practice of repeated refusal to authorize a benefit determined by an external appeal entity to be covered; or

(II) any pattern or practice of repeated violations of the requirements of this section with respect to such plan or coverage.

(ii) STANDARD OF PROOF AND AMOUNT OF PENALTY.—Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice and shall be in an amount not to exceed the lesser of—

(I) 25 percent of the aggregate value of benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section under such pattern or practice; or

(II) $500,000.

(D) REMOVAL AND DISQUALIFICATION.—Any person acting in the capacity of authorizing benefits who has engaged in any such pattern or practice described in subparagraph (C)(i) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any such position or involvement for a period determined by the court.

(4) PROTECTION OF LEGAL RIGHTS.—Nothing in this subsection or subtitle shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the

right to file judicial actions to enforce rights.

(g) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—

(1) IN GENERAL.—In referring a denial to 1 or more individuals to conduct independent medical review under subsection (c), the qualified external review entity shall ensure that—

(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3);

(B) with respect to each review at least 1 such reviewer meets the requirements described in paragraphs (4) and (5); and

(C) compensation provided by the entity to the reviewer is consistent with paragraph (6).

(2) LICENSURE AND EXPERTISE.—Each independent medical reviewer shall be a physician (allopathic or osteopathic) or health care professional who—

(A) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(B) typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(3) INDEPENDENCE.—

(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

(i) not be a related party (as defined in paragraph (7));

(ii) not have a material familial, financial, or professional relationship with such a party; and

(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

(i) prohibit an individual, solely on the basis of affiliation with the plan or issuer, from serving as an independent medical reviewer if—

(I) a non-affiliated individual is not reasonably available;

(II) the affiliated individual is not involved in the provision of items or services in the case under review;

(III) the fact of such an affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative) and neither party objects; and

(IV) the affiliated individual is not an employee of the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as an independent medical reviewer merely on the basis of such affiliation if the affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative), and neither party objects; or

(iii) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (6).

(4) PRACTICING HEALTH CARE PROFESSIONAL IN SAME FIELD.—

(A) IN GENERAL.—In a case involving treatment, or the provision of items or services—

(i) by a physician, a reviewer shall be a practicing physician (allopathic or osteopathic) of the same or similar specialty, as a physician who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review; or

(ii) by a non-physician health care professional, a reviewer (or reviewers) shall include at least one practicing non-physician health care professional of the same or similar specialty as the non-physician health care professional who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(B) PRACTICING DEFINED.—For purposes of this paragraph, the term ''practicing'' means, with respect to an individual who is a physician or other health care professional that the individual provides health care services to individual patients on average at least 2 days per week.

(5) PEDIATRIC EXPERTISE.—In the case of an external review relating to a child, a reviewer shall have expertise under paragraph (2) in pediatrics.

(6) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified external review entity to an independent medical reviewer in connection with a review under this section shall—

(A) not exceed a reasonable level; and

(B) not be contingent on the decision rendered by the reviewer.

(7) RELATED PARTY DEFINED.—For purposes of this section, the term ''related party'' means, with respect to a denial of a claim under a plan or coverage relating to a participant, beneficiary, or enrollee, any of the following:

(A) The plan, plan sponsor, or issuer involved, or any fiduciary, officer, director, or employee of such plan, plan sponsor, or issuer.

(B) The participant, beneficiary, or enrollee (or authorized representative).

(C) The health care professional that provides the items or services involved in the denial.

(D) The institution at which the items or services (or treatment) involved in the denial are provided.

(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

(h) QUALIFIED EXTERNAL REVIEW ENTITIES.—

(1) SELECTION OF QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) LIMITATION ON PLAN OR ISSUER SELECTION.—The appropriate Secretary shall implement procedures—

(i) to assure that the selection process among qualified external review entities will not create any incentives for external review entities to make a decision in a biased manner; and

(ii) for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

No such selection process under the procedures implemented by the appropriate Secretary may give either the patient or the plan or issuer any ability to determine or influence the selection of a qualified external review entity to review the case of any participant, beneficiary, or enrollee.

(B) STATE AUTHORITY WITH RESPECT TO QUALIFIED EXTERNAL REVIEW ENTITIES FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in a manner determined by the State to assure an unbiased determination.

(2) CONTRACT WITH QUALIFIED EXTERNAL REVIEW ENTITY.—Except as provided in paragraph (1)(B), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan or issuer and 1 or more qualified external review entities (as defined in paragraph (4)(A)).

(3) TERMS AND CONDITIONS OF CONTRACT.—The terms and conditions of a contract under paragraph (2) shall—

(A) be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external review activities; and

(B) provide that the costs of the external review process shall be borne by the plan or issuer.

Subparagraph (B) shall not be construed as applying to the imposition of a filing fee under subsection (b)(2)(A)(iv) or costs incurred by the participant, beneficiary, or enrollee (or authorized representative) or treating health care professional (if any) in support of the review, including the provision of additional evidence or information.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—In this section, the term ''qualified external review entity'' means, in relation to a plan or issuer, an entity that is initially certified (and periodically recertified) under subparagraph (C) as meeting the following requirements:

(i) The entity has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise and sufficient staffing to carry out duties of a qualified external review entity under this section on a timely basis, including making determinations under subsection (b)(2)(A) and providing for independent medical reviews under subsection (d).

(ii) The entity is not a plan or issuer or an affiliate or a subsidiary of a plan or issuer, and is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

(iii) The entity has provided assurances that it will conduct external review activities consistent with the applicable requirements of this section and standards specified in subparagraph (C), including that it will not conduct any external review activities in a case unless the independence requirements of subparagraph (B) are met with respect to the case.

(iv) The entity has provided assurances that it will provide information in a timely manner under subparagraph (D).

(v) The entity meets such other requirements as the appropriate Secretary provides by regulation.

(B) INDEPENDENCE REQUIREMENTS.—

(i) IN GENERAL.—Subject to clause (ii), an entity meets the independence requirements of this subparagraph with respect to any case if the entity—

(I) is not a related party (as defined in subsection (g)(7));

(II) does not have a material familial, financial, or professional relationship with such a party; and

(III) does not otherwise have a conflict of interest with such a party (as determined under regulations).

(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified external review entity of compensation from a plan or issuer for the conduct of external review activities under this section if the compensation is provided consistent with clause (iii).

(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by a plan or issuer to a qualified external review entity in connection with reviews under this section shall—

(I) not exceed a reasonable level; and

(II) not be contingent on any decision rendered by the entity or by any independent medical reviewer.

(C) CERTIFICATION AND RECERTIFICATION PROCESS.—

(i) IN GENERAL.—The initial certification and recertification of a qualified external review entity shall be made—

(I) under a process that is recognized or approved by the appropriate Secretary; or

(II) by a qualified private standard-setting organization that is approved by the appropriate Secretary under clause (iii).

In taking action under subclause (I), the appropriate Secretary shall give deference to entities that are under contract with the Federal Government or with an applicable State authority to perform functions of the type performed by qualified external review entities.

(ii) PROCESS.—The appropriate Secretary shall not recognize or approve a process under clause (i)(I) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

(I) will carry out (and has carried out, in the case of recertification) the responsibilities of such an entity in accordance with this section, including meeting applicable deadlines;

(II) will meet (and has met, in the case of recertification) appropriate indicators of fiscal integrity;

(III) will maintain (and has maintained, in the case of recertification) appropriate confidentiality with respect to individually identifiable health information obtained in the course of conducting external review activities; and

(IV) in the case of recertification, shall review the matters described in clause (iv).

(iii) APPROVAL OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—For purposes of clause (i)(II), the appropriate Secretary may approve a qualified private standard-setting organization if such Secretary finds that the organization only certifies (or recertifies) external review entities that meet at least the standards required for the certification (or recertification) of external review entities under clause (ii).

(iv) CONSIDERATIONS IN RECERTIFICATIONS.—In conducting recertifications of a qualified external review entity under this paragraph, the appropriate Secretary or organization conducting the recertification shall review compliance of the entity with the requirements for conducting external review activities under this section, including the following:

(I) Provision of information under subparagraph (D).

(II) Adherence to applicable deadlines (both by the entity and by independent medical reviewers it refers cases to).

(III) Compliance with limitations on compensation (with respect to both the entity and independent medical reviewers it refers cases to).

(IV) Compliance with applicable independence requirements.

(V) Compliance with the requirement of subsection (d)(1) that only medically reviewable decisions shall be the subject of independent medical review and with the requirement of subsection (d)(3) that independent medical reviewers may not require coverage for specifically excluded benefits.

(v) PERIOD OF CERTIFICATION OR RECERTIFICATION.—A certification or recertification provided under this paragraph shall extend for a period not to exceed 2 years.

(vi) REVOCATION.—A certification or recertification under this paragraph may be revoked by the appropriate Secretary or by the organization providing such certification upon a showing of cause. The Secretary, or organization, shall revoke a certification or deny a recertification with respect to an entity if there is a showing that the entity has a pattern or practice of ordering coverage for benefits that are specifically excluded under the plan or coverage.

(vii) PETITION FOR DENIAL OR WITHDRAWAL.—An individual may petition the Secretary, or an organization providing the certification involves, for a denial of recertification or a withdrawal of a certification with respect to an entity under this subparagraph if there is a pattern or practice of such entity failing to meet a requirement of this section.

(viii) SUFFICIENT NUMBER OF ENTITIES.—The appropriate Secretary shall certify and recertify a number of external review entities which is sufficient to ensure the timely and efficient provision of review services.

(D) PROVISION OF INFORMATION.—

(i) IN GENERAL.—A qualified external review entity shall provide to the appropriate Secretary, in such manner and at such times as such Secretary may require, such information (relating to the denials which have been referred to the entity for the conduct of external review under this section) as such Secretary determines appropriate to assure compliance with the independence and other requirements of this section to monitor and assess the quality of its external review activities and lack of bias in making determinations. Such information shall include information described in clause (ii) but shall not include individually identifiable medical information.

(ii) INFORMATION TO BE INCLUDED.—The information described in this subclause with respect to an entity is as follows:

(I) The number and types of denials for which a request for review has been received by the entity.

(II) The disposition by the entity of such denials, including the number referred to a independent medical reviewer and the reasons for such dispositions (including the application of exclusions), on a plan or issuer-specific basis and on a health care specialty-specific basis.

(III) The length of time in making determinations with respect to such denials.

(IV) Updated information on the information required to be submitted as a condition of certification with respect to the entity's performance of external review activities.

(iii) INFORMATION TO BE PROVIDED TO CERTIFYING ORGANIZATION.—

(I) IN GENERAL.—In the case of a qualified external review entity which is certified (or recertified) under this subsection by a qualified private standard-setting organization, at the request of the organization, the entity shall provide the organization with the information provided to the appropriate Secretary under clause (i).

(II) ADDITIONAL INFORMATION.—Nothing in this subparagraph shall be construed as preventing such an organization from requiring additional information as a condition of certification or recertification of an entity.

(iv) USE OF INFORMATION.—Information provided under this subparagraph may be used by the appropriate Secretary and qualified private standard-setting organizations to conduct oversight of qualified external review entities, including recertification of such entities, and shall be made available to the public in an appropriate manner.

(E) LIMITATION ON LIABILITY.—No qualified external review entity having a contract with a plan or issuer, and no person who is employed by any such entity or who furnishes professional services to such entity (including as an independent medical reviewer), shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

(5) REPORT.—Not later than 12 months after the general effective date referred to in section 601, the General Accounting Office shall prepare and submit to the appropriate committees of Congress a report concerning—

(A) the information that is provided under paragraph (3)(D);

(B) the number of denials that have been upheld by independent medical reviewers and the number of denials that have been reversed by such reviewers; and

(C) the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded under the plan or coverage.

SEC. 105. HEALTH CARE CONSUMER ASSISTANCE FUND.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall establish a fund, to be known as the ''Health Care Consumer Assistance Fund'', to be used to award grants to eligible States to carry out consumer assistance activities (including programs established by States prior to the enactment of this Act) designed to provide information, assistance, and referrals to consumers of health insurance products.

(2) STATE ELIGIBILITY.—To be eligible to receive a grant under this subsection a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan that describes—

(A) the manner in which the State will ensure that the health care consumer assistance office (established under paragraph (4)) will educate and assist health care consumers in accessing needed care;

(B) the manner in which the State will coordinate and distinguish the services provided by the health care consumer assistance office with the services provided by Federal, State and local health-related ombudsman, information, protection and advocacy, insurance, and fraud and abuse programs;

(C) the manner in which the State will provide information, outreach, and services to underserved, minority populations with limited English proficiency and populations residing in rural areas;

(D) the manner in which the State will oversee the health care consumer assistance office, its activities, product materials and evaluate program effectiveness;

(E) the manner in which the State will ensure that funds made available under this section will be used to supplement, and not supplant, any other Federal, State, or local funds expended to provide services for programs described under this section and those described in subparagraphs (C) and (D);

(F) the manner in which the State will ensure that health care consumer office personnel have the professional background and training to carry out the activities of the office; and

(G) the manner in which the State will ensure that consumers have direct access to consumer assistance personnel during regular business hours.

(3) AMOUNT OF GRANT.—

(A) IN GENERAL.—From amounts appropriated under subsection (b) for a fiscal year, the Secretary shall award a grant to a State in an amount that bears the same ratio to such amounts as the number of individuals within the State covered under a group health plan or under health insurance coverage offered by a health insurance issuer bears to the total number of individuals so covered in all States (as determined by the

Secretary). Any amounts provided to a State under this subsection that are not used by the State shall be remitted to the Secretary and reallocated in accordance with this subparagraph.

(B) MINIMUM AMOUNT.—In no case shall the amount provided to a State under a grant under this subsection for a fiscal year be less than an amount equal to 0.5 percent of the amount appropriated for such fiscal year to carry out this section.

(C) NON-FEDERAL CONTRIBUTIONS.—A State will provide for the collection of non-Federal contributions for the operation of the office in an amount that is not less than 25 percent of the amount of Federal funds provided to the State under this section.

(4) PROVISION OF FUNDS FOR ESTABLISHMENT OF OFFICE.—

(A) IN GENERAL.—From amounts provided under a grant under this subsection, a State shall, directly or through a contract with an independent, nonprofit entity with demonstrated experience in serving the needs of health care consumers, provide for the establishment and operation of a State health care consumer assistance office.

(B) ELIGIBILITY OF ENTITY.—To be eligible to enter into a contract under subparagraph (A), an entity shall demonstrate that it has the technical, organizational, and professional capacity to deliver the services described in subsection (b) to all public and private health insurance participants, beneficiaries, enrollees, or prospective enrollees.

(C) EXISTING STATE ENTITY.—Nothing in this section shall prevent the funding of an existing health care consumer assistance program that otherwise meets the requirements of this section.

(b) USE OF FUNDS.—

(1) BY STATE.—A State shall use amounts provided under a grant awarded under this section to carry out consumer assistance activities directly or by contract with an independent, non-profit organization. An eligible entity may use some reasonable amount of such grant to ensure the adequate training of personnel carrying out such activities. To receive amounts under this subsection, an eligible entity shall provide consumer assistance services, including—

(A) the operation of a toll-free telephone hotline to respond to consumer requests;

(B) the dissemination of appropriate educational materials on available health insurance products and on how best to access health care and the rights and responsibilities of health care consumers;

(C) the provision of education on effective methods to promptly and efficiently resolve questions, problems, and grievances;

(D) the coordination of educational and outreach efforts with health plans, health care providers, payers, and governmental agencies;

(E) referrals to appropriate private and public entities to resolve questions, problems and grievances; and

(F) the provision of information and assistance, including acting as an authorized representative, regarding internal, external, or administrative grievances or appeals procedures in nonlitigative settings to appeal the denial, termination, or reduction of health care services, or the refusal to pay for such services, under a group health plan or health insurance coverage offered by a health insurance issuer.

(2) CONFIDENTIALITY AND ACCESS TO INFORMATION.—

(A) STATE ENTITY.—With respect to a State that directly establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols in accordance with applicable Federal and State laws.

(B) CONTRACT ENTITY.—With respect to a State that, through contract, establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols, consistent with applicable Federal and State laws, to ensure the confidentiality of all information shared by a participant, beneficiary, enrollee, or their personal representative and their health care providers, group health plans, or health insurance insurers with the office and to ensure that no such information is used by the office, or released or disclosed to State agencies or outside persons or entities without the prior written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) of the individual or personal representative. The office may, consistent with applicable Federal and State confidentiality laws, collect, use or disclose aggregate information that is not individually identifiable (as defined in section 164.501 of title 45, Code of Federal Regulations). The office shall provide a written description of the policies and procedures of the office with respect to the manner in which health information may be used or disclosed to carry out consumer assistance activities. The office shall provide health care providers, group health plans, or health insurance issuers with a written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) to allow the office to obtain medical information relevant to the matter before the office.

(3) AVAILABILITY OF SERVICES.—The health care consumer assistance office of a State shall not discriminate in the provision of information, referrals, and services regardless of the source of the individual's health insurance coverage or prospective coverage, including individuals covered under a group health plan or health insurance coverage offered by a health insurance issuer, the medicare or medicaid programs under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 and 1396 et seq.), or under any other Federal or State health care program.

(4) DESIGNATION OF RESPONSIBILITIES.—

(A) WITHIN EXISTING STATE ENTITY.—If the health care consumer assistance office of a State is located within an existing State regulatory agency or office of an elected State official, the State shall ensure that—

(i) there is a separate delineation of the funding, activities, and responsibilities of the office as compared to the other funding, activities, and responsibilities of the agency; and

(ii) the office establishes and implements procedures and protocols to ensure the confidentiality of all information shared by a participant, beneficiary, or enrollee or their personal representative and their health care providers, group health plans, or health insurance issuers with the office and to ensure that no information is disclosed to the State agency or office without the written authorization of the individual or their personal representative in accordance with paragraph (2).

(B) CONTRACT ENTITY.—In the case of an entity that enters into a contract with a State under subsection (a)(3), the entity shall provide assurances that the entity has no conflict of interest in carrying out the activities of the office and that the entity is independent of group health plans, health insurance issuers, providers, payers, and regulators of health care.

(5) SUBCONTRACTS.—The health care consumer assistance office of a State may carry out activities and provide services through contracts entered into with 1 or more nonprofit entities so long as the office can demonstrate that all of the requirements of this section are complied with by the office.

(6) TERM.—A contract entered into under this subsection shall be for a term of 3 years.

(c) REPORT.—Not later than 1 year after the Secretary first awards grants under this section, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the activities funded under this section and the effectiveness of such activities in resolving health care-related problems and grievances.

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

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) IN GENERAL.—If—

(1) a health insurance issuer providing health insurance coverage in connection with a group health plan offers to enrollees health insurance coverage which provides for coverage of services (including physician pathology services) only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, or

(2) a group health plan offers to participants or beneficiaries health benefits which provide for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the plan to provide such services,

then the issuer or plan shall also offer or arrange to be offered to such enrollees, participants, or beneficiaries (at the time of enrollment and during an annual open season as provided under subsection (c)) the option of health insurance coverage or health benefits which provide for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(b) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary unless it is paid by the health plan sponsor or group health plan through agreement with the health insurance issuer.

(c) OPEN SEASON.—An enrollee, participant, or beneficiary, may change to the offering provided under this section only during a time period determined by the health insurance issuer or group health plan. Such time period shall occur at least annually.

SEC. 112. CHOICE OF HEALTH CARE PROFESSIONAL.

(a) PRIMARY CARE.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary and appropriate specialty care, pursuant to appropriate referral procedures, from any

qualified participating health care professional who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating health care professionals with respect to such care.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the application of section 114 (relating to access to specialty care).

SEC. 113. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides or covers any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

(A) without the need for any prior authorization determination;

(B) whether the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

(i) by a nonparticipating health care provider with or without prior authorization, or

(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION.—The term ''emergency medical condition'' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term ''emergency services'' means, with respect to an emergency medical condition—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(C) STABILIZE.—The term ''to stabilize'', with respect to an emergency medical condition (as defined in subparagraph (A)), has the meaning given in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—A group health plan, and health insurance coverage offered by a health insurance issuer, must provide reimbursement for maintenance care and post-stabilization care in accordance with the requirements of section 1852(d)(2) of the Social Security Act (42 U.S.C. 1395w–22(d)(2)). Such reimbursement shall be provided in a manner consistent with subsection (a)(1)(C).

(c) COVERAGE OF EMERGENCY AMBULANCE SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage provided by a health insurance issuer, provides any benefits with respect to ambulance services and emergency services, the plan or issuer shall cover emergency ambulance services (as defined in paragraph (2)) furnished under the plan or coverage under the same terms and conditions under subparagraphs (A) through (D) of subsection (a)(1) under which coverage is provided for emergency services.

(2) EMERGENCY AMBULANCE SERVICES.—For purposes of this subsection, the term ''emergency ambulance services'' means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in subsection (a)(2)(A)) to a hospital for the receipt of emergency services (as defined in subsection (a)(2)(B)) in a case in which the emergency services are covered under the plan or coverage pursuant to subsection (a)(1) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

SEC. 114. TIMELY ACCESS TO SPECIALISTS.

(a) TIMELY ACCESS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall ensure that participants, beneficiaries, and enrollees receive timely access to specialists who are appropriate to the condition of, and accessible to, the participant, beneficiary, or enrollee, when such specialty care is a covered benefit under the plan or coverage.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

(A) to require the coverage under a group health plan or health insurance coverage of benefits or services;

(B) to prohibit a plan or issuer from including providers in the network only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees; or

(C) to override any State licensure or scope-of-practice law.

(3) ACCESS TO CERTAIN PROVIDERS.—

(A) IN GENERAL.—With respect to specialty care under this section, if a participating specialist is not available and qualified to provide such care to the participant, beneficiary, or enrollee, the plan or issuer shall provide for coverage of such care by a nonparticipating specialist.

(B) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a participant, beneficiary, or enrollee receives care from a nonparticipating specialist pursuant to subparagraph (A), such specialty care shall be provided at no additional cost to the participant, beneficiary, or enrollee beyond what the participant, beneficiary, or enrollee would otherwise pay for such specialty care if provided by a participating specialist.

(b) REFERRALS.—

(1) AUTHORIZATION.—Subject to subsection (a)(1), a group health plan or health insurance issuer may require an authorization in order to obtain coverage for specialty services under this section. Any such authorization—

(A) shall be for an appropriate duration of time or number of referrals, including an authorization for a standing referral where appropriate; and

(B) may not be refused solely because the authorization involves services of a nonparticipating specialist (described in subsection (a)(3)).

(2) REFERRALS FOR ONGOING SPECIAL CONDITIONS.—

(A) IN GENERAL.—Subject to subsection (a)(1), a group health plan and a health insurance issuer shall permit a participant, beneficiary, or enrollee who has an ongoing special condition (as defined in subparagraph (B)) to receive a referral to a specialist for the treatment of such condition and such specialist may authorize such referrals, procedures, tests, and other medical services with respect to such condition, or coordinate the care for such condition, subject to the terms of a treatment plan (if any) referred to in subsection (c) with respect to the condition.

(B) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term ''ongoing special condition'' means a condition or disease that—

(i) is life-threatening, degenerative, potentially disabling, or congenital; and

(ii) requires specialized medical care over a prolonged period of time.

(c) TREATMENT PLANS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may require that the specialty care be provided—

(A) pursuant to a treatment plan, but only if the treatment plan—

(i) is developed by the specialist, in consultation with the case manager or primary care provider, and the participant, beneficiary, or enrollee, and

(ii) is approved by the plan or issuer in a timely manner, if the plan or issuer requires such approval; and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

(2) NOTIFICATION.—Nothing in paragraph (1) shall be construed as prohibiting a plan or issuer from requiring the specialist to provide the plan or issuer with regular updates on the specialty care provided, as well as all other reasonably necessary medical information.

(d) SPECIALIST DEFINED.—For purposes of this section, the term ''specialist'' means, with respect to the condition of the participant, beneficiary, or enrollee, a health care professional, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

SEC. 115. PATIENT ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

(a) GENERAL RIGHTS.—

(1) DIRECT ACCESS.—A group health plan, and a health insurance issuer offering health insurance coverage, described in subsection (b) may not require authorization or referral by the plan, issuer, or any person (including a primary care provider described in subsection (b)(2)) in the case of a female participant, beneficiary, or enrollee who seeks coverage for obstetrical or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology.

(2) OBSTETRICAL AND GYNECOLOGICAL CARE.—A group health plan and a health insurance issuer described in subsection (b) shall treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access

described under paragraph (1), by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

(b) APPLICATION OF SECTION.—A group health plan, or health insurance issuer offering health insurance coverage, described in this subsection is a group health plan or coverage that—

(1) provides coverage for obstetric or gynecologic care; and

(2) requires the designation by a participant, beneficiary, or enrollee of a participating primary care provider.

(c) CONSTRUCTION.—Nothing in subsection (a) shall be construed to—

(1) waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) PEDIATRIC CARE.—In the case of a person who has a child who is a participant, beneficiary, or enrollee under a group health plan, or health insurance coverage offered by a health insurance issuer, if the plan or issuer requires or provides for the designation of a participating primary care provider for the child, the plan or issuer shall permit such person to designate a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider if such provider participates in the network of the plan or issuer.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of pediatric care.

SEC. 117. CONTINUITY OF CARE.

(a) TERMINATION OF PROVIDER.—

(1) IN GENERAL.—If—

(A) a contract between a group health plan, or a health insurance issuer offering health insurance coverage, and a treating health care provider is terminated (as defined in paragraph (e)(4)), or

(B) benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such plan or coverage,

the plan or issuer shall meet the requirements of paragraph (3) with respect to each continuing care patient.

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) REQUIREMENTS.—The requirements of this paragraph are that the plan or issuer—

(A) notify the continuing care patient involved, or arrange to have the patient notified pursuant to subsection (d)(2), on a timely basis of the termination described in paragraph (1) (or paragraph (2), if applicable) and the right to elect continued transitional care from the provider under this section;

(B) provide the patient with an opportunity to notify the plan or issuer of the patient's need for transitional care; and

(C) subject to subsection (c), permit the patient to elect to continue to be covered with respect to the course of treatment by such provider with the provider's consent during a transitional period (as provided for under subsection (b)).

(4) CONTINUING CARE PATIENT.—For purposes of this section, the term ''continuing care patient'' means a participant, beneficiary, or enrollee who—

(A) is undergoing a course of treatment for a serious and complex condition from the provider at the time the plan or issuer receives or provides notice of provider, benefit, or coverage termination described in paragraph (1) (or paragraph (2), if applicable);

(B) is undergoing a course of institutional or inpatient care from the provider at the time of such notice;

(C) is scheduled to undergo non-elective surgery from the provider at the time of such notice;

(D) is pregnant and undergoing a course of treatment for the pregnancy from the provider at the time of such notice; or

(E) is or was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of such notice, but only with respect to a provider that was treating the terminal illness before the date of such notice.

(b) TRANSITIONAL PERIODS.—

(1) SERIOUS AND COMPLEX CONDITIONS.—The transitional period under this subsection with respect to a continuing care patient described in subsection (a)(4)(A) shall extend for up to 90 days (as determined by the treating health care professional) from the date of the notice described in subsection (a)(3)(A).

(2) INSTITUTIONAL OR INPATIENT CARE.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(B) shall extend until the earlier of—

(A) the expiration of the 90-day period beginning on the date on which the notice under subsection (a)(3)(A) is provided; or

(B) the date of discharge of the patient from such care or the termination of the period of institutionalization, or, if later, the date of completion of reasonable follow-up care.

(3) SCHEDULED NON-ELECTIVE SURGERY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(C) shall extend until the completion of the surgery involved and post-surgical follow-up care relating to the surgery and occurring within 90 days after the date of the surgery.

(4) PREGNANCY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(D) shall extend through the provision of post-partum care directly related to the delivery.

(5) TERMINAL ILLNESS.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(E) shall extend for the remainder of the patient's life for care that is directly related to the treatment of the terminal illness or its medical manifestations.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under this section upon the provider agreeing to the following terms and conditions:

(1) The treating health care provider agrees to accept reimbursement from the plan or issuer and continuing care patient involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or coverage after the date of the termination of the contract with the group health plan or health insurance issuer) and not to impose cost-sharing with respect to the patient in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The treating health care provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The treating health care provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider; or

(2) with respect to the termination of a contract under subsection (a) to prevent a group health plan or health insurance issuer from requiring that the health care provider—

(A) notify participants, beneficiaries, or enrollees of their rights under this section; or

(B) provide the plan or issuer with the name of each participant, beneficiary, or enrollee who the provider believes is a continuing care patient.

(e) DEFINITIONS.—In this section:

(1) CONTRACT.—The term ''contract'' includes, with respect to a plan or issuer and a treating health care provider, a contract between such plan or issuer and an organized network of providers that includes the treating health care provider, and (in the case of such a contract) the contract between the treating health care provider and the organized network.

(2) HEALTH CARE PROVIDER.—The term ''health care provider'' or ''provider'' means—

(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

(3) SERIOUS AND COMPLEX CONDITION.—The term ''serious and complex condition'' means, with respect to a participant, beneficiary, or enrollee under the plan or coverage—

(A) in the case of an acute illness, a condition that is serious enough to require specialized medical treatment to avoid the reasonable possibility of death or permanent harm; or

(B) in the case of a chronic illness or condition, is an ongoing special condition (as defined in section 114(b)(2)(B)).

(4) TERMINATED.—The term ''terminated'' includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract for failure to meet applicable quality standards or for fraud.

SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—To the extent that a group health plan, or health insurance coverage offered by a health insurance issuer, provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan or issuer shall—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary;

(2) provide for disclosure of the formulary to providers; and

(3) in accordance with the applicable quality assurance and utilization review standards of the plan or issuer, provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate and, in the case of such an exception, apply the same cost-sharing requirements that would have applied in the case of a drug covered under the formulary.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (and health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term ''qualified individual'' means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan and a health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the appropriate Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate; or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term ''approved clinical trial'' means a clinical research study or clinical investigation—

(A) approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(i) the National Institutes of Health;

(ii) a cooperative group or center of the National Institutes of Health, including a qualified nongovernmental research entity to which the National Cancer Institute has awarded a center support grant;

(iii) either of the following if the conditions described in paragraph (2) are met—

(I) the Department of Veterans Affairs;

(II) the Department of Defense; or

(B) approved by the Food and Drug Administration.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the appropriate Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health; and

(B) assures unbiased review of the highest ethical standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. 120. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

(a) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage, may not modify the terms and conditions of coverage based on the determination by a participant, beneficiary, or enrollee to request less than the minimum coverage required under subsection (a).

(c) SECONDARY CONSULTATIONS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan or coverage with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan or issuer.

(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

(d) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage, may not—

(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant, beneficiary, or enrollee in accordance with this section;

(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant, beneficiary, or enrollee for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (c).

Subtitle C—Access to Information

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) REQUIREMENT.—

(1) DISCLOSURE.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis—

(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

(II) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year; and

(iii) of information relating to any material reduction to the benefits or information described in such subsection or subsection (c), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect.

(B) PARTICIPANTS, BENEFICIARIES, AND ENROLLEES.—The disclosure required under subparagraph (A) shall be provided—

(i) jointly to each participant, beneficiary, and enrollee who reside at the same address; or

(ii) in the case of a beneficiary or enrollee who does not reside at the same address as the participant or another enrollee, separately to the participant or other enrollees and such beneficiary or enrollee.

(2) PROVISION OF INFORMATION.—Information shall be provided to participants, beneficiaries, and enrollees under this section at the last known address maintained by the plan or issuer with respect to such participants, beneficiaries, or enrollees, to the extent that such information is provided to participants, beneficiaries, or enrollees via the United States Postal Service or other private delivery service.

(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

(1) BENEFITS.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits;

(B) specific preventive services covered under the plan or coverage if such services are covered;

(C) any specific exclusions or express limitations of benefits described in section 104(d)(3)(C);

(D) any other benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(E) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(2) COST SHARING.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable;

(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

(3) DISENROLLMENT.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

(4) SERVICE AREA.—A description of the plan or issuer's service area, including the provision of any out-of-area coverage.

(5) PARTICIPATING PROVIDERS.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.

(6) CHOICE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants, beneficiaries, and enrollees in selecting, accessing, or changing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a pediatrician as a primary care provider under section 116 for a participant, beneficiary, or enrollee who is a child if such section applies.

(7) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

(8) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

(9) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including any limitations on choice of health care professionals referred to in section 112(b)(2) and the right to timely access to specialists care under section 114 if such section applies.

(10) CLINICAL TRIALS.—A description of the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

(11) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for obtaining on- and off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to access to prescription drugs under section 118 if such section applies.

(12) EMERGENCY SERVICES.—A summary of the rules and procedures for accessing emergency services, including the right of a participant, beneficiary, or enrollee to obtain emergency services under the prudent layperson standard under section 113, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(13) CLAIMS AND APPEALS.—A description of the plan or issuer's rules and procedures pertaining to claims and appeals, a description of the rights (including deadlines for exercising rights) of participants, beneficiaries, and enrollees under subtitle A in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate authority), and a description of any additional legal rights and remedies available under section 502 of the Employee Retirement Income Security Act of 1974 and applicable State law.

(14) ADVANCE DIRECTIVES AND ORGAN DONATION.—A description of procedures for advance directives and organ donation decisions if the plan or issuer maintains such procedures.

(15) INFORMATION ON PLANS AND ISSUERS.—The name, mailing address, and telephone number or numbers of the plan administrator and the issuer to be used by participants, beneficiaries, and enrollees seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. Notice of whether the benefits under the plan or coverage are provided under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

(16) TRANSLATION SERVICES.—A summary description of any translation or interpretation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speakers and participants, beneficiaries, and enrollees with communication disabilities and a description of how to access these items or services.

(17) ACCREDITATION INFORMATION.—Any information that is made public by accrediting organizations in the process of accreditation if the plan or issuer is accredited, or any additional quality indicators (such as the results of enrollee satisfaction surveys) that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.

(18) NOTICE OF REQUIREMENTS.—A description of any rights of participants, beneficiaries, and enrollees that are established by the Bipartisan Patient Protection Act (excluding those described in paragraphs (1) through (17)) if such sections apply. The description required under this paragraph may be combined with the notices of the type described in sections 711(d), 713(b), or 606(a)(1) of the Employee Retirement Income Security Act of 1974 and with any other notice provision that the appropriate Secretary determines may be combined, so long as such combination does not result in any reduction in the information that would otherwise be provided to the recipient.

(19) AVAILABILITY OF ADDITIONAL INFORMATION.—A statement that the information described in subsection (c), and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request.

(20) DESIGNATED DECISIONMAKERS.—A description of the participants and beneficiaries with respect to whom each designated decisionmaker under the plan has assumed liability under section 502(o) of the Employee Retirement Income Security Act of 1974 and the name and address of each such decisionmaker.

(c) ADDITIONAL INFORMATION.—The informational materials to be provided upon the request of a participant, beneficiary, or enrollee shall include for each option available under a group health plan or health insurance coverage the following:

(1) STATUS OF PROVIDERS.—The State licensure status of the plan or issuer's participating health care professionals and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

(2) COMPENSATION METHODS.—A summary description by category of the applicable methods (such as capitation, fee-for-service, salary, bundled payments, per diem, or a combination thereof) used for compensating prospective or treating health care professionals (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage.

(3) PRESCRIPTION DRUGS.—Information about whether a specific prescription medication is included in the formulary of the plan or issuer, if the plan or issuer uses a defined formulary.

(4) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, timeframes, and appeals rights) under any utilization review program under sections 101 and 102, including any drug formulary program under section 118.

(5) EXTERNAL APPEALS INFORMATION.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) under the plan or under the coverage of the issuer.

(d) MANNER OF DISCLOSURE.—The information described in this section shall be disclosed in an accessible medium and format that is calculated to be understood by a participant or enrollee.

(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer in connection with health insurance coverage, from—

(1) distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants, beneficiaries, and enrollees in the selection of a health plan or health insurance coverage; and

(2) complying with the provisions of this section by providing information in brochures, through the Internet or other electronic media, or through other similar means, so long as—

(A) the disclosure of such information in such form is in accordance with requirements as the appropriate Secretary may impose, and

(B) in connection with any such disclosure of information through the Internet or other electronic media—

(i) the recipient has affirmatively consented to the disclosure of such information in such form,

(ii) the recipient is capable of accessing the information so disclosed on the recipient's individual workstation or at the recipient's home,

(iii) the recipient retains an ongoing right to receive paper disclosure of such information and receives, in advance of any attempt at disclosure of such information to him or her through the Internet or other electronic media, notice in printed form of such ongoing right and of the proper software required to view information so disclosed, and

(iv) the plan administrator appropriately ensures that the intended recipient is receiving the information so disclosed and provides the information in printed form if the information is not received.

Subtitle D—Protecting the Doctor-Patient Relationship

SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

SEC. 132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) IN GENERAL.—A group health plan, and a health insurance issuer with respect to health insurance coverage, shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(b) CONSTRUCTION.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage of a particular benefit or service or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer.

SEC. 133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1852(j)(4) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

(b) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1852(j)(4) of the Social Security Act to the Secretary, a Medicare+Choice organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

SEC. 134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner that is no less protective than the provisions of section 1842(c)(2) of the Social Security Act (42 U.S.C. 1395u(c)(2)).

SEC. 135. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term ''protected health care professional'' means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle E—Definitions

SEC. 151. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the term ''appropriate Secretary'' means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 714 of the Employee Retirement Income Security Act of 1974.

(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) APPLICABLE AUTHORITY.—The term ''applicable authority'' means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) ENROLLEE.—The term ''enrollee'' means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(3) GROUP HEALTH PLAN.—The term ''group health plan'' has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974, except that such term includes a employee welfare benefit plan treated as a group health plan under section 732(d) of such Act or defined as such a plan under section 607(1) of such Act.

(4) HEALTH CARE PROFESSIONAL.—The term ''health care professional'' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

(5) HEALTH CARE PROVIDER.—The term ''health care provider'' includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(6) NETWORK.—The term ''network'' means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(7) NONPARTICIPATING.—The term ''nonparticipating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(8) PARTICIPATING.—The term ''participating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(9) PRIOR AUTHORIZATION.—The term ''prior authorization'' means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

(10) TERMS AND CONDITIONS.—The term ''terms and conditions'' includes, with respect to a group health plan or health insurance coverage, requirements imposed under this title with respect to the plan or coverage.

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(3) CONSTRUCTION.—In applying this section, a State law that provides for equal access to, and availability of, all categories of licensed health care providers and services shall not be treated as preventing the application of any requirement of this title.

(b) APPLICATION OF SUBSTANTIALLY COMPLIANT STATE LAWS.—

(1) IN GENERAL.—In the case of a State law that imposes, with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan, a requirement that substantially complies (within the meaning of subsection (c)) with a patient protection requirement (as defined in paragraph (3)) and does not prevent the application of other requirements under this Act (except in the case of other substantially compliant requirements), in applying the requirements of this title under section 2707 and 2753 (as applicable) of the Public Health Service Act (as added by title II), subject to subsection (a)(2)—

(A) the State law shall not be treated as being superseded under subsection (a); and

(B) the State law shall apply instead of the patient protection requirement otherwise applicable with respect to health insurance coverage and non-Federal governmental plans.

(2) LIMITATION.—In the case of a group health plan covered under title I of the Employee Retirement Income Security Act of 1974, paragraph (1) shall be construed to apply only with respect to the health insurance coverage (if any) offered in connection with the plan.

(3) DEFINITIONS.—In this section:

(A) PATIENT PROTECTION REQUIREMENT.—The term ''patient protection requirement'' means a requirement under this title, and includes (as a single requirement) a group or related set of requirements under a section or similar unit under this title.

(B) SUBSTANTIALLY COMPLIANT.—The terms ''substantially compliant'', substantially complies'', or ''substantial compliance'' with respect to a State law, mean that the State law has the same or similar features as the patient protection requirements and has a similar effect.

(c) DETERMINATIONS OF SUBSTANTIAL COMPLIANCE.—

(1) CERTIFICATION BY STATES.—A State may submit to the Secretary a certification that a State law provides for patient protections that are at least substantially compliant with one or more patient protection requirements. Such certification shall be accompanied by such information as may be required to permit the Secretary to make the determination described in paragraph (2)(A).

(2) REVIEW.—

(A) IN GENERAL.—The Secretary shall promptly review a certification submitted under paragraph (1) with respect to a State law to determine if the State law substantially complies with the patient protection requirement (or requirements) to which the law relates.

(B) APPROVAL DEADLINES.—

(i) INITIAL REVIEW.—Such a certification is considered approved unless the Secretary notifies the State in writing, within 90 days after the date of receipt of the certification, that the certification is disapproved (and the reasons for disapproval) or that specified additional information is needed to make the determination described in subparagraph (A).

(ii) ADDITIONAL INFORMATION.—With respect to a State that has been notified by the Secretary under clause (i) that specified additional information is needed to make the determination described in subparagraph (A), the Secretary shall make the determination within 60 days after the date on which such specified additional information is received by the Secretary.

(3) APPROVAL.—

(A) IN GENERAL.—The Secretary shall approve a certification under paragraph (1) unless—

(i) the State fails to provide sufficient information to enable the Secretary to make a determination under paragraph (2)(A); or

(ii) the Secretary determines that the State law involved does not provide for patient protections that substantially comply with the patient protection requirement (or requirements) to which the law relates.

(B) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under subparagraph (A) may challenge such disapproval in the appropriate United States district court.

(C) DEFERENCE TO STATES.—With respect to a certification submitted under paragraph (1), the Secretary shall give deference to the State's interpretation of the State law involved with respect to the patient protection involved.

(D) PUBLIC NOTIFICATION.—The Secretary shall—

(i) provide a State with a notice of the determination to approve or disapprove a certification under this paragraph;

(ii) promptly publish in the Federal Register a notice that a State has submitted a certification under paragraph (1);

(iii) promptly publish in the Federal Register the notice described in clause (i) with respect to the State; and

(iv) annually publish the status of all States with respect to certifications.

(4) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the certification (and approval of certification) of a State law under this subsection solely because it provides for greater protections for patients than those protections otherwise required to establish substantial compliance.

(5) PETITIONS.—

(A) PETITION PROCESS.—Effective on the date on which the provisions of this Act become effective, as provided for in section 601, a group health plan, health insurance issuer, participant, beneficiary, or enrollee may submit a petition to the Secretary for an advisory opinion as to whether or not a standard or requirement under a State law applicable to the plan, issuer, participant, beneficiary, or enrollee that is not the subject of a certification under this subsection, is superseded under subsection (a)(1) because such standard or requirement prevents the application of a requirement of this title.

(B) OPINION.—The Secretary shall issue an advisory opinion with respect to a petition submitted under subparagraph (A) within the 60-day period beginning on the date on which such petition is submitted.

(d) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term ''State'' includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 153. EXCLUSIONS.

(a) NO BENEFIT REQUIREMENTS.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to include specific items and services under the terms of such a plan or coverage, other than those provided under the terms and conditions of such plan or coverage.

(b) EXCLUSION FROM ACCESS TO CARE MANAGED CARE PROVISIONS FOR FEE-FOR-SERVICE COVERAGE.—

(1) IN GENERAL.—The provisions of sections 111 through 117 shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) FEE-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term ''fee-for-service coverage'' means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

(C) allows access to any provider that is lawfully authorized to provide the covered services and that agrees to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the plan or issuer does not require prior authorization before providing for any health care services.

SEC. 154. TREATMENT OF EXCEPTED BENEFITS.

(a) IN GENERAL.—The requirements of this title and the provisions of sections 502(a)(1)(C), 502(n), and 514(d) of the Employee Retirement Income Security Act of 1974 (added by section 402) shall not apply to excepted benefits (as defined in section 733(c) of such Act), other than benefits described in section 733(c)(2)(A) of such Act, in the same manner as the provisions of part 7 of subtitle B of title I of such Act do not apply to such benefits under subsections (b) and (c) of section 732 of such Act.

(b) COVERAGE OF CERTAIN LIMITED SCOPE PLANS.—Only for purposes of applying the requirements of this title under sections 2707 and 2753 of the Public Health Service Act, section 714 of the Employee Retirement Income Security Act of 1974, and section 9813 of the Internal Revenue Code of 1986, the following sections shall be deemed not to apply:

(1) Section 2791(c)(2)(A) of the Public Health Service Act.

(2) Section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974.

(3) Section 9832(c)(2)(A) of the Internal Revenue Code of 1986.

SEC. 155. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

SEC. 156. INCORPORATION INTO PLAN OR COVERAGE DOCUMENTS.

The requirements of this title with respect to a group health plan or health insurance coverage are, subject to section 154, deemed to be incorporated into, and made a part of, such plan or the policy, certificate, or contract providing such coverage and are enforceable under law as if directly included in the documentation of such plan or such policy, certificate, or contract.

SEC. 157. PRESERVATION OF PROTECTIONS.

(a) IN GENERAL.—The rights under this Act (including the right to maintain a civil action and any other rights under the amendments made by this Act) may not be waived, deferred, or lost pursuant to any agreement not authorized under this Act.

(b) EXCEPTION.—Subsection (a) shall not apply to an agreement providing for arbitration or participation in any other nonjudicial procedure to resolve a dispute if the agreement is entered into knowingly and voluntarily by the parties involved after the dispute has arisen or is pursuant to the terms of a collective bargaining agreement. Nothing in this subsection shall be construed to permit the waiver of the requirements of sections 103 and 104 (relating to internal and external review).

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

''SEC. 2707. PATIENT PROTECTION STANDARDS.

''Each group health plan shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.''.

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting ''(other than section 2707)'' after ''requirements of such subparts''.

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

''SEC. 2753. PATIENT PROTECTION STANDARDS.

''Each health insurance issuer shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act with respect to individual health

insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.''.

SEC. 203. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Part C of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–91 et seq.) is amended by adding at the end the following:

''SEC. 2793. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

''(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

''(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.''.

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that enrollees in Federal health insurance programs should have the same rights and privileges as those afforded under title I and under the amendments made by title IV to participants and beneficiaries under group health plans.

(b) CONFORMING FEDERAL HEALTH INSURANCE PROGRAMS.—It is the sense of Congress that the President should require, by executive order, the Federal official with authority over each Federal health insurance program, to the extent feasible, to take such steps as are necessary to implement the rights and privileges described in subsection (a) with respect to such program.

(c) GAO REPORT ON ADDITIONAL STEPS REQUIRED.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on statutory changes that are required to implement such rights and privileges in a manner that is consistent with the missions of the Federal health insurance programs and that avoids unnecessary duplication or disruption of such programs.

(d) FEDERAL HEALTH INSURANCE PROGRAM.—In this section, the term ''Federal health insurance program'' means a Federal program that provides creditable coverage (as defined in section 2701(c)(1) of the Public Health Service Act) and includes a health program of the Department of Veterans Affairs.

TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 401. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

''SEC. 714. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Bipartisan Patient Protection Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

''(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

''(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Bipartisan Patient Protection Act with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

''(A) Section 111 (relating to consumer choice option).

''(B) Section 112 (relating to choice of health care professional).

''(C) Section 113 (relating to access to emergency care).

''(D) Section 114 (relating to timely access to specialists).

''(E) Section 115 (relating to patient access to obstetrical and gynecological care).

''(F) Section 116 (relating to access to pediatric care).

''(G) Section 117 (relating to continuity of care), but only insofar as a replacement issuer assumes the obligation for continuity of care.

''(H) Section 118 (relating to access to needed prescription drugs).

''(I) Section 119 (relating to coverage for individuals participating in approved clinical trials).

''(J) Section 120 (relating to required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations).

''(K) Section 134 (relating to payment of claims).

''(2) INFORMATION.—With respect to information required to be provided or made available under section 121 of the Bipartisan Patient Protection Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

''(3) INTERNAL APPEALS.—With respect to the internal appeals process required to be established under section 103 of such Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer's failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

''(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 104 of such Act, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

''(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections of the Bipartisan Patient Protection Act, the group health plan shall not be liable for such violation unless the plan caused such violation:

''(A) Section 131 (relating to prohibition of interference with certain medical communications).

''(B) Section 132 (relating to prohibition of discrimination against providers based on licensure).

''(C) Section 133 (relating to prohibition against improper incentive arrangements).

''(D) Section 135 (relating to protection for patient advocacy).

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

''(7) TREATMENT OF SUBSTANTIALLY COMPLIANT STATE LAWS.—For purposes of applying this subsection in connection with health insurance coverage, any reference in this subsection to a requirement in a section or other provision in the Bipartisan Patient Protection Act with respect to a health insurance issuer is deemed to include a reference to a requirement under a State law that substantially complies (as determined under section 152(c) of such Act) with the requirement in such section or other provisions.

''(8) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 135(b)(1) of the Bipartisan Patient Protection Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

''(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

''(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 135(b)(1) of the Bipartisan Patient Protection Act may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

''(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

''(d) CONFORMING REGULATIONS.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under the other provisions of this title. In order to reduce duplication and clarify the rights of participants and beneficiaries with respect to information that is required to be provided, such regulations shall coordinate the information disclosure requirements under section 121 of the Bipartisan Patient Protection Act with the reporting and disclosure requirements imposed under part 1, so long as such coordination does not result in any reduction in the information that would otherwise be provided to participants and beneficiaries.''.

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting ''(a)'' after ''SEC. 503.'' and by adding at the end the following new subsection:

''(b) In the case of a group health plan (as defined in section 733), compliance with the requirements of subtitle A of title I of the Bipartisan Patient Protection Act, and compliance with regulations promulgated by the Secretary, in the case of a claims denial, shall be deemed compliance with subsection (a) with respect to such claims denial.''.

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

''SEC. 714. PATIENT PROTECTION STANDARDS.''.

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting ''(other than section 135(b))'' after ''part 7''.

SEC. 402. AVAILABILITY OF CIVIL REMEDIES.

(a) AVAILABILITY OF FEDERAL CIVIL REMEDIES IN CASES NOT INVOLVING MEDICALLY REVIEWABLE DECISIONS.—

(1) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsections:

''(n) CAUSE OF ACTION RELATING TO PROVISION OF HEALTH BENEFITS.—

''(1) IN GENERAL.—In any case in which—

''(A) a person who is a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with the plan, or an agent of the plan, issuer, or plan sponsor, upon consideration of a claim for benefits of a participant or beneficiary under section 102 of the Bipartisan Patient Protection Act (relating to procedures for initial claims for benefits and prior authorization determinations) or upon review of a denial of such a claim under section 103 of such Act (relating to internal appeal of a denial of a claim for benefits), fails to exercise ordinary care in making a decision—

''(i) regarding whether an item or service is covered under the terms and conditions of the plan or coverage,

''(ii) regarding whether an individual is a participant or beneficiary who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage), or

''(iii) as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage, and

''(B) such failure is a proximate cause of personal injury to, or the death of, the participant or beneficiary,

such plan, plan sponsor, or issuer shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages (but not exemplary or punitive damages) in connection with such personal injury or death.

''(2) CAUSE OF ACTION MUST NOT INVOLVE MEDICALLY REVIEWABLE DECISION.—

''(A) IN GENERAL.—A cause of action is established under paragraph (1)(A) only if the decision referred to in paragraph (1)(A) does not include a medically reviewable decision.

''(B) MEDICALLY REVIEWABLE DECISION.—For purposes of this subsection, the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Bipartisan Patient Protection Act (relating to medically reviewable decisions).

''(3) LIMITATION REGARDING CERTAIN TYPES OF ACTIONS SAVED FROM PREEMPTION OF STATE LAW.—A cause of action is not established under paragraph (1)(A) in connection with a failure described in paragraph (1)(A) to the extent that a cause of action under State law (as defined in section 514(c)) for such failure would not be preempted under section 514.

''(4) DEFINITIONS AND RELATED RULES.—For purposes of this subsection.—

''(A) ORDINARY CARE.—The term 'ordinary care' means, with respect to a determination on a claim for benefits, that degree of care, skill, and diligence that a reasonable and prudent individual would exercise in making a fair determination on a claim for benefits of like kind to the claims involved.

''(B) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

''(C) CLAIM FOR BENEFITS; DENIAL.—The terms 'claim for benefits' and 'denial of a claim for benefits' have the meanings provided such terms in section 102(e) of the Bipartisan Patient Protection Act.

''(D) TERMS AND CONDITIONS.—The term 'terms and conditions' includes, with respect to a group health plan or health insurance coverage, requirements imposed under title I of the Bipartisan Patient Protection Act.

''(E) TREATMENT OF EXCEPTED BENEFITS.—Under section 154(a) of the Bipartisan Patient Protection Act, the provisions of this subsection and subsection (a)(1)(C) do not apply to certain excepted benefits.

''(5) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

''(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1)(A) does not authorize a cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment).

''(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) under paragraph (1)(A), to the extent there was direct participation by the employer or other plan sponsor (or employee) in the decision of the plan under section 102 of the Bipartisan Patient Protection Act upon consideration of a claim for benefits or under section 103 of such Act upon review of a denial of a claim for benefits.

''(C) DIRECT PARTICIPATION.—

''(i) IN GENERAL.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in paragraph (1)(A), the actual making of such decision or the actual exercise of control in making such decision.

''(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in paragraph (1)(A) on a particular claim for benefits of a participant or beneficiary, including (but not limited to)—

''(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

''(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

''(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

''(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

''(iii) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

''(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

''(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

''(D) APPLICATION TO CERTAIN PLANS.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection, no group health plan described in clause (ii) (or plan sponsor of such a plan) shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty under the plan.

''(ii) DEFINITION.—A group health plan described in this clause is—

''(I) a group health plan that is self-insured and self administered by an employer (including an employee of such an employer acting within the scope of employment); or

''(II) a multiemployer plan as defined in section 3(37)(A) (including an employee of a contributing employer or of the plan, or a fiduciary of the plan, acting within the scope of employment or fiduciary responsibility) that is self-insured and self-administered.

''(6) EXCLUSION OF PHYSICIANS AND OTHER HEALTH CARE PROFESSIONALS.—

''(A) IN GENERAL.—No treating physician or other treating health care professional of the participant or beneficiary, and no person acting under the direction of such a physician or health care professional, shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

''(B) DEFINITIONS.—For purposes of subparagraph (A)—

''(i) HEALTH CARE PROFESSIONAL.—The term 'health care professional' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

''(ii) NON-MEDICALLY REVIEWABLE DUTY.—The term 'non-medically reviewable duty' means a duty the discharge of which does not include the making of a medically reviewable decision.

''(7) EXCLUSION OF HOSPITALS.—No treating hospital of the participant or beneficiary shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty (as defined in paragraph (6)(B)(ii)) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

''(8) RULE OF CONSTRUCTION RELATING TO EXCLUSION FROM LIABILITY OF PHYSICIANS,

HEALTH CARE PROFESSIONALS, AND HOSPITALS.—Nothing in paragraph (6) or (7) shall be construed to limit the liability (whether direct or vicarious) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

''(9) REQUIREMENT OF EXHAUSTION.—

''(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102 and 103 of the Bipartisan Patient Protection Act (if applicable) have been exhausted.

''(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) or paragraph (10)(B), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

''(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

''(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

''(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative processes or such action in determining the amount of the damages awarded.

''(D) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 103 of the Bipartisan Patient Protection Act shall be admissible in any Federal court proceeding and shall be presented to the trier of fact.

''(10) STATUTORY DAMAGES.—

''(A) IN GENERAL.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this subsection.

''(B) ASSESSMENT OF CIVIL PENALTIES.—In addition to the remedies provided for in paragraph (1) (relating to the failure to provide contract benefits in accordance with the plan), a civil assessment, in an amount not to exceed $5,000,000, payable to the claimant may be awarded in any action under such paragraph if the claimant establishes by clear and convincing evidence that the alleged conduct carried out by the defendant demonstrated bad faith and flagrant disregard for the rights of the participant or beneficiary under the plan and was a proximate cause of the personal injury or death that is the subject of the claim.

''(11) LIMITATION ON ATTORNEYS' FEES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought pursuant to this subsection shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

''(B) DETERMINATION BY DISTRICT COURT.—The last Federal district court in which the action was pending upon the final disposition, including all appeals, of the action shall have jurisdiction to review the attorney's fee to ensure that the fee is a reasonable one.

''(12) LIMITATION OF ACTION.—Paragraph (1) shall not apply in connection with any action commenced after 3 years after the later of—

''(A) the date on which the plaintiff first knew, or reasonably should have known, of the personal injury or death resulting from the failure described in paragraph (1), or

''(B) the date as of which the requirements of paragraph (9) are first met.

''(13) TOLLING PROVISION.—The statute of limitations for any cause of action arising under State law relating to a denial of a claim for benefits that is the subject of an action brought in Federal court under this subsection shall be tolled until such time as the Federal court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the Federal court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

''(14) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action under subsection (a)(1)(C) and this subsection.

''(15) EXCLUSION OF DIRECTED RECORDKEEPERS.—

''(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

''(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term 'directed recordkeeper' means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Bipartisan Patient Protection Act and whose duties do not include making decisions on claims for benefits.

''(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

''(16) EXCLUSION OF HEALTH INSURANCE AGENTS.—Paragraph (1) does not apply with respect to a person whose sole involvement with the group health plan is providing advice or administrative services to the employer or other plan sponsor relating to the selection of health insurance coverage offered in connection with the plan.

''(17) NO EFFECT ON STATE LAW.—No provision of State law (as defined in section 514(c)(1)) shall be treated as superseded or otherwise altered, amended, modified, invalidated, or impaired by reason of the provisions of subsection (a)(1)(C) and this subsection.

''(18) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

''(A) IN GENERAL.—Notwithstanding the direct participation (as defined in paragraph (5)(C)(i)) of an employer or plan sponsor, in any case in which there is (or is deemed under subparagraph (B) to be) a designated decisionmaker that meets the requirements of subsection (o)(1) for an employer or other plan sponsor—

''(i) all liability of such employer or plan sponsor involved (and any employee of such employer or sponsor acting within the scope of employment) under this subsection in connection with any participant or beneficiary shall be transferred to, and assumed by, the designated decisionmaker, and

''(ii) with respect to such liability, the designated decisionmaker shall be substituted for the employer or sponsor (or employee) in the action and may not raise any defense that the employer or sponsor (or employee) could not raise if such a decisionmaker were not so deemed.

''(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

''(C) TREATMENT OF CERTAIN TRUST FUNDS.—For purposes of this paragraph, the terms 'employer' and 'plan sponsor', in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph, shall be construed to include a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.).

''(19) PREVIOUSLY PROVIDED SERVICES.—

''(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures; or

''(ii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

''(20) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

''(A) a member of a board of directors of an employer or plan sponsor; or

''(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment or of plan-related duties of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

''(o) REQUIREMENTS FOR DESIGNATED DECISIONMAKERS OF GROUP HEALTH PLANS.—

''(1) IN GENERAL.—For purposes of subsection (n)(18) and section 514(d)(9), a designated decisionmaker meets the requirements of this paragraph with respect to any participant or beneficiary if—

''(A) such designation is in such form as may be prescribed in regulations of the Secretary,

''(B) the designated decisionmaker—

''(i) meets the requirements of paragraph (2),

''(ii) assumes unconditionally all liability of the employer or plan sponsor involved (and any employee of such employer or sponsor acting within the scope of employment) either arising under subsection (n) or arising in a cause of action permitted under section 514(d) in connection with actions (and failures to act) of the employer or plan sponsor (or employee) occurring during the period in which the designation under subsection (n)(18) or section 514(d)(9) is in effect relating to such participant and beneficiary,

''(iii) agrees to be substituted for the employer or plan sponsor (or employee) in the action and not to raise any defense with respect to such liability that the employer or plan sponsor (or employee) may not raise, and

''(iv) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary, and

''(C) the designated decisionmaker and the participants and beneficiaries for whom the decisionmaker has assumed liability are identified in the written instrument required under section 402(a) and as required under section 121(b)(19) of the Bipartisan Patient Protection Act.

Any liability assumed by a designated decisionmaker pursuant to this subsection shall be in addition to any liability that it may otherwise have under applicable law.

''(2) QUALIFICATIONS FOR DESIGNATED DECISIONMAKERS.—

''(A) IN GENERAL.—Subject to subparagraph (B), an entity is qualified under this paragraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in paragraph (1) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor and the Secretary certification of such ability. Such certification shall be provided to the plan sponsor or named fiduciary and to the Secretary upon designation under subsection (n)(18)(B) or section 517(d)(9)(B) and not less frequently than annually thereafter, or if such designation constitutes a multiyear arrangement, in conjunction with the renewal of the arrangement.

''(B) SPECIAL QUALIFICATION IN THE CASE OF CERTAIN REVIEWABLE DECISIONS.—In the case of a group health plan that provides benefits consisting of medical care to a participant or beneficiary only through health insurance coverage offered by a single health insurance issue, such issuer is the only entity that may be qualified under this paragraph to serve as a designated decisionmaker with respect to such participant or beneficiary, and shall serve as the designated decisionmaker unless the employer or other plan sponsor acts affirmatively to prevent such service.

''(3) REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of paragraph (2)(A), the requirements relating to the financial obligation of an entity for liability shall include—

''(A) coverage of such entity under an insurance policy or other arrangement, secured and maintained by such entity, to effectively insure such entity against losses arising from professional liability claims, including those arising from its service as a designated decisionmaker under this part; or

''(B) evidence of minimum capital and surplus levels that are maintained by such entity to cover any losses as a result of liability arising from its service as a designated decisionmaker under this part.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subparagraphs (A) and (B) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary may prescribe and shall be maintained throughout the term for which the designation is in effect. The provisions of this paragraph shall not apply in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State financial solvency law.

''(4) LIMITATION ON APPOINTMENT OF TREATING PHYSICIANS.—A treating physician who directly delivered the care, treatment, or provided the patient service that is the subject of a cause of action by a participant or beneficiary under subsection (n) or section 514(d) may not be designated as a designated decisionmaker under this subsection with respect to such participant or beneficiary.''.

(2) CONFORMING AMENDMENT.—Section 502(a)(1) of such Act (29 U.S.C. 1132(a)(1)) is amended—

(A) by striking ''or'' at the end of subparagraph (A);

(B) in subparagraph (B), by striking ''plan;'' and inserting ''plan, or''; and

(C) by adding at the end the following new subparagraph:

''(C) for the relief provided for in subsection (n) of this section.''.

(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following new subsections:

''(d) PREEMPTION NOT TO APPLY TO CAUSES OF ACTION UNDER STATE LAW INVOLVING MEDICALLY REVIEWABLE DECISION.—

''(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

''(A) IN GENERAL.—Except as provided in this subsection, nothing in this title (including section 502) shall be construed to supersede or otherwise alter, amend, modify, invalidate, or impair any cause of action under State law of a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) against the plan, the plan sponsor, any health insurance issuer offering health insurance coverage in connection with the plan, or any managed care entity in connection with the plan to recover damages resulting from personal injury or for wrongful death if such cause of action arises by reason of a medically reviewable decision.

''(B) MEDICALLY REVIEWABLE DECISION.—For purposes of subparagraph (A), the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Bipartisan Patient Protection Act (relating to medically reviewable decisions).

''(C) LIMITATION ON PUNITIVE DAMAGES.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), with respect to a cause of action described in subparagraph (A) brought with respect to a participant or beneficiary, State law is superseded insofar as it provides any punitive, exemplary, or similar damages if, as of the time of the personal injury or death, all the requirements of the following sections of the Bipartisan Patient Protection Act were satisfied with respect to the participant or beneficiary:

''(I) Section 102 (relating to procedures for initial claims for benefits and prior authorization determinations).

''(II) Section 103 of such Act (relating to internal appeals of claims denials).

''(III) Section 104 of such Act (relating to independent external appeals procedures).

''(ii) EXCEPTION FOR CERTAIN ACTIONS FOR WRONGFUL DEATH.—Clause (i) shall not apply with respect to an action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such an action which are only punitive or exemplary in nature.

''(iii) EXCEPTION FOR WILLFUL OR WANTON DISREGARD FOR THE RIGHTS OR SAFETY OF OTHERS.—Clause (i) shall not apply with respect to any cause of action described in subparagraph (A) if, in such action, the plaintiff establishes by clear and convincing evidence that conduct carried out by the defendant with willful or wanton disregard for the rights or safety of others was a proximate cause of the personal injury or wrongful death that is the subject of the action.

''(2) DEFINITIONS AND RELATED RULES.—For purposes of this subsection and subsection (e)—

''(A) TREATMENT OF EXCEPTED BENEFITS.—Under section 154(a) of the Bipartisan Patient Protection Act, the provisions of this subsection do not apply to certain excepted benefits.

''(B) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

''(C) CLAIM FOR BENEFIT; DENIAL.—The terms 'claim for benefits' and 'denial of a claim for benefits' shall have the meaning provided such terms under section 102(e) of the Bipartisan Patient Protection Act.

''(D) MANAGED CARE ENTITY.—

''(i) IN GENERAL.—The term 'managed care entity' means, in connection with a group health plan and subject to clause (ii), any entity that is involved in determining the manner in which or the extent to which items or services (or reimbursement therefor) are to be provided as benefits under the plan.

''(ii) TREATMENT OF TREATING PHYSICIANS, OTHER TREATING HEALTH CARE PROFESSIONALS, AND TREATING HOSPITALS.—Such term does not include a treating physician or other treating health care professional (as defined in section 502(n)(6)(B)(i)) of the participant or beneficiary and also does not include a treating hospital insofar as it is acting solely in the capacity of providing treatment or care to the participant or beneficiary. Nothing in the preceding sentence shall be construed to preempt vicarious liability of any plan, plan sponsor, health insurance issuer, or managed care entity.

''(3) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

''(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1) does not apply with respect to—

''(i) any cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment), or

''(ii) a right of recovery, indemnity, or contribution by a person against an employer or other plan sponsor (or such an employee) for

damages assessed against the person pursuant to a cause of action to which paragraph (1) applies.

''(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), paragraph (1) applies with respect to any cause of action that is brought by a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) to recover damages resulting from personal injury or for wrongful death against any employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment) if such cause of action arises by reason of a medically reviewable decision, to the extent that there was direct participation by the employer or other plan sponsor (or employee) in the decision.

''(C) DIRECT PARTICIPATION.—

''(i) DIRECT PARTICIPATION IN DECISIONS.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in subparagraph (B), the actual making of such decision or the actual exercise of control in making such decision or in the conduct constituting the failure.

''(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in subparagraph (B) on a particular claim for benefits of a particular participant or beneficiary, including (but not limited to)—

''(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

''(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

''(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

''(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

''(iv) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

''(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

''(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

''(4) REQUIREMENT OF EXHAUSTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (D), a cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Bipartisan Patient Protection Act (if applicable) have been exhausted.

''(B) LATE MANIFESTATION OF INJURY.—

''(i) IN GENERAL.—A participant or beneficiary shall not be precluded from pursuing a review under section 104 of the Bipartisan Patient Protection Act regarding an injury that such participant or beneficiary has experienced if the external review entity first determines that the injury of such participant or beneficiary is a late manifestation of an earlier injury.

''(ii) DEFINITION.—In this subparagraph, the term 'late manifestation of an earlier injury' means an injury sustained by the participant or beneficiary which was not known, and should not have been known, by such participant or beneficiary by the latest date that the requirements of subparagraph (A) should have been met regarding the claim for benefits which was denied.

''(C) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) unless the requirements of subparagraph (A) are met.

''(D) FAILURE TO REVIEW.—

''(i) IN GENERAL.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(i), a participant or beneficiary may bring an action under section 514(d) after 10 additional days after the date on which such time period has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 104(e)(1)(A)(i).

''(ii) EXPEDITED DETERMINATION.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(ii), a participant or beneficiary may bring an action under this subsection and the filing of such an action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 104(e)(1)(A)(ii).

''(E) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

''(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

''(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

''(F) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 104 of the Bipartisan Patient Protection Act shall be admissible in any Federal or State court proceeding and shall be presented to the trier of fact.

''(5) TOLLING PROVISION.—The statute of limitations for any cause of action arising under section 502(n) relating to a denial of a claim for benefits that is the subject of an action brought in State court shall be tolled until such time as the State court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the State court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

''(6) EXCLUSION OF DIRECTED RECORDKEEPERS.—

''(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

''(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term 'directed recordkeeper' means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Bipartisan Patient Protection Act and whose duties do not include making decisions on claims for benefits.

''(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

''(7) CONSTRUCTION.—Nothing in this subsection shall be construed as—

''(A) saving from preemption a cause of action under State law for the failure to provide a benefit for an item or service which is specifically excluded under the group health plan involved, except to the extent that—

''(i) the application or interpretation of the exclusion involves a determination described in section 104(d)(2) of the Bipartisan Patient Protection Act, or

''(ii) the provision of the benefit for the item or service is required under Federal law or under applicable State law consistent with subsection (b)(2)(B);

''(B) preempting a State law which requires an affidavit or certificate of merit in a civil action;

''(C) affecting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A); or

''(D) affecting a cause of action under State law other than a cause of action described in paragraph (1)(A).

''(8) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action described in paragraph (1)(A).

''(9) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

''(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any cause of action described in paragraph (1)(A) under State law insofar as such cause of action provides for liability with respect to a participant or beneficiary of an employer or plan sponsor (or an employee of such employer or sponsor acting within the scope of employment), if with respect to the employer or plan sponsor there is (or is deemed under subparagraph (B) to be) a designated decisionmaker that meets the requirements of section 502(o)(1) with respect to such participant or beneficiary. Such paragraph (1) shall apply with respect to any cause of action described in paragraph (1)(A) under State law against the designated decisionmaker of such employer or other plan sponsor with respect to the participant or beneficiary.

''(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and

shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

''(C) TREATMENT OF CERTAIN TRUST FUNDS.—For purposes of this paragraph, the terms 'employer' and 'plan sponsor', in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph, shall be construed to include a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.).

''(10) PREVIOUSLY PROVIDED SERVICES.—

''(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures;

''(ii) prohibit a cause of action under paragraph (1) relating to quality of care; or

''(iii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

''(11) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

''(A) a member of a board of directors of an employer or plan sponsor; or

''(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment or of plan-related duties of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

''(12) CHOICE OF LAW.—A cause of action brought under paragraph (1) shall be governed by the law (including choice of law rules) of the State in which the plaintiff resides.

''(13) LIMITATION ON ATTORNEYS' FEES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought under paragraph (1) shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

''(B) DETERMINATION BY COURT.—The last court in which the action was pending upon the final disposition, including all appeals, of the action may review the attorney's fee to ensure that the fee is a reasonable one.

''(C) NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a law or framework of laws with respect to the amount of an attorney's contingency fee that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action.

''(e) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—

''(1) affecting any State law relating to the practice of medicine or the provision of, or the failure to provide, medical care, or affecting any action (whether the liability is direct or vicarious) based upon such a State law,

''(2) superseding any State law permitted under section 152(b)(1)(A) of the Bipartisan Patient Protection Act, or

''(3) affecting any applicable State law with respect to limitations on monetary damages.

''(f) NO RIGHT OF ACTION FOR RECOVERY, INDEMNITY, OR CONTRIBUTION BY ISSUERS AGAINST TREATING HEALTH CARE PROFESSIONALS AND TREATING HOSPITALS.—In the case of any care provided, or any treatment decision made, by the treating health care professional or the treating hospital of a participant or beneficiary under a group health plan which consists of medical care provided under such plan, any cause of action under State law against the treating health care professional or the treating hospital by the plan or a health insurance issuer providing health insurance coverage in connection with the plan for recovery, indemnity, or contribution in connection with such care (or any medically reviewable decision made in connection with such care) or such treatment decision is superseded.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after the applicable effective under section 601.

SEC. 403. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 402, is further amended by adding at the end the following:

''(p) LIMITATION ON CLASS ACTION LITIGATION.—

''(1) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

''(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.''.

SEC. 404. LIMITATIONS ON ACTIONS.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) (as amended by section 402(a)) is amended further by adding at the end the following new subsection:

''(q) LIMITATIONS ON ACTIONS RELATING TO GROUP HEALTH PLANS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of any provision in section 101, subtitle B, or subtitle D of title I of the Bipartisan Patient Protection Act (as incorporated under section 714).

''(2) CERTAIN ACTIONS ALLOWABLE.—An action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) by a participant or beneficiary seeking relief based on the application of section 101, 113, 114, 115, 116, 117, 118(a)(3), 119, or 120 of the Bipartisan Patient Protection Act (as incorporated under section 714) to the individual circumstances of that participant or beneficiary, except that—

''(A) such an action may not be brought or maintained as a class action; and

''(B) in such an action, relief may only provide for the provision of (or payment of) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney's fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person.

''(3) OTHER PROVISIONS UNAFFECTED.—Nothing in this subsection shall be construed as affecting subsections (a)(1)(C) and (n) or section 514(d).

''(4) ENFORCEMENT BY SECRETARY UNAFFECTED.—Nothing in this subsection shall be construed as affecting any action brought by the Secretary.''.

SEC. 405. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191 et seq.) is amended by adding at the end the following new section:

''SEC. 735. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

''(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

''(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.''.

SEC. 406. SENSE OF THE SENATE CONCERNING THE IMPORTANCE OF CERTAIN UNPAID SERVICES.

It is the sense of the Senate that the court should consider the loss of a nonwage earning spouse or parent as an economic loss for the purposes of this section. Furthermore, the court should define the compensation for the loss not as minimum services, but, rather, in terms that fully compensate for the true and whole replacement cost to the family.

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Application of Patient Protection Provisions

SEC. 501. APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

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

''Sec. 9813. Standard relating to patients' bill of rights.'';

and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

''A group health plan shall comply with the requirements of title I of the Bipartisan Patient Protection Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.''.

SEC. 502. CONFORMING ENFORCEMENT FOR WOMEN'S HEALTH AND CANCER RIGHTS.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 501, is further amended—

(1) in the table of sections, by inserting after the item relating to section 9813 the following new item:

''Sec. 9814. Standard relating to women's health and cancer rights.'';

and

(2) by inserting after section 9813 the following:

"SEC. 9814. STANDARD RELATING TO WOMEN'S HEALTH AND CANCER RIGHTS.

''The provisions of section 713 of the Employee Retirement Income Security Act of 1974 (as in effect as of the date of the enactment of this section) shall apply to group health plans as if included in this subchapter.''.

Subtitle B—Health Care Coverage Access Tax Incentives

SEC. 511. EXPANDED AVAILABILITY OF ARCHER MSAS.

(a) EXTENSION OF PROGRAM.—Paragraphs (2) and (3)(B) of section 220(i) of the Internal Revenue Code of 1986 (defining cut-off year) are each amended by striking ''2002'' each place it appears and inserting ''2004''.

(b) INCREASE IN NUMBER OF PERMITTED ACCOUNT PARTICIPANTS.—

(1) IN GENERAL.—Subsection (j) of section 220 of such Code is amended by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6) and by inserting after paragraph (2) the following new paragraph:

''(3) DETERMINATION OF WHETHER LIMIT EXCEEDED FOR YEARS AFTER 2001.—

''(A) IN GENERAL.—The numerical limitation for any year after 2001 is exceeded if the sum of—

''(i) the number of Archer MSA returns filed on or before April 15 of such calendar year for taxable years ending with or within the preceding calendar year, plus

''(ii) the Secretary's estimate (determined on the basis of the returns described in clause (i)) of the number of Archer MSA returns for such taxable years which will be filed after such date, exceeds 1,000,000. For purposes of the preceding sentence, the term 'Archer MSA return' means any return on which any exclusion is claimed under section 106(b) or any deduction is claimed under this section.

''(B) ALTERNATIVE COMPUTATION OF LIMITATION.—The numerical limitation for any year after 2001 is also exceeded if the sum of—

''(i) 90 percent of the sum determined under subparagraph (A) for such calendar year, plus

''(ii) the product of 2.5 and the number of medical savings accounts established during the portion of such year preceding July 1 (based on the reports required under paragraph (5)) for taxable years beginning in such year,

exceeds 1,000,000''.

(2) CONFORMING AMENDMENTS.—

(A) Clause (ii) of section 220(j)(2)(B) of such Code is amended by striking ''paragraph (4)'' and inserting ''paragraph (5)''.

(B) Subparagraph (A) of section 220(j)(4) of such Code is amended by striking ''and 2001'' and inserting ''2001, 2002, and 2003''.

(c) INCREASE IN SIZE OF ELIGIBLE EMPLOYERS.—Subparagraph (A) of section 220(c)(4) of such Code is amended by striking ''50 or fewer employees'' and inserting ''100 or fewer employees''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(e) GAO STUDY.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the impact of Archer MSAs on the cost of conventional insurance (especially in those areas where there are higher numbers of such accounts) and on adverse selection and health care costs.

SEC. 512. DEDUCTION FOR 100 PERCENT OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 513. CREDIT FOR HEALTH INSURANCE EXPENSES OF SMALL BUSINESSES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

"SEC. 45G. SMALL BUSINESS HEALTH INSURANCE EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a small employer, the health insurance credit determined under this section for the taxable year is an amount equal to the applicable percentage of the expenses paid by the taxpayer during the taxable year for health insurance coverage for such year provided under a new health plan for employees of such employer.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(1) in the case of insurance purchased as a member of a qualified health benefit purchasing coalition (as defined in section 9841), 30 percent, and

''(2) in the case of insurance not described in paragraph (1), 20 percent.

''(c) LIMITATIONS.—

''(1) PER EMPLOYEE DOLLAR LIMITATION.—The amount of expenses taken into account under subsection (a) with respect to any employee for any taxable year shall not exceed—

''(A) $2,000 in the case of self-only coverage, and

''(B) $5,000 in the case of family coverage.

In the case of an employee who is covered by a new health plan of the employer for only a portion of such taxable year, the limitation under the preceding sentence shall be an amount which bears the same ratio to such limitation (determined without regard to this sentence) as such portion bears to the entire taxable year.

''(2) PERIOD OF COVERAGE.—Expenses may be taken into account under subsection (a) only with respect to coverage for the 4-year period beginning on the date the employer establishes a new health plan.

''(d) DEFINITIONS.—For purposes of this section—

''(1) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by section 9832(b)(1).

''(2) NEW HEALTH PLAN.—

''(A) IN GENERAL.—The term 'new health plan' means any arrangement of the employer which provides health insurance coverage to employees if—

''(i) such employer (and any predecessor employer) did not establish or maintain such arrangement (or any similar arrangement) at any time during the 2 taxable years ending prior to the taxable year in which the credit under this section is first allowed, and

''(ii) such arrangement provides health insurance coverage to at least 70 percent of the qualified employees of such employer.

''(B) QUALIFIED EMPLOYEE.—

''(i) IN GENERAL.—The term 'qualified employee' means any employee of an employer if the annual rate of such employee's compensation (as defined in section 414(s)) exceeds $10,000.

''(ii) TREATMENT OF CERTAIN EMPLOYEES.—The term 'employee' shall include a leased employee within the meaning of section 414(n).

''(3) SMALL EMPLOYER.—The term 'small employer' has the meaning given to such term by section 4980D(d)(2); except that only qualified employees shall be taken into account.

''(e) SPECIAL RULES.—

''(1) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(2) AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred pursuant to a salary reduction arrangement shall be taken into account under subsection (a).

''(f) TERMINATION.—This section shall not apply to expenses paid or incurred by an employer with respect to any arrangement established on or after January 1, 2010.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) in the case of a small employer (as defined in section 45G(d)(3)), the health insurance credit determined under section 45G(a).''.

(c) NO CARRYBACKS.—Subsection (d) of section 39 of such Code (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

''(11) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the employee health insurance expenses credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G.''.

(d) DENIAL OF DOUBLE BENEFIT.—Section 280C of such Code is amended by adding at the end the following new subsection:

''(d) CREDIT FOR SMALL BUSINESS HEALTH INSURANCE EXPENSES.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the expenses (otherwise allowable as a deduction) taken into account in determining the credit under section 45G for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45G(a).

''(2) CONTROLLED GROUPS.—Persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 person for purposes of this section.''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

''Sec. 45G. Small business health insurance expenses.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2001, for arrangements established after the date of the enactment of this Act.

SEC. 514. CERTAIN GRANTS BY PRIVATE FOUNDATIONS TO QUALIFIED HEALTH BENEFIT PURCHASING COALITIONS.

(a) IN GENERAL.—Section 4942 of the Internal Revenue Code of 1986 (relating to taxes on failure to distribute income) is amended by adding at the end the following:

''(k) CERTAIN QUALIFIED HEALTH BENEFIT PURCHASING COALITION DISTRIBUTIONS.—

''(1) IN GENERAL.—For purposes of subsection (g), sections 170, 501, 507, 509, and 2522, and this chapter, a qualified health benefit purchasing coalition distribution by a private foundation shall be considered to be a distribution for a charitable purpose.

''(2) QUALIFIED HEALTH BENEFIT PURCHASING COALITION DISTRIBUTION.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'qualified health benefit purchasing coalition distribution' means any amount paid or incurred by a private foundation to or on behalf of a qualified health benefit purchasing coalition (as defined in section 9841) for purposes of payment or reimbursement of amounts paid or incurred in connection with the establishment and maintenance of such coalition.

''(B) EXCLUSIONS.—Such term shall not include any amount used by a qualified health benefit purchasing coalition (as so defined)—

''(i) for the purchase of real property,

''(ii) as payment to, or for the benefit of, members (or employees or affiliates of such members) of such coalition, or

''(iii) for any expense paid or incurred more than 48 months after the date of establishment of such coalition.

''(3) TERMINATION.—This subsection shall not apply—

''(A) to qualified health benefit purchasing coalition distributions paid or incurred after December 31, 2009, and

''(B) with respect to start-up costs of a coalition which are paid or incurred after December 31, 2010.''.

(b) QUALIFIED HEALTH BENEFIT PURCHASING COALITION.—

(1) IN GENERAL.—Chapter 100 of such Code (relating to group health plan requirements) is amended by adding at the end the following new subchapter:

''Subchapter D—Qualified Health Benefit Purchasing Coalition

''Sec. 9841. Qualified health benefit purchasing coalition.

''SEC. 9841. QUALIFIED HEALTH BENEFIT PURCHASING COALITION.

''(a) IN GENERAL.—A qualified health benefit purchasing coalition is a private not-for-profit corporation which—

''(1) sells health insurance through State licensed health insurance issuers in the State in which the employers to which such coalition is providing insurance are located, and

''(2) establishes to the Secretary, under State certification procedures or other procedures as the Secretary may provide by regulation, that such coalition meets the requirements of this section.

''(b) BOARD OF DIRECTORS.—

''(1) IN GENERAL.—Each purchasing coalition under this section shall be governed by a Board of Directors.

''(2) ELECTION.—The Secretary shall establish procedures governing election of such Board.

''(3) MEMBERSHIP.—The Board of Directors shall—

''(A) be composed of representatives of the members of the coalition, in equal number, including small employers and employee representatives of such employers, but

''(B) not include other interested parties, such as service providers, health insurers, or insurance agents or brokers which may have a conflict of interest with the purposes of the coalition.

''(c) MEMBERSHIP OF COALITION.—

''(1) IN GENERAL.—A purchasing coalition shall accept all small employers residing within the area served by the coalition as members if such employers request such membership.

''(2) OTHER MEMBERS.—The coalition, at the discretion of its Board of Directors, may be open to individuals and large employers.

''(3) VOTING.—Members of a purchasing coalition shall have voting rights consistent with the rules established by the State.

''(d) DUTIES OF PURCHASING COALITIONS.—Each purchasing coalition shall—

''(1) enter into agreements with small employers (and, at the discretion of its Board, with individuals and other employers) to provide health insurance benefits to employees and retirees of such employers,

''(2) where feasible, enter into agreements with 3 or more unaffiliated, qualified licensed health plans, to offer benefits to members,

''(3) offer to members at least 1 open enrollment period of at least 30 days per calendar year,

''(4) serve a significant geographical area and market to all eligible members in that area, and

''(5) carry out other functions provided for under this section.

''(e) LIMITATION ON ACTIVITIES.—A purchasing coalition shall not—

''(1) perform any activity (including certification or enforcement) relating to compliance or licensing of health plans,

''(2) assume insurance or financial risk in relation to any health plan, or

''(3) perform other activities identified by the State as being inconsistent with the performance of its duties under this section.

''(f) ADDITIONAL REQUIREMENTS FOR PURCHASING COALITIONS.—As provided by the Secretary in regulations, a purchasing coalition shall be subject to requirements similar to the requirements of a group health plan under this chapter.

''(g) RELATION TO OTHER LAWS.—

''(1) PREEMPTION OF STATE FICTITIOUS GROUP LAWS.—Requirements (commonly referred to as fictitious group laws) relating to grouping and similar requirements for health insurance coverage are preempted to the extent such requirements impede the establishment and operation of qualified health benefit purchasing coalitions.

''(2) ALLOWING SAVINGS TO BE PASSED THROUGH.—Any State law that prohibits health insurance issuers from reducing premiums on health insurance coverage sold through a qualified health benefit purchasing coalition to reflect administrative savings is preempted. This paragraph shall not be construed to preempt State laws that impose restrictions on premiums based on health status, claims history, industry, age, gender, or other underwriting factors.

''(3) NO WAIVER OF HIPAA REQUIREMENTS.—Nothing in this section shall be construed to change the obligation of health insurance issuers to comply with the requirements of title XXVII of the Public Health Service Act with respect to health insurance coverage offered to small employers in the small group market through a qualified health benefit purchasing coalition.

''(h) DEFINITION OF SMALL EMPLOYER.—For purposes of this section—

''(1) IN GENERAL.—The term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of at least 2 and not more than 50 qualified employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

''(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under paragraph (1) shall be based on the average number of qualified employees that it is reasonably expected such employer will employ on business days in the current calendar year.''.

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 100 of such Code is amended by adding at the end the following item:

''Subchapter D. Qualified health benefit purchasing coalition.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 515. STATE GRANT PROGRAM FOR MARKET INNOVATION.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish a program (in this section referred to as the ''program'') to award demonstration grants under this section to States to allow States to demonstrate the effectiveness of innovative ways to increase access to health insurance through market reforms and other innovative means. Such innovative means may include (and are not limited to) any of the following:

(1) Alternative group purchasing or pooling arrangements, such as purchasing cooperatives for small businesses, reinsurance pools, or high risk pools.

(2) Individual or small group market reforms.

(3) Consumer education and outreach.

(4) Subsidies to individuals, employers, or both, in obtaining health insurance.

(b) SCOPE; DURATION.—The program shall be limited to not more than 10 States and to a total period of 5 years, beginning on the date the first demonstration grant is made.

(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary may not provide for a demonstration grant to a State under the program unless the Secretary finds that under the proposed demonstration grant—

(A) the State will provide for demonstrated increase of access for some portion of the existing uninsured population through a market innovation (other than merely through a financial expansion of a program initiated before the date of the enactment of this Act);

(B) the State will comply with applicable Federal laws;

(C) the State will not discriminate among participants on the basis of any health status-related factor (as defined in section 2791(d)(9) of the Public Health Service Act), except to the extent a State wishes to focus on populations that otherwise would not obtain health insurance because of such factors; and

(D) the State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may specify.

(2) APPLICATION.—The Secretary shall not provide a demonstration grant under the program to a State unless—

(A) the State submits to the Secretary such an application, in such a form and manner, as the Secretary specifies;

(B) the application includes information regarding how the demonstration grant will address issues such as governance, targeted population, expected cost, and the continuation after the completion of the demonstration grant period; and

(C) the Secretary determines that the demonstration grant will be used consistent with this section.

(3) FOCUS.—A demonstration grant proposal under section need not cover all uninsured individuals in a State or all health care benefits with respect to such individuals.

(d) EVALUATION.—The Secretary shall enter into a contract with an appropriate entity outside the Department of Health and Human Services to conduct an overall evaluation of the program at the end of the program period. Such evaluation shall include an analysis of improvements in access, costs, quality of care, or choice of coverage, under different demonstration grants.

(e) OPTION TO PROVIDE FOR INITIAL PLANNING GRANTS.—Notwithstanding the previous provisions of this section, under the program the Secretary may provide for a portion of the amounts appropriated under subsection (f) (not to exceed $5,000,000) to be made available to any State for initial planning grants to permit States to develop demonstration grant proposals under the previous provisions of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for each fiscal year to carry out this section. Amounts appropriated under this subsection shall remain available until expended.

(g) STATE DEFINED.—For purposes of this section, the term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act.

TITLE VI—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 601. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (d), the amendments made by sections 201(a), 401, 403, 501, and 502 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2002 (in this section referred to as the ''general effective date'').

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by sections 201(a), 401, 403, 501, and 502 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (excluding any extension thereof agreed to after the date of the enactment of this Act); or

(B) the general effective date;

but shall apply not later than 1 year after the general effective date. For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—Subject to subsection (d), the amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

(c) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—

(1) IN GENERAL.—Nothing in this Act (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) RELIGIOUS NONMEDICAL PROVIDER.—For purposes of this subsection, the term ''religious nonmedical provider'' means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

(d) TRANSITION FOR NOTICE REQUIREMENT.—The disclosure of information required under section 121 of this Act shall first be provided pursuant to—

(1) subsection (a) with respect to a group health plan that is maintained as of the general effective date, not later than 30 days before the beginning of the first plan year to which title I applies in connection with the plan under such subsection; or

(2) subsection (b) with respect to a individual health insurance coverage that is in effect as of the general effective date, not later than 30 days before the first date as of which title I applies to the coverage under such subsection.

SEC. 602. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor and the Secretary of Health and Human Services shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

SEC. 603. SEVERABILITY.

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

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such Act.

SEC. 702. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''2003'' and inserting ''2011, except that fees may not be charged under paragraphs (9) and (10) of such subsection after March 31, 2006''.

SEC. 703. FISCAL YEAR 2002 MEDICARE PAYMENTS.

Notwithstanding any other provision of law, any letter of credit under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) that would otherwise be sent to the Treasury or the Federal Reserve Board on September 30, 2002, by a carrier with a contract under section 1842 of that Act (42 U.S.C. 1395u) shall be sent on October 1, 2002.

SEC. 704. SENSE OF SENATE WITH RESPECT TO PARTICIPATION IN CLINICAL TRIALS AND ACCESS TO SPECIALTY CARE.

(a) FINDINGS.—The Senate finds the following:

(1) Breast cancer is the most common form of cancer among women, excluding skin cancers.

(2) During 2001, 182,800 new cases of female invasive breast cancer will be diagnosed, and 40,800 women will die from the disease.

(3) In addition, 1,400 male breast cancer cases are projected to be diagnosed, and 400 men will die from the disease.

(4) Breast cancer is the second leading cause of cancer death among all women and the leading cause of cancer death among women between ages 40 and 55.

(5) This year 8,600 children are expected to be diagnosed with cancer.

(6) 1,500 children are expected to die from cancer this year.

(7) There are approximately 333,000 people diagnosed with multiple sclerosis in the United States and 200 more cases are diagnosed each week.

(8) Parkinson's disease is a progressive disorder of the central nervous system affecting 1,000,000 in the United States.

(9) An estimated 198,100 men will be diagnosed with prostate cancer this year.

(10) 31,500 men will die from prostate cancer this year. It is the second leading cause of cancer in men.

(11) While information obtained from clinical trials is essential to finding cures for diseases, it is still research which carries the risk of fatal results. Future efforts should be taken to protect the health and safety of adults and children who enroll in clinical trials.

(12) While employers and health plans should be responsible for covering the routine costs associated with federally approved or funded clinical trials, such employers and health plans should not be held legally responsible for the design, implementation, or outcome of such clinical trials, consistent with any applicable State or Federal liability statutes.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) men and women battling life-threatening, deadly diseases, including advanced breast or ovarian cancer, should have the opportunity to participate in a federally approved or funded clinical trial recommended by their physician;

(2) an individual should have the opportunity to participate in a federally approved or funded clinical trial recommended by their physician if—

(A) that individual—

(i) has a life-threatening or serious illness for which no standard treatment is effective;

(ii) is eligible to participate in a federally approved or funded clinical trial according to the trial protocol with respect to treatment of the illness;

(B) that individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual; and

(C) either—

(i) the referring physician is a participating health care professional and has concluded that the individual's participation in the trial would be appropriate, based upon the individual meeting the conditions described in subparagraph (A); or

(ii) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in the trial would be appropriate, based upon the individual meeting the conditions described in subparagraph (A);

(3) a child with a life-threatening illness, including cancer, should be allowed to participate in a federally approved or funded clinical trial if that participation meets the requirements of paragraph (2);

(4) a child with a rare cancer should be allowed to go to a cancer center capable of providing high quality care for that disease; and

(5) a health maintenance organization's decision that an in-network physician without the necessary expertise can provide care for a seriously ill patient, including a woman battling cancer, should be appealable to an independent, impartial body, and that this same right should be available to all Americans in need of access to high quality specialty care.

SEC. 705. SENSE OF THE SENATE REGARDING FAIR REVIEW PROCESS.

(a) FINDINGS.—The Senate finds the following:

(1) A fair, timely, impartial independent external appeals process is essential to any meaningful program of patient protection.

(2) The independence and objectivity of the review organization and review process must be ensured.

(3) It is incompatible with a fair and independent appeals process to allow a health maintenance organization to select the review organization that is entrusted with providing a neutral and unbiased medical review.

(4) The American Arbitration Association and arbitration standards adopted under chapter 44 of title 28, United States Code (28 U.S.C. 651 et seq.) both prohibit, as inherently unfair, the right of one party to a dispute to choose the judge in that dispute.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) every patient who is denied care by a health maintenance organization or other health insurance company should be entitled to a fair, speedy, impartial appeal to a review organization that has not been selected by the health plan;

(2) the States should be empowered to maintain and develop the appropriate process for selection of the independent external review entity;

(3) a child battling a rare cancer whose health maintenance organization has denied a covered treatment recommended by its physician should be entitled to a fair and impartial external appeal to a review organization that has not been chosen by the organization or plan that has denied the care; and

(4) patient protection legislation should not pre-empt existing State laws in States where there already are strong laws in place regarding the selection of independent review organizations.

SEC. 706. ANNUAL REVIEW.

(a) IN GENERAL.—Not later than 24 months after the general effective date referred to in section 601(a)(1), and annually thereafter for each of the succeeding 4 calendar years (or until a repeal is effective under subsection (b)), the Secretary of Health and Human Services shall request that the Institute of Medicine of the National Academy of Sciences prepare and submit to the appropriate committees of Congress a report concerning the impact of this Act, and the amendments made by this Act, on the number of individuals in the United States with health insurance coverage.

(b) LIMITATION WITH RESPECT TO CERTAIN PLANS.—If the Secretary, in any report submitted under subsection (a), determines that more than 1,000,000 individuals in the United States have lost their health insurance coverage as a result of the enactment of this Act, as compared to the number of individuals with health insurance coverage in the 12-month period preceding the date of enactment of this Act, section 402 of this Act shall be repealed effective on the date that is 12 month after the date on which the report is submitted, and the submission of any further reports under subsection (a) shall not be required.

(c) FUNDING.—From funds appropriated to the Department of Health and Human Services for fiscal years 2003 and 2004, the Secretary of Health and Human Services shall provide for such funding as the Secretary determines necessary for the conduct of the study of the National Academy of Sciences under this section.

SEC. 707. DEFINITION OF BORN-ALIVE INFANT.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

"§ 8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant

"(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words 'person', 'human being', 'child', and 'individual', shall include every infant member of the species homo sapiens who is born alive at any stage of development.

"(b) As used in this section, the term 'born alive', with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, caesarean section, or induced abortion.

"(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive as defined in this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

"8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant.".

TITLE VIII—REVENUE OFFSETS

Subtitle A—Extension of Custom User Fees

SEC. 801. FURTHER EXTENSION OF AUTHORITY TO LEVY CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)), as amended by section 702, is amended by striking ", except that fees may not be charged under paragraphs (9) and (10) of such subsection after March 31, 2006".

Subtitle B—Tax Shelter Provisions

PART I—CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE

SEC. 811. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 of the Internal Revenue Code of 1986 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction are substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law referred to in section 6662(i)(2), and the requirements of this subsection shall be construed as being in addition to any such other rule of law.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act.

PART II—PENALTIES

SEC. 821. INCREASE IN PENALTY ON UNDERPAYMENTS RESULTING FROM FAILURE TO SATISFY CERTAIN COMMON LAW RULES.

(a) IN GENERAL.—Section 6662 of the Internal Revenue Code of 1986 (relating to imposition of accuracy-related penalty) is amended by adding at the end the following new subsection:

''(i) INCREASE IN PENALTY IN CASE OF FAILURE TO SATISFY CERTAIN COMMON LAW RULES.—

''(1) IN GENERAL.—To the extent that an underpayment is attributable to a disallowance described in paragraph (2)—

''(A) subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent', and

''(B) subsection (d)(2)(B) and section 6664(c) shall not apply.

''(2) DISALLOWANCES DESCRIBED.—A disallowance is described in this subsection if such disallowance is on account of—

''(A) a lack of economic substance (within the meaning of section 7701(m)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(m)(2),

''(B) a lack of business purpose for such transaction or because the form of the transaction does not reflect its substance, or

''(C) a failure to meet the requirements of any other similar rule of law.

''(3) INCREASE IN PENALTY NOT TO APPLY IF COMPLIANCE WITH DISCLOSURE REQUIREMENTS.—Paragraph (1)(A) shall not apply if the taxpayer discloses to the Secretary (as such time and in such manner as the Secretary shall prescribe) such information as the Secretary shall prescribe with respect to such transaction.''.

(b) MODIFICATIONS TO PENALTY ON SUBSTANTIAL UNDERSTATEMENT OF INCOME TAX.—

(1) MODIFICATION OF THRESHOLD.—Subparagraph (A) of section 6662(d)(1) of such Code is amended to read as follows:

''(A) IN GENERAL.—For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) $500,000, or

''(ii) the greater of 10 percent of the tax required to be shown on the return for the taxable year or $5,000.''

(2) MODIFICATION OF PENALTY ON TAX SHELTERS, ETC.—Clauses (i) and (ii) of section 6662(d)(2)(C) of such Code are amended to read as follows:

''(i) IN GENERAL.—Subparagraph (B) shall not apply to any item attributable to a tax shelter.''

''(ii) DETERMINATION OF UNDERSTATEMENTS WITH RESPECT TO TAX SHELTERS, ETC.—In any case in which there are one or more items attributable to a tax shelter, the amount of the understatement under subparagraph (A) shall in no event be less than the amount of understatement which would be determined for the taxable year if all items shown on the return which are not attributable to any tax shelter were treated as being correct. A similar rule shall apply in cases to which subsection (i) applies, whether or not the items are attributable to a tax shelter.''

(c) TREATMENT OF AMENDED RETURNS.—Subsection (a) of section 6664 of such Code is amended by adding at the end the following new sentence: ''For purposes of this subsection, an amended return shall be disregarded if such return is filed on or after the date the taxpayer is first contacted by the Secretary regarding the examination of the return.''

SEC. 822. PENALTY ON PROMOTERS OF TAX AVOIDANCE STRATEGIES WHICH HAVE NO ECONOMIC SUBSTANCE, ETC.

(a) PENALTY.—

(1) IN GENERAL.—Section 6700 of the Internal Revenue Code of 1986 (relating to promoting abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) PENALTY ON SUBSTANTIAL PROMOTERS FOR PROMOTING TAX AVOIDANCE STRATEGIES WHICH HAVE NO ECONOMIC SUBSTANCE, ETC.—

''(1) IMPOSITION OF PENALTY.—Any substantial promoter of a tax avoidance strategy shall pay a penalty in the amount determined under paragraph (2) with respect to such strategy if such strategy (or any similar strategy promoted by such promoter) fails to meet the requirements of any rule of law referred to in section 6662(i)(2).

''(2) AMOUNT OF PENALTY.—The penalty under paragraph (1) with respect to a promoter of a tax avoidance strategy is an amount equal to 100 percent of the gross income derived (or to be derived) by such promoter from such strategy.

''(3) TAX AVOIDANCE STRATEGY.—For purposes of this subsection, the term 'tax avoidance strategy' means any entity, plan, arrangement, or transaction a significant purpose of the structure of which is the avoidance or evasion of Federal income tax.

''(4) SUBSTANTIAL PROMOTER.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'substantial promoter' means, with respect to any tax avoidance strategy, any promoter if—

''(i) such promoter offers such strategy to more than 1 potential participant, and

''(ii) such promoter may receive fees in excess of $500,000 in the aggregate with respect to such strategy.

''(B) AGGREGATION RULES.—For purposes of this paragraph—

''(i) RELATED PERSONS.—A promoter and all persons related to such promoter shall be treated as 1 person who is a promoter.

''(ii) SIMILAR STRATEGIES.—All similar tax avoidance strategies of a promoter shall be treated as 1 tax avoidance strategy.

''(C) PROMOTER.—The term 'promoter' means any person who participates in the promotion, offering, or sale of the tax avoidance strategy.

''(D) RELATED PERSON.—Persons are related if they bear a relationship to each other which is described in section 267(b) or 707(b).

''(4) COORDINATION WITH SUBSECTION (a).—No penalty shall be imposed by this subsection on any promoter with respect to a tax avoidance strategy if a penalty is imposed under subsection (a) on such promoter with respect to such strategy.''

(2) CONFORMING AMENDMENT.—Subsection (d) of section 6700 of such Code is amended—

(A) by striking ''PENALTY'' and inserting ''PENALTIES'', and

(B) by striking ''penalty'' the first place it appears in the text and inserting ''penalties''.

(b) INCREASE IN PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—The first sentence of section 6700(a) of such Code is amended by striking ''a penalty equal to'' and all that follows and inserting ''a penalty equal to the greater of $1,000 or 100 percent of the gross income derived (or to be derived) by such person from such activity.''

SEC. 823. MODIFICATIONS OF PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENT OF TAX LIABILITY INVOLVING TAX SHELTERS.

(a) IMPOSITION OF PENALTY.—Section 6701(a) of the Internal Revenue Code of 1986 (relating to imposition of penalty) is amended to read as follows:

''(a) IMPOSITION OF PENALTIES.—

''(1) IN GENERAL.—Any person—

''(A) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document,

''(B) who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws, and

''(C) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person,

shall pay a penalty with respect to each such document in the amount determined under subsection (b).

''(2) CERTAIN TAX SHELTERS.—If—

''(A) any person—

''(i) aids or assists in, procures, or advises with respect to the creation, organization, sale, implementation, management, or reporting of a tax shelter (as defined in section 6662(d)(2)(C)(iii)) or of any entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(i)(2), and

''(ii) opines, advises, represents, or otherwise indicates (directly or indirectly) that the taxpayer's tax treatment of items attributable to such tax shelter or such entity, plan, arrangement, or transaction and giving rise to an understatement of tax liability would more likely than not prevail or not give rise to a penalty, and

''(B) such opinion, advice, representation, or indication is unreasonable,

then such person shall pay a penalty in the amount determined under subsection (b). If a standard higher than the more likely than not standard was used in any such opinion, advice, representation, or indication, then subparagraph (A)(ii) shall be applied as if such standard were substituted for the more likely than not standard.''

(b) AMOUNT OF PENALTY.—Section 6701(b) of such Code (relating to amount of penalty) is amended—

(1) by inserting ''or (3)'' after ''paragraph (2)'' in paragraph (1),

(2) by striking ''subsection (a)'' each place it appears and inserting ''subsection (a)(1)'', and

(3) by redesignating paragraph (3) as paragraph (4) and by adding after paragraph (2) the following:

''(3) TAX SHELTERS.—In the case of—

''(A) a penalty imposed by subsection (a)(1) which involves a return, affidavit, claim, or other document relating to a tax shelter or an entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(i)(2), and

''(B) any penalty imposed by subsection (a)(2),

the amount of the penalty shall be equal to 100 percent of the gross proceeds derived (or to be derived) by the person in connection with the tax shelter or entity, plan, arrangement, or transaction.''

(c) REFERRAL AND PUBLICATION.—If a penalty is imposed under section 6701(a)(2) of such Code (as added by subsection (a)) on any person, the Secretary of the Treasury shall—

(1) notify the Director of Practice of the Internal Revenue Service and any appropriate State licensing authority of the penalty and the circumstances under which it was imposed, and

(2) publish the identity of the person and the fact the penalty was imposed on the person.

(d) CONFORMING AMENDMENTS.—

(1) Section 6701(d) of such Code is amended by striking ''Subsection (a)'' and inserting ''Subsection (a)(1)''.

(2) Section 6701(e) of such Code is amended by striking ''subsection (a)(1)'' and inserting ''subsection (a)(1)(A)''.

(3) Section 6701(f) of such Code is amended by inserting '', tax shelter, or entity, plan, arrangement, or transaction'' after ''document'' each place it appears.

SEC. 824. FAILURE TO MAINTAIN LISTS.

Section 6708(a) of the Internal Revenue Code of 1986 (relating to failure to maintain lists of investors in potentially abusive tax shelters) is amended by adding at the end the following: ''In the case of a tax shelter (as defined in section 6662(d)(2)(C)(iii)) or entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(i)(2), the penalty shall be equal to 50 percent of the gross proceeds derived (or to be derived) from each person with respect to which there was a failure and the limitation of the preceding sentence shall not apply.''

SEC. 825. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 of the Internal Revenue Code of 1986 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE TAX SHELTER INFORMATION WITH RETURN.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include with its return of Federal income tax any information required to be included under section 6011 with respect to a reportable transaction shall pay a penalty in the amount determined under subsection (b). No penalty shall be imposed on any such failure if it is shown that such failure is due to reasonable cause.

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—The amount of the penalty under subsection (a) shall be equal to the greater of—

''(A) 5 percent of any increase in Federal tax which results from a difference between the taxpayer's treatment (as shown on its return) of items attributable to the reportable transaction to which the failure relates and the proper tax treatment of such items, or

''(B) $100,000.

For purposes of subparagraph (A), the last sentence of section 6664(a) shall apply.

''(2) LISTED TRANSACTION.—If the failure under subsection (a) relates to a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011, paragraph (1)(A) shall be applied by substituting '10 percent' for '5 percent'.

''(c) REPORTABLE TRANSACTION.—For purposes of this section, the term 'reportable transaction' means any transaction with respect to which information is required under section 6011 to be included with a taxpayer's return of tax because, as determined under regulations prescribed under section 6011, such transaction has characteristics which may be indicative of a tax avoidance transaction.

''(d) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under section 6662.''

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 of such Code is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include tax shelter information on return.''

SEC. 826. REGISTRATION OF CERTAIN TAX SHELTERS WITHOUT CORPORATE PARTICIPANTS.

Section 6111(d)(1)(A) of the Internal Revenue Code of 1986 (relating to certain confidential arrangements treated as tax shelters) is amended by striking ''for a direct or indirect participant which is a corporation''.

SEC. 827. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), the amendments made by this subtitle shall apply to transactions after the date of the enactment of this Act.

(b) SECTION 821.—The amendments made by subsections (b) and (c) of section 821 shall apply to taxable years ending after the date of the enactment of this Act.

(c) SECTION 822.—The amendments made by subsection (a) of section 822 shall apply to any tax avoidance strategy (as defined in section 6700(c) of the Internal Revenue Code of 1986, as amended by this title) interests in which are offered to potential participants after the date of the enactment of this Act.

(d) SECTION 826.—The amendment made by section 826 shall apply to any tax shelter interest which is offered to potential participants after the date of the enactment of this Act.

PART III—LIMITATIONS ON IMPORTATION OR TRANSFER OF BUILT-IN LOSSES

SEC. 831. LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 of the Internal Revenue Code of 1986 (relating to basis to corporations) is amended by adding at the end the following new subsection:

''(e) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

''(1) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in paragraph (2) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

''(2) PROPERTY DESCRIBED.—For purposes of paragraph (1), property is described in this paragraph if—

''(A) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

''(B) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

''(3) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of paragraph (1), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in paragraph (2) which is transferred in such transaction would (but for this subsection) exceed the fair market value of such property immediately after such transaction.''

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) of such Code (relating to liquidation of subsidiary) is amended to read as follows:

''(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

''(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

''(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(2) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act.

SEC. 832. DISALLOWANCE OF PARTNERSHIP LOSS TRANSFERS.

(a) TREATMENT OF CONTRIBUTED PROPERTY WITH BUILT-IN LOSS.—Paragraph (1) of section 704(c) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) if any property so contributed has a built-in loss—

''(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

''(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value immediately after the contribution.

For purposes of subparagraph (C), the term 'built-in loss' means the excess of the adjusted basis of the property over its fair market value immediately after the contribution.''

(b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY ON TRANSFER OF PARTNERSHIP INTEREST IF THERE IS SUBSTANTIAL BUILT-IN LOSS.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 743 of such Code (relating to optional adjustment to basis of partnership property) is amended by inserting before the period ''or unless the partnership has a substantial built-in loss immediately after such transfer''.

(2) ADJUSTMENT.—Subsection (b) of section 743 of such Code is amended by inserting ''or with respect to which there is a substantial built-in loss immediately after such transfer'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BUILT-IN LOSS.—Section 743 of such Code is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BUILT-IN LOSS.—For purposes of this section, a partnership has a substantial built-in loss with respect to a transfer of an interest in a partnership if the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds 110 percent of the basis of such partner's interest in the partnership.''

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 743 of such Code is amended to read as follows:

''SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS.''

(B) The table of sections for subpart C of part II of subchapter K of chapter 1 of such Code is amended by striking the item relating to section 743 and inserting the following new item:

''Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss.''

(c) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY IF THERE IS SUBSTANTIAL BASIS REDUCTION.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 734 of such Code (relating to optional adjustment to basis of undistributed partnership property) is amended by inserting before the period ''or unless there is a substantial basis reduction''.

(2) ADJUSTMENT.—Subsection (b) of section 734 of such Code is amended by inserting ''or unless there is a substantial basis reduction'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BASIS REDUCTION.—Section 734 of such Code is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BASIS REDUCTION.—For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds 10 percent of the aggregate adjusted basis of partnership property immediately after the distribution.''

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 734 of such Code is amended to read as follows:

''SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BASIS REDUCTION.''

(B) The table of sections for subpart B of part II of subchapter K of chapter 1 of such Code is amended by striking the item relating to section 734 and inserting the following new item:

''Sec. 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction.''

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

(3) SUBSECTION (c).—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

Mr. BERRY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arkansas (Mr. BERRY) is recognized for 5 minutes in support of his motion to recommit.

Mr. BERRY. Mr. Speaker, this motion to recommit is very simple. It is the underlying bill that we are considering today, H.R. 2563, the true Bipartisan Patient Protection Act, but with one important difference: The costs of the bill are entirely paid for in the motion to recommit.

The sponsors of the Bipartisan Patient Protection Act had committed ourselves to paying for the cost of the bill, and we added these pay-fors when we presented a substitute to the Committee on Rules. However, the Committee on Rules would not even let us offer this substitute.

The underlying bill, the Bipartisan Patient Protection Act, is nearly the same as the Senate-passed bill. It was a bill that was debated for 2 weeks by the Senate, not 2 hours. It was ultimately passed by the Senate in a true bipartisan majority of 59, just like a true bipartisan majority passed a similar bill here in the last Congress.

However, this motion to recommit is even better than either of those bills because it keeps our promise that nearly every Member of this House, nearly every Member that sits this evening here on this floor has promised to pay for our bills and not to raid the Medicare and Social Security trust fund.

Mr. Speaker, this is a commitment we have made to the American people, and it should be honored. The provisions to pay for the bill are good government provisions. They continue the existing customs fees, as did the Senate, and they crack down on sham business enterprises designed solely to generate tax benefits. Nothing in the recently passed bill is changed.

I want to remind my colleagues that because the Committee on Rules did not make these provisions in order, this motion to recommit is Members' only opportunity to vote for an amendment to pay for this bill. It is Members' only chance not to rob the Medicare and Social Security trust funds.

I urge a ''yes'' vote.

Mr. Speaker, I yield the balance of my time to the gentleman from South Carolina (Mr. SPRATT), the ranking member of the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, day by day, bill by bill, the surplus is washing away. The House is driving this budget straight into the Medicare trust fund.

Yesterday, it was the energy bill, with an impact on the budget, according to the Congressional Budget Office, of $33 billion over 10 years. Today it is the Patients' Bill of Rights whose impact is $15 billion to $25 billion brought to the floor without being scored.

In each case, Democrats have offered offsets to protest the trust funds and the surplus, and in each case, Republicans spurned the offer of offsets.

Mr. Speaker, in 2 days, this House will have whacked $40 to $50 billion out of the surplus. It is a good thing we are going home.

Mr. Speaker, let me warn Members, mid-August when we are at home, the Congressional Budget Office will complete its midyear update of the budget, and when we come back, there will be no question, the House will be in the Medicare trust fund. That is where the budget activity today will have taken us, by passing bills like this and paying no heed whatsoever to the budget. Bring it up, ignore the offset.

I direct Members' attention to this chart. This shows what thin ice the budget is now sitting on. After the energy bill last night and the defense bill we reported yesterday, there is a $12 billion bottom line remainder in fiscal year 2002. That is black.

But if we come down here to where we have estimated the August update by the Congressional Budget Office, and we have only estimated that they will take the economy down by one-half of one percentage point in the next year, Members will see that black 12 turns to a red 16. We go from a surplus of $12 to $16 billion in deficit, meaning we are $16 billion into the Medicare trust fund. So much for the lockbox. That is not just 1 year, it is every year from now until 2011; so much so, we consume the entire Medicare surplus over this period of time.

Mr. Speaker, the only honest vote is for the motion to recommit, which will pay for this bill.

Mr. TAUZIN. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, I would say to the gentleman if we would be so foolish as to adopt this motion to recommit and pass tonight a $7.5 billion tax increase, Americans might not want us to come home.

This motion to recommit not only would put forward this $7.5 billion tax increase, but as Members know, it would undo the good work of this House in endorsing the great work the gentleman from Georgia (Mr. NORWOOD) has done in reaching agreement on the contentious issue of liability.

Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, the gentleman from Louisiana (Mr. TAUZIN)

mentioned that we would go back to the original liability that would drive employers out of the system, drive up costs for employers and their employees. We do not want to do that.

It would also eliminate the association health plans that we have worked so hard on over the last 10 years to try to help small employers provide health insurance for their employees.

But of all things, after 40 years of one party controlling this House and balancing the budget one time in 40 years, to stand in the well of the House and say that this bill will bust the budget, please, give me a break.

Mr. TAUZIN. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, the gentleman said that this is the same bill. I know he does not want to revisit the passage of the Norwood amendment. It passed. And what is not in the bill now with the Norwood amendment is what is in this underlying bill.

I invite Members to turn to page 121 where it says on line 15, ''no preemption of State law.'' And then down on line 4 it says, ''no right of action for recovery, indemnity or contribution by issuers against treating health care professionals and treating hospitals.'' They gave it on line 14, and took it away on line 34. Thank goodness that is no longer in the bill.

Let us visit the tax portion. What the Congressional Budget Office said was that if this became law, their bill, the one we changed, it would increase premiums 5 percent.

□ 2200

It does not sound like a lot, but guess what employers do? They will then, because their health costs are higher in terms of the insurance, lower the wages. The Congressional Budget Office says they do. You have to make up that because there is lower revenue. The Congressional Budget Office says that your legislation reduces income and the HI payroll tax, that is the Medicare Trust Fund, by $13 billion over 10 years. That is true; but remember, he proudly said, there was a tax increase in here. The tax increase that is in here increases the general fund because it is revenue. Now, that is good because they take general fund revenue and put it over in Social Security to make up the lost money because, remember, that payroll reduction also affects the Social Security payroll tax fund.

So what they have done is taken general fund money and put it in the Social Security fund, but the corporate tax increase only goes into the general fund. You heard the gentleman on the floor. Guess who invades the HI trust fund? According to the Congressional Budget Office, their underlying bill, the one we are going to vote down in just a minute, decreases income and HI payroll taxes by $13.4 billion. The corporate tax provision in their bill can only go into general revenue. It cannot cover HI.

They reduce the HI trust fund. Ironically, my friends, if you want to protect the HI trust fund, vote ''no'' on the motion to recommit.

The SPEAKER pro tempore (Mr. BEREUTER). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BERRY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 208, noes 220, not voting 6, as follows:

[Roll No. 331]

AYES—208

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Ganske
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—220

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Lipinski
Paul
Spence
Stupak
Thompson (CA)
Weldon (PA)

□ 2218

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. STUPAK. Mr. Speaker, on roll-call vote number 331, I was unavoidably detained and missed that vote. Had I been here, I would have voted ''aye.''

(Mr. SNYDER asked and was given permission to speak out of order for 1 minute.)

CONGRATULATIONS AND FAREWELL TO OUR COLLEAGUE, THE HONORABLE ASA HUTCHINSON

Mr. SNYDER. Mr. Speaker, the hour is late, but it is never too late to say good-bye and hello to a friend; good-bye to ASA HUTCHINSON, Congressman, and hello to the new head of the DEA, ASA HUTCHINSON.

ASA, we will miss you.

Mr. Speaker, I yield to the gentleman from Missouri (Mr. HULSHOF).

Mr. HULSHOF. Mr. Speaker, I, too, want to add my accolades to the departing Member, a classmate of mine, who came in in the 105th Congress.

The gentleman from Arkansas has served with distinction the Third Congressional District of Arkansas since his election. As ASA tells it, the folks back home in Arkansas were not too impressed about this DEA nomination, until they found out that he would be the head of 9,000 employees and have offices in over 50 countries, at which point they then thought it was kind of a big deal.

ASA, of course, served with distinction on the Committee on the Judiciary, and, as some of you who worked with him knew, he was thrust into an interesting role with the impeachment matter. But he has also been a leader on other issues regarding the Federal Judiciary, whether it is regarding our forfeiture laws, whether it is racial profiling, or campaign finance.

I think all of those issues, and the open mindedness that ASA brought to those issues, is one reason there was such a tremendous show of support, when every one of his colleagues on the Democratic side of the aisle on the Committee on the Judiciary signed a letter of support to the Senate Committee on the Judiciary, urging ASA's confirmation. I think that was a tremendous show of bipartisan support.

Finally, Mr. Speaker, ASA, we simply say to you that as you continue your service to this great Nation, that we wish you and Susan and your family Godspeed. We all in this Chamber have been enriched by having known you, and we are luckier all the more for the fact that we have had a chance to work with you.

We wish you well.

The SPEAKER pro tempore (Mr. BEREUTER). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McDERMOTT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 226, nays 203, not voting 5, as follows:

[Roll No. 332]

YEAS—226

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NAYS—203

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Snyder
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—5

Lipinski
Paul
Solis
Spence
Thompson (CA)

□ 2342

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to recommit was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS TO THE ENGROSSMENT OF H.R. 2563, BIPARTISAN PATIENT PROTECTION ACT

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2563, the Clerk be authorized to correct section numbers, punctuation, and cross-references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 2563.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO HAVE UNTIL SEPTEMBER 4, 2001 TO FILE REPORT ON H.R. 2586, NATIONAL DEFENSE AUTHORIZATION ACT, 2002

Mr. STUMP. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services have until September 4, 2001 to file a report to accompany the bill H.R. 2586.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL SEPTEMBER 4, 2001, TO FILE SUPPLEMENTAL REPORT ON H.R. 2646, THE FARM SECURITY ACT OF 2001

Mr. COMBEST. Mr. Speaker, I ask unanimous consent for the Committee on Agriculture to have until 5 p.m. on September 4, 2001 to file a supplemental report to accompany H.R. 2646, the Farm Security Act of 2001.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 2245

PROVIDING FOR CONDITIONAL ADJOURNMENT OF THE HOUSE AND RECESS OR ADJOURNMENT OF THE SENATE

Mr. ARMEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 208) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 208

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, August 2, 2001, or Friday, August 3, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Wednesday, September 5, 2001, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on any day from Thursday, August 2, 2001 through Saturday, August 4, 2001, or from Monday, August 6, 2001, through Saturday, August 11, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, September 4, 2001, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONDITIONAL ADJOURNMENT OF THE HOUSE TO MONDAY, AUGUST 6, 2001

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it shall adjourn to meet at noon on Monday, August 6, and when the House adjourns on Monday, August 6, it shall adjourn to meet at noon on Tuesday, August 7; and when the House adjourns on Tuesday, August 7, and on each of its successive days of meeting under this order, it shall stand adjourned until noon on each third successive day until it shall convene at 2:00 p.m. on Wednesday, September 5, 2001; unless the House sooner receives the message from the Senate transmitting its adoption of a concurrent resolution providing for the summer district work period, in which case the House, following its adoption thereof, shall adjourn pursuant to that concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MCDERMOTT. Mr. Speaker, reserving the right to object, I will ask the gentleman from Texas, the days the House will be in session, will they be pro forma sessions, no legislation will be brought up?

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. MCDERMOTT. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, the gentleman has a good point; and, yes, it will be only pro forma.

Mr. MCDERMOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, SEPTEMBER 5, 2001

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, September 5, 2001.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING IN ORDER MOTIONS TO SUSPEND THE RULES ON WEDNESDAY, SEPTEMBER 5, 2001

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that it be in order at any time on the legislative day of Wednesday, September 5, 2001, for the Speaker to entertain motions that the House suspend the rules.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Wednesday, September 5, 2001, the Speaker, majority leader, and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING REMOVAL OF THE MACE OF THE HOUSE AFTER ADJOURNMENT TO THE SMITHSONIAN INSTITUTION FOR REPAIRS

Mr. ARMEY. Mr. Speaker, I offer a resolution (H. Res. 223) and ask unanimous consent for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 223

Resolved, That the Sergeant at Arms of the House of Representatives is authorized and directed, on behalf of the House of Representatives, to deliver the mace of the House of Representatives, following an adjournment of the House pursuant to concurrent resolution, to the Smithsonian Institution only for the purpose of having necessary repairs made to the mace and under such circumstances as will assure that the mace is properly safeguarded; Provided, however, That the mace shall be returned to the House of Representatives before noon on the day before the House next reconvenes pursuant to concurrent resolution or at any sooner time when so directed by the Speaker of the House of Representatives.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WISHING A GOOD RECESS PERIOD TO THE STAFF OF THE HOUSE OF REPRESENTATIVES

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that it be the will of the House that all those kind souls and good people who staff this body have a very good recess period during the month of August.

The SPEAKER pro tempore (Mr. BEREUTER). Is there objection to the request of the gentleman from Texas?

There was no objection.

REQUESTING THE PRESIDENT TO TAKE MEASURES TO FOCUS APPROPRIATE ATTENTION ON NEIGHBORHOOD CRIME PREVENTION, COMMUNITY POLICING, AND REDUCTION OF SCHOOL CRIME

Mr. ISSA. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution (H. Res. 193) requesting that the President focus appropriate attention on the issues of neighborhood crime prevention, community policing, and reduction of

school crime by delivering speeches, convening meetings, and directing his Administration to make reducing crime an important priority, and for other purposes.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. STUPAK. Reserving the right to object, but I do not intend to object, Mr. Speaker, I introduced this resolution along with the gentleman from Pennsylvania (Mr. WELDON) and the gentleman from Pennsylvania (Mr. HOEFFEL) to emphasize the importance of crime prevention at the local level and to recognize the efforts of National Night Out.

I am pleased to say that this resolution has bipartisan support with over 64 cosponsors.

I would like to specifically thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER); and the ranking members of the Committee on the Judiciary; and ranking member of the Subcommittee on Crime; and the leadership on both sides of the aisle in helping to bring this measure to the floor.

Our resolution calls upon the President to focus on neighborhood crime prevention, community policing programs, and reducing crime, and to issue a proclamation in support of National Night Out.

Mr. Speaker, last year over 32 million people participated in National Night Out. These 32 million people joined together and sent a message loud and clear that they do not want crime in their neighborhoods and streets and that they will keep working together until their communities are safe.

Each of us will be returning next week to our districts for the August recess. I hope each Member will take the opportunity to participate in a National Night Out event in their community and show the strength of our national commitment to stop crime and keep our communities safe.

Our resolution also urges President Bush to continue to focus national attention on reducing crime and to issue a proclamation in support of National Night Out, which is such an important national event. National Night Out brings communities together; and when we come together with our neighbors, our community leaders, our families, our unity leaves no room for crimes.

It is a testament to what we can do together, and I am proud to see the House pass this resolution in support of such a program.

Mr. Speaker, I have introduced this resolution along with Representatives CURT WELDON and JOE HOEFFEL to emphasize the importance of crime prevention at the local level and to recognize the efforts of National Night Out. I am pleased to say that this resolution has bipartisan support, with 64 cosponsors. I would like to specifically thank the Chairman JIM SENSENBRENNER, and Ranking Member of the Judiciary Committee, the Chairman and Ranking Member of the Crime Subcommittee, and the leadership on both sides of the aisle for their help in bringing this measure to the floor.

Our resolution calls upon the President to focus on neighborhood crime prevention, community policing programs and reducing school crime and to issue a proclamation in support of National Night Out.

National Night Out, which is coming up on August 7, is a successful national program which exemplifies the goals of crime reduction through neighborhood and community efforts. It is a nationwide event which combines a nationally coordinated crime prevention campaign with local community groups and law enforcement organizations to take a stand against crime.

This year's National Night Out is the 18th annual event in the campaign by National Association of Town Watch to fight crime. National Night Out has grown year after year, and now includes citizens, law enforcement agencies, civic groups, businesses, neighborhood organizations and local officials from 9,500 communities from all 50 states and the District of Columbia, U.S. territories, Canadian cities and military bases worldwide.

Last year over 32 million people participated in National Night Out. Those 32 million people joined together and sent a message, loud and clear, that they don't want crime in their neighborhoods and streets, and that they will keep working together until their communities are safe.

I firmly believe that a focus on neighborhood and community crime prevention is essential. It is for this reason that I have long supported the COPS program in the Department of Justice, and that I am such a strong supporter of National Night Out. As a former police officer who used to fight crime on the local and state level, I can tell you these programs work. Personal involvement in one's community, individual attention to our youth, taking responsibility for ourselves and for others, these things make a difference.

Each of you will be returning next week to your districts for the August recess. I hope that you will take the opportunity to participate in a National Night Out event in your community, and show the strength of our national commitment to stop crime and keep our communities safe.

Our resolution also urges President Bush to continue to focus national attention on reducing crime, and to issue a proclamation in support of National Night Out, which is such an important national event.

National Night Out brings communities together. And when we come together with our neighbors, our community leaders, our families—our unity leaves no room for crime. It is a testament to what we can do together—and I am proud to see the House pass this resolution in support of such an important program.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 193

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at promoting awareness about, and the participation of volunteers in, crime prevention activities at the local level;

Whereas neighborhood crime watch groups can contribute to the Nation's war on drugs by helping to prevent their communities from becoming markets for drug dealers;

Whereas crime and violence in schools is of continuing concern to the American people due to the recent high-profile incidents that have resulted in fatalities at several schools across the United States;

Whereas community-based programs involving law enforcement, school administrators, teachers, parents, and local communities work effectively to reduce school violence and crime;

Whereas citizens across the United States will soon take part in ''National Night Out'', a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 7 to 10 o'clock p.m. on August 7, 2001, with their neighbors in front of their homes with their lights on; and

Whereas schools that turn their lights on from 7 to 10 o'clock p.m. on August 7, 2001, will send a positive message to the participants of ''National Night Out'' and show their commitment to reduce crime and violence in schools: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideas of ''National Night Out''; and

(2) requests that the President—

(A) issue a proclamation calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate support for ''National Night Out''; and

(B) focus appropriate attention on the issues of neighborhood crime prevention, community policing, and reduction of school crime by delivering speeches, convening meetings, and directing his Administration to make reducing crime an important priority.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MOURNING THE DEATH OF RON SANDER, WELCOMING THE RELEASE FROM CAPTIVITY OF ARNIE ALFORD, STEVE DERRY, JASON WEBER, AND DAVID BRADLEY, AND SUPPORTING EFFORTS TO COMBAT SUCH TERRORISM

Mr. BALLENGER. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the concurrent resolution (H. Con. Res. 89) mourning the death of Ron Sander at the hands of terrorist kidnappers in Ecuador and welcoming the release from captivity of Arnie Alford, Steve Derry, Jason Weber, and David Bradley, and supporting efforts by the United States to combat such terrorism, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. WALDEN of Oregon. Mr. Speaker, reserving the right to object, I yield to the gentleman from North Carolina (Mr. BALLENGER), the manager of the bill.

Mr. BALLENGER. Mr. Speaker, on October 12, 2000, 10 men, including five Americans, were abducted from an Ecuadorean oil field. On January 31, 2001, Ron Sander of Sunrise Beach, Missouri, was brutally murdered by his captors.

The hostages spent 141 days in captivity and endured malnutrition, isolation, and physical and mental abuse.

On June 23, 2001, Colombian National Police General Jose Leonardo Gallego's anti-kidnapping unit, working with the U.S. authorities, arrested 59 people, including eight men accused of abducting the 10 oil field workers in Ecuador. We thank General Gallego for his good work in bringing these criminals to justice.

Please join me in supporting this resolution expressing condolences to the family of Ron Sander and welcoming the release of the American captives back home.

Mr. WELDON of Oregon. Continuing to reserve my right to object, Mr. Speaker, I yield to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, let me take this opportunity to commend the gentleman for introducing this resolution mourning the death of Mr. Ron Sander of Sunrise Beach, Missouri, and welcoming the other victims of this kidnapping incident home from South America.

Ron Sander was one of 10 people who were seized by terrorists last October while they were working for an oil company in Ecuador. In what can only be termed a tragedy, Sander was found murdered in late January, shot five times in the back by his captors.

While it appears to be clear that those who kidnapped Ron Sander and nine other were merely part of a gang of criminals, the act of kidnapping is fast becoming a tool which is employed by those violent actors who are involved in the Colombian civil war, and increasingly, in the countries which neighbor Colombia.

The oil-rich areas of Ecuador attract many American companies and other firms that employ Americans. It is my hope that we in the Congress can help to find a peaceful resolution to the conflicts of the region and can thereby hope to lessen the possibility that Americans would be kidnapped in a cowardly act of violence not unlike the one that took the life of Ronald Sander.

My heart goes out to the families of all the kidnapping victims who waited for their loved ones' safe return; but most of all, I want to express my deepest sympathy to Mr. Sander's family.

Mr. WALDEN of Oregon. Mr. Speaker, continuing to reserve my right to object, I am pleased to have this opportunity to address what I believe is one of the most outrageous acts committed against American citizens abroad in recent years, the kidnapping of five American citizens working in Ecuador by a band of ruthless terrorists.

On October 12, 2000, a number of international oil workers were abducted from an oil field in northern Ecuador by a heavily armed group of terrorists. Mr. Speaker, ''terrorists'' may be too generous a word to describe these thugs, for they were motivated not by ideology but by naked greed. Their intention was to ransom their captives, plain and simple.

Among the hostages taken were five American citizens, Arnie Alford, Steve Derry, Jason Weber of Gold Hill, Oregon, in my congressional district, David Bradley of Casper, Wyoming, and Ron Sander of Sunrise Beach, Missouri.

The nightmare that began for these men on October 12 would ultimately last 141 days, 4½ months of deprivation and hardship such as we can scarcely contemplate. These men endured inhumane treatment day after day at the hands of their captors. They suffered from prolonged malnutrition, isolation from loved ones, and relentless physical and mental abuse.

Each day was spent marching at gunpoint through the unforgiving jungles of South America, and each night was spent tied up in the terrorists' camps. The diet that sustained the men was as cruel as their surroundings: small portions of rice and occasionally the meat of rodents. The perseverance shown by these brave Americans in the face of such unremitting adversity is a testament to the human spirit.

Mr. Speaker, the fear of death hung over the heads of these hostages every day of their ordeal. Sadly, on January 31 of 2001, that fear became a reality when one of the hostages, Ron Sander, was murdered by his kidnappers. His body was discovered riddled with bullets, a brutal act intended to encourage the employers of the hostages to meet the kidnappers' demand.

Finally, the nightmare came to an end when the hostages were released from their captivity and handed over to Ecuadoran military authorities.

Mr. Speaker, the purpose of this resolution first and foremost is to welcome the safe return of our fellow citizens and to mourn the death of Ron Sander, an innocent victim of the greed and malice of cowards.

The resolution also recognizes the cooperation of the Ecuadoran authorities who provided invaluable assistance in negotiating the safe return of the hostages.

It further acknowledges the employers of the victims, Erickson Air-Crane, Schlumberger Ltd., and Helmerich & Payne, whose commitment to their employees during this ordeal was absolute and unwavering.

Finally, House Concurrent Resolution 89 reiterates the United States' commitment to securing justice for the victims of this crime and holding the terrorists accountable for their actions.

It also expresses the sense of Congress that the United States must redouble its efforts to prevent future kidnappings and eliminate the threat represented by international terrorist organizations.

Mr. Speaker, in closing, I want to add that I could not be more pleased at the arrest of a number of suspects in this case by the Colombia National Police on June 23. Working in concert with U.S. authorities, the Colombia police arrested 59 people, including eight men accused of participating in this October kidnapping.

It is my profound hope that if these men are in fact guilty of this hideous crime, that they will receive swift and severe punishment that they so richly deserve.

Mr. Speaker, I thank the Committee on International Relations for moving on this resolution with such great haste, and I appreciate the time of the House to share this.

I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 89

Whereas Ron Sander of Sunrise Beach, Missouri, one of ten men abducted from an Ecuadorian oil field on October 12, 2000, was brutally murdered by his terrorist captors on January 31, 2001;

Whereas Arnie Alford, Steve Derry, and Jason Weber, of Gold Hill, Oregon, and David Bradley, of Casper, Wyoming, were also among the ten men abducted;

Whereas the kidnapped men endured inhuman treatment at the hands of their captors, suffering from malnutrition, isolation, and physical and mental abuse;

Whereas the hostages spent 141 days in captivity before being released to Ecuadorian military authorities;

Whereas the Government of Ecuador provided invaluable assistance in seeking the safe return of the hostages; and

Whereas the employers of the hostages, Erickson Air-Crane, Schlumberger Ltd., and Helmerich & Payne, maintained a tireless commitment to their employees and their families during protracted negotiations with the terrorists: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That

(1) the Congress welcomes the safe return of American citizens Arnie Alford, Steve Derry, Jason Weber, and David Bradley from captivity by terrorists in Ecuador and congratulates them for their perseverance in the face of persistent and unremitting adversity;

(2) the Congress extends its deepest sympathy to the family of Ron Sander, who was killed by terrorists in Ecuador, and salutes his steadfast courage under the most difficult of circumstances;

(3) the Congress supports the commitment of the United States to bringing the killers of Ron Sanders and the kidnappers of Arnie Alford, Steve Derry, Jason Weber, and David Bradley to justice; and

(4) it is the sense of the Congress that the United States must redouble its efforts to prevent future kidnappings by working in

concert with foreign governments to neutralize the threat represented by terrorist groups who perpetrate such crimes.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 2300

APPALACHIAN REGIONAL DEVELOPMENT ACT REAUTHORIZATION

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2501) to reauthorize the Appalachian Regional Development Act of 1965, and ask for its immediate consideration in the House.

The SPEAKER pro tempore (Mr. BEREUTER). Is there objection to the request of the gentleman from Ohio?

Mr. COSTELLO. Mr. Speaker, reserving the right to object, I yield to the gentleman from Ohio, the chairman of the subcommittee, for an explanation of the bill.

Mr. LATOURETTE. Mr. Speaker, I thank the gentleman from Illinois for yielding to me.

H.R. 2501 authorizes the Appalachian Regional Commission for fiscal years 2002 through 2006. The bill also requires the ARC to target at least half of ARC project funds to distressed areas and counties, creates a council to coordinate Federal economic development assistance in the region, provides affordable access to technology and telecommunications through a new program initiative, and lowers the administrative cost share for Local Development Districts that include a distressed county.

Mr. Speaker, I want to thank the ranking member of the Subcommittee on Economic Development, Public Buildings and Emergency Management of the Committee on Transportation and Infrastructure, the gentleman from Illinois (Mr. COSTELLO); the ranking member of our full committee, the gentleman from Minnesota (Mr. OBERSTAR); the chairman of the full committee, the gentleman from Alaska (Mr. YOUNG), for their diligent attention to this very important program, and two Members of our subcommittee to whom this program is critical, the gentleman from Ohio (Mr. NEY) and the gentlewoman from West Virginia (Mrs. CAPITO), a valuable new member of the subcommittee, who worked tirelessly to assist us in this reauthorization.

I support the bill and thank the gentleman from Illinois.

Mr. COSTELLO. Further reserving the right to object, Mr. Speaker, I thank the chairman of the subcommittee, the gentleman from Ohio (Mr. LATOURETTE), for his leadership regarding the reauthorization of the Appalachian Regional Commission. The subcommittee hearing was very enlightening and provided essential information for the public record. I commend Jesse White and his excellent staff for working with us to shape a fair bipartisan bill. This is a good bill and it deserves our support.

Continuing my reservation of objection, Mr. Speaker, I yield to the ranking member of the full committee, the gentleman from Minnesota (Mr. OBERSTAR).

(Mr. OBERSTAR asked and was given permission to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, the Transportation and Infrastructure Committee has devoted a significant amount of time to reviewing and evaluating the Appalachian Regional Commission (ARC) and its programs. In 1997, the Economic Development Subcommittee held a series of hearings regarding not only the ARC but also the Economic Development Administration, and in 1998, both agencies were reauthorized with broad bipartisan support.

The ARC received overwhelming bipartisan support for one self-evident reason—ARC programs WORK. These essential programs have significantly boosted employment, population growth, and income throughout the region. Despite more than 35 years of effort, we are only halfway home—the region has not yet pulled itself up to the national average. Of ARC's 406 counties, 118 counties remain severely economically distressed. One hundred years of decline cannot be overcome in only 35 years. Much work remains to be done, and new initiatives need to be considered, not only to maintain the existing economic foothold in the region, but also to help it prepare for the new economy.

H.R. 2501 is certainly another step in the right direction for the people of Appalachia. The bill authorizes the ARC for five years, it establishes a coordinating council to address Federal agency program delivery for the region, and it increases funding consistent with inflation. The bill also establishes a telecommunications program and authorizes $10 million for this new initiative in fiscal year 2002 and such sums as may be necessary in succeeding years. The new information highway is just as important in opening up opportunities for people of the Appalachian region as is the Appalachian Development Highway System; the telecommunications program will help put the people of Appalachia on the highway of the future.

I thank Subcommittee Chairman LATOURETTE, Ranking member COSTELLO, and Chairman YOUNG for their diligent work on this bill. For Chairman YOUNG and Ranking Member COSTELLO the problems of Appalachia are very similar to the problems confronting regions in Alaska and the Mississippi Delta. The Denali Commission and the Delta Regional Authority have worked closely with the ARC to the benefit of each of the regions and the Nation as a whole.

I strongly support the bill and urge its passage.

Mr. COSTELLO. Continuing my reservation of objection, Mr. Speaker, I yield to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I would like to thank also the gentleman from Ohio (Mr. LATOURETTE); the gentleman from Alaska (Mr. YOUNG), the chairman of our committee; and the ranking members, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. COSTELLO), for all their hard work on reauthorizing the Appalachian Regional Commission.

As a West Virginian native, I am especially grateful to the ARC for its commitment to improving the lives of my fellow Mountaineers. As my colleagues may know, West Virginia is the only State that is entirely within the boundaries of the ARC.

The Appalachian Regional Commission is critical to the continued economic development not only of my State but the whole of Appalachia. The area served by the ARC is very diverse, both economically and geographically. And while we have made progress in recent years, we continue to face numerous challenges.

ARC's assistance helps level the playing field and gives my constituents a chance to share in the economic prosperity that has for so long left many of us behind. The flexibility and diversity of its programs enable local communities to tailor the ARC grants to their individual needs.

In the district I represent, 11 counties are classified by the ARC as economically distressed. And I have seen firsthand the positive impact that these grants can have on a community. In my district alone, the ARC has assisted with equipping industrial parks, helped improve the skills of the workforce, and preserved precious jobs by strengthening industries ranging from wood products to Internet technology.

The ARC is also instrumental at meeting energy funding requests to assist rural communities with their most desperate situations. Recently, the town of Wardensville contacted me regarding the need for immediate assistance for a damaged sewer. I contacted the ARC and was able to secure the necessary funding which allowed the town to repair the damage rather quickly.

Mr. Speaker, it is imperative for the Congress to reauthorize the ARC. A 5-year reauthorization will ensure that ARC continues to address my home State of West Virginia's needs. It would also enable the commission and our local communities to develop and implement long-term strategies for economic growth with a new emphasis on technology.

I fully support this request, and I thank the gentleman for yielding to me.

Mr. COSTELLO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2501

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS TO APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.

(a) SHORT TITLE.—This Act may be cited as the ''Appalachian Regional Development Reauthorization Act of 2001''.

(b) AMENDMENTS TO APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

SEC. 2. COORDINATION OF APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS.

Section 104 (40 U.S.C. App.) is amended—

(1) by striking the section heading and all that follows through ''The President'' and inserting the following:

''SEC. 104. COORDINATION OF APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS.

''(a) LIAISON BETWEEN FEDERAL GOVERNMENT AND COMMISSION.—The President''; and

(2) by adding at the end the following:

''(b) INTERAGENCY COORDINATING COUNCIL.—

''(1) IN GENERAL.—In carrying out subsection (a), the President shall establish an interagency council to be known as the 'Interagency Coordinating Council on Appalachia'.

''(2) MEMBERSHIP.—The Council shall be composed of—

''(A) the Federal Cochairman, who shall serve as Chairperson of the Council; and

''(B) representatives of Federal agencies that carry out economic development programs in the Appalachian region.''.

SEC. 3. TELECOMMUNICATIONS AND TECHNOLOGY.

The Act (40 U.S.C. App.) is amended by inserting after section 202 the following:

''SEC. 203. TELECOMMUNICATIONS AND TECHNOLOGY.

''(a) IN GENERAL.—In order to ensure that the people and businesses of the Appalachian region have the knowledge, skills, and access to telecommunications services to compete in the technology-based economy, the Commission may provide technical assistance and make grants, enter into contracts, and otherwise provide funds for the following purposes:

''(1) To increase affordable access to advanced telecommunications in the region.

''(2) To provide education and training for people, businesses, and governments in the region in the use of telecommunications technology.

''(3) To develop relevant technology readiness programs for industry groups and businesses in the region.

''(4) To support entrepreneurial opportunities in information technology in the region.

''(b) SOURCES OF FUNDING.—Assistance provided under this section may be provided entirely from appropriations made available to carry out this section or in combination with funds available under a Federal grant-in-aid program (as defined in section 214(c)), under another Federal program, or from any other source.

''(c) FEDERAL SHARE LIMITATIONS SPECIFIED IN OTHER LAWS.—Notwithstanding any provision of law limiting the Federal share in a Federal grant-in-aid program or other Federal program, funds appropriated to carry out this section may be used to increase such Federal share, as the Commission determines appropriate.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission to carry out this section $10,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2006. Such sums shall remain available until expended.''.

SEC. 4. PROGRAM DEVELOPMENT CRITERIA.

(a) ELIMINATION OF GROWTH CENTER CRITERIA.—Section 224(a)(1) (40 U.S.C. App.) is amended by striking ''in an area determined by the State have a significant potential for growth or''.

(b) DISTRESSED COUNTIES AND AREAS.—Section 224 (40 U.S.C. App.) is amended by adding at the end the following:

''(d) ASSISTANCE TO DISTRESSED COUNTIES AND AREAS.—For each fiscal year, at least one-half of the amount of grant expenditures approved by the Commission under this Act shall support activities or projects that benefit counties for which distressed county designations are in effect under section 226.''.

SEC. 5. GRANTS FOR ADMINISTRATIVE EXPENSES OF LOCAL DEVELOPMENT DISTRICTS.

Section 302(a)(1)(A) (40 U.S.C. App.) is amended by inserting ''(or 75 percent for a development district that includes 1 or more counties for which a distressed county designation is in effect under section 226)'' after ''50 percent''.

SEC. 6. ADDITION OF COUNTIES TO APPALACHIAN REGION.

Section 403 is amended—

(1) in the third undesignated paragraph, relating to Kentucky—

(A) by inserting ''Edmonson,'' after ''Cumberland,'';

(B) by inserting ''Hart,'' after ''Harlan,''; and

(C) by inserting ''Metcalfe,'' after ''Menifee,''; and

(2) in the fifth undesignated paragraph, relating to Mississippi—

(A) by inserting ''Grenada,'' after ''Clay,'';

(B) by inserting ''Montgomery,'' after ''Monroe,''; and

(C) by inserting ''Panola,'' after ''Oktibbeha Pontotoc,''.

SEC. 7. TECHNICAL AMENDMENTS.

(a) STRATEGIES.—The Act (40 U.S.C. App.) is amended—

(1) in the third sentence of section 101(b) by striking ''implementing investment program'' and inserting ''strategy statement'';

(2) in section 225—

(A) in subsection (a) by striking ''(3) describe the development program'' and inserting ''(3) describe the development strategies''; and

(B) in subsection (c) by striking ''Appalachian State development programs'' and inserting ''Appalachian State development strategies''; and

(3) in section 303—

(A) in the section heading by striking ''**INVESTMENT PROGRAMS**'' and inserting ''**STRATEGY STATEMENTS**'';

(B) by striking ''implementing investment program'' each place it appears and inserting ''strategy statement''; and

(C) by striking ''implementing investments programs'' and inserting ''strategy statements''.

(b) SUPPORT OF LOCAL DEVELOPMENT DISTRICTS.—Section 102(a)(5) (40 U.S.C. App.) is amended by inserting ''and support'' after ''formation''.

(c) OFFICE SPACE LEASING.—Section 106(7) (40 U.S.C. App.) is amended by striking ''for any term expiring no later than September 30, 2001''.

(d) SUPPLEMENTS TO FEDERAL GRANT-IN-AID PROGRAMS.—Section 214 (40 U.S.C. App.) is amended—

(1) in subsection (a) by striking the third sentence;

(2) by striking subsection (c) and inserting the following:

''(c) FEDERAL GRANT-IN-AID PROGRAMS DEFINED.—

''(1) INCLUDED PROGRAMS.—In this section, the term 'Federal grant-in-aid programs' means those Federal grant-in-aid programs authorized by this Act or another Act for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid programs authorized by the following Acts:

''(A) The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

''(B) The Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.).

''(C) Title VI of the Public Health Services Act (42 U.S.C. 291 et seq.).

''(D) The Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.).

''(E) Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.).

''(F) The Land and Water Conservation Fund Act of 1965 (16 U.S.C 4601–4 et seq.).

''(G) The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

''(H) Sections 201 and 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 and 3149).

''(I) Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

''(2) EXCLUDED PROGRAMS.—In this section, the term 'Federal grant-in-aid programs' does not include—

''(A) the program for the construction of the development highway system authorized by section 201 or any program relating to highway or road construction authorized by title 23, United States Code; or

''(B) any other program for which loans or other Federal financial assistance, except a grant-in-aid program, is authorized by this or any other Act.''; and

(3) by striking subsection (d).

(e) PROGRAM DEVELOPMENT CRITERIA.—Section 224(a)(2) (40 U.S.C. App.) is amended by striking ''per capita income'' and inserting ''per capita market income''.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 401(a) (40 U.S.C. App.) is amended to read as follows:

''(a) IN GENERAL.—In addition to amounts authorized by section 201 (and other amounts made available for the Appalachian development highway system program) and section 203, there are authorized to be appropriated to the Commission to carry out this Act—

''(1) $78,000,000 for fiscal year 2002;

''(2) $80,000,000 for fiscal year 2003;

''(3) $83,000,000 for fiscal year 2004;

''(4) $85,000,000 for fiscal year 2005; and

''(5) $87,000,000 for fiscal year 2006.''.

SEC. 9. TERMINATION.

Section 405 (40 U.S.C. App.) is amended by striking ''2001'' and inserting ''2006''.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LATOURETTE

Mr. LATOURETTE. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. LATOURETTE:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENTS TO APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.

(a) SHORT TITLE.—This Act may be cited as the ''Appalachian Regional Development Reauthorization Act of 2001''.

(b) AMENDMENTS TO APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a

section or other provision of law, the reference shall be considered to be made to a section or other provision of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

SEC. 2. COORDINATION OF APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS.

Section 104 (40 U.S.C. App.) is amended—

(1) by striking the section heading and all that follows through ''The President'' and inserting the following:

''SEC. 104. COORDINATION OF APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS.

''(a) LIAISON BETWEEN FEDERAL GOVERNMENT AND COMMISSION.—The President''; and

(2) by adding at the end the following:

''(b) INTERAGENCY COORDINATING COUNCIL.—

''(1) IN GENERAL.—In carrying out subsection (a), the President shall establish an interagency council to be known as the 'Interagency Coordinating Council on Appalachia'.

''(2) MEMBERSHIP.—The Council shall be composed of—

''(A) the Federal Cochairman, who shall serve as Chairperson of the Council; and

''(B) representatives of Federal agencies that carry out economic development programs in the Appalachian region.''.

SEC. 3. TELECOMMUNICATIONS AND TECHNOLOGY.

The Act (40 U.S.C. App.) is amended by inserting after section 202 the following:

''SEC. 203. TELECOMMUNICATIONS AND TECHNOLOGY.

''(a) IN GENERAL.—In order to ensure that the people and businesses of the Appalachian region have the knowledge, skills, and access to telecommunications services to compete in the technology-based economy, the Commission may provide technical assistance and make grants, enter into contracts, and otherwise provide funds for the following purposes:

''(1) To increase affordable access to advanced telecommunications in the region.

''(2) To provide education and training for people, businesses, and governments in the region in the use of telecommunications technology.

''(3) To develop relevant technology readiness programs for industry groups and businesses in the region.

''(4) To support entrepreneurial opportunities in information technology in the region.

''(b) SOURCES OF FUNDING.—Assistance provided under this section may be provided entirely from appropriations made available to carry out this section or in combination with funds available under a Federal grant-in-aid program (as defined in section 214(c)), under another Federal program, or from any other source.

''(c) FEDERAL SHARE LIMITATIONS SPECIFIED IN OTHER LAWS.—Notwithstanding any provision of law limiting the Federal share in a Federal grant-in-aid program or other Federal program, funds appropriated to carry out this section may be used to increase such Federal share, as the Commission determines appropriate.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission to carry out this section $10,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2006. Such sums shall remain available until expended.''.

SEC. 4. PROGRAM DEVELOPMENT CRITERIA.

(a) ELIMINATION OF GROWTH CENTER CRITERIA.—Section 224(a)(1) (40 U.S.C. App.) is amended by striking ''in an area determined by the State have a significant potential for growth or''.

(b) DISTRESSED COUNTIES AND AREAS.—Section 224 (40 U.S.C. App.) is amended by adding at the end the following:

''(d) ASSISTANCE TO DISTRESSED COUNTIES AND AREAS.—For each fiscal year, at least one-half of the amount of grant expenditures approved by the Commission under this Act shall support activities or projects that benefit severely and persistently distressed counties or areas.''.

SEC. 5. GRANTS FOR ADMINISTRATIVE EXPENSES OF LOCAL DEVELOPMENT DISTRICTS.

Section 302(a)(1)(A) (40 U.S.C. App.) is amended by inserting ''(or 75 percent for a development district that includes 1 or more counties for which a distressed county designation is in effect under section 226)'' after ''50 percent''.

SEC. 6. ADDITION OF COUNTIES TO APPALACHIAN REGION.

Section 403 is amended—

(1) in the third undesignated paragraph, relating to Kentucky—

(A) by inserting ''Edmonson,'' after ''Cumberland,'';

(B) by inserting ''Hart,'' after ''Harlan,''; and

(C) by inserting ''Metcalfe,'' after ''Menifee,''; and

(2) in the fifth undesignated paragraph, relating to Mississippi—

(A) by inserting ''Grenada,'' after ''Clay,'';

(B) by inserting ''Montgomery,'' after ''Monroe,''; and

(C) by inserting ''Panola,'' after ''Oktibbeha Pontotoc,''.

SEC. 7. TECHNICAL AMENDMENTS.

(a) STRATEGIES.—The Act (40 U.S.C. App.) is amended—

(1) in the third sentence of section 101(b) by striking ''implementing investment program'' and inserting ''strategy statement'';

(2) in section 225—

(A) in subsection (a) by striking ''(3) describe the development program'' and inserting ''(3) describe the development strategies''; and

(B) in subsection (c) by striking ''Appalachian State development programs'' and inserting ''Appalachian State development strategies''; and

(3) in section 303—

(A) in the section heading by striking ''**INVESTMENT PROGRAMS**'' and inserting ''**STRATEGY STATEMENTS**'';

(B) by striking ''implementing investment program'' each place it appears and inserting ''strategy statement''; and

(C) by striking ''implementing investments programs'' and inserting ''strategy statements''.

(b) SUPPORT OF LOCAL DEVELOPMENT DISTRICTS.—Section 102(a)(5) (40 U.S.C. App.) is amended by inserting ''and support'' after ''formation''.

(c) OFFICE SPACE LEASING.—Section 106(7) (40 U.S.C. App.) is amended by striking ''for any term expiring no later than September 30, 2001''.

(d) SUPPLEMENTS TO FEDERAL GRANT-IN-AID PROGRAMS.—Section 214 (40 U.S.C. App.) is amended—

(1) in subsection (a) by striking the third sentence;

(2) by striking subsection (c) and inserting the following:

''(c) FEDERAL GRANT-IN-AID PROGRAMS DEFINED.—

''(1) INCLUDED PROGRAMS.—In this section, the term 'Federal grant-in-aid programs' means those Federal grant-in-aid programs authorized by this Act or another Act for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid programs authorized by the following Acts:

''(A) The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

''(B) The Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.).

''(C) Title VI of the Public Health Services Act (42 U.S.C. 291 et seq.).

''(D) The Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.).

''(E) Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.).

''(F) The Land and Water Conservation Fund Act of 1965 (16 U.S.C 4601–4 et seq.).

''(G) The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

''(H) Sections 201 and 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 and 3149).

''(I) Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

''(2) EXCLUDED PROGRAMS.—In this section, the term 'Federal grant-in-aid programs' does not include—

''(A) the program for the construction of the development highway system authorized by section 201 or any program relating to highway or road construction authorized by title 23, United States Code; or

''(B) any other program for which loans or other Federal financial assistance, except a grant-in-aid program, is authorized by this or any other Act.''; and

(3) by striking subsection (d).

(e) PROGRAM DEVELOPMENT CRITERIA.—Section 224(a)(2) (40 U.S.C. App.) is amended by striking ''per capita income'' and inserting ''per capita market income''.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 401(a) (40 U.S.C. App.) is amended to read as follows:

''(a) IN GENERAL.—In addition to amounts authorized by section 201 (and other amounts made available for the Appalachian development highway system program) and section 203, there are authorized to be appropriated to the Commission to carry out this Act—

''(1) $78,000,000 for fiscal year 2002;

''(2) $80,000,000 for fiscal year 2003;

''(3) $83,000,000 for fiscal year 2004;

''(4) $85,000,000 for fiscal year 2005; and

''(5) $87,000,000 for fiscal year 2006.''.

SEC. 9. TERMINATION.

Section 405 (40 U.S.C. App.) is amended by striking ''2001'' and inserting ''2006''.

Mr. LATOURETTE (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

THURGOOD MASHALL UNITED STATES COURTHOUSE

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 988) to designate the United States courthouse located at 40 Centre Street in New York, New York, as the ''Thurgood Marshall United States Courthouse,'' and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. COSTELLO. Mr. Speaker, reserving the right to object, I strongly support H.R. 988, a bill to name the Federal courthouse at 40 Centre in New York City in honor of former Supreme Court Justice Thurgood Marshall, one of our country's genuine heroes.

I thank the gentleman from New York (Mr. ENGEL) for introducing this bill and for his steadfast support of this legislation, and the chairman, the gentleman from Ohio (Mr. LATOURETTE), for his support in moving this bill through the subcommittee and to the floor this evening.

The contributions of Judge Thurgood Marshall are legendary. His dedication and devotion to the ideals of equality and dignity for all people were of historical proportions.

Mr. Speaker, further reserving my right to object, I yield to the ranking member of the full committee, the gentleman from Minnesota (Mr. OBERSTAR).

(Mr. OBERSTAR asked and was given permission to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, I strongly support H.R. 988, to name the U.S. Courthouse at 40 Centre Street in New York City in honor of former Supreme Court Justice Thurgood Marshall. The naming of the federal courthouse after Justice Marshall is a fitting tribute to one of the most important lawyers and Justices in American history.

During his arguments as attorney for the plaintiffs in the landmark case of Brown v. Board of Education, Marshall was asked to define ''equal'' by Justice Frankfurter. Marshall responded that: ''Equal means getting the same thing, at the same time, and in the same place.'' This statement encapsulates Justice Marshall's values and what he tried to achieve during a lifetime of fighting for those who were unable to fight for themselves.

Justice Marshall's long journey took him from a humble beginning as the grandson of a slave in a time and place where segregation and racism were strong barriers, and ended with him becoming the first black Justice of the Supreme Court. This great accomplishment was not only easily achieved, and, indeed, was made possible in large part by the changes in society and law that were created by Marshall's own victories against racial inequities.

Although he finished near the top of his undergraduate class, Justice Marshall was denied entry to the University of Maryland Law School because of his race. Soon after graduating first in his class from Howard University Law School, Justice Marshall commenced his career as a lawyer for the NAACP. He began the work of creating a more just society by challenging pay gaps between black and white teachers in Maryland. Justice Marshall then went on to open for others the very door that had been closed to him: he won a lawsuit against the University of Maryland Law School that forced it to admit black students.

While working for the NAACP, Justice Marshall fought an unending battle against racism and inequality in laws. As a result of fighting for the rights and freedoms of others, Justice Marshall's own freedom—an even his life—was constantly in danger. On more than one occasion he was harassed and threatened. In Tennessee, he was arrested on false charges; and when he was in Florida to argue a case where a local sheriff set up the defendant, the Governor assigned the state police to protect him, out of concern for his safety. Justice Marshall was not intimidated and continued his crusade, becoming chief counsel for the NAACP.

Justice Marshall was behind the successful strategy of using the courts to achieve racial equality. He first attacked school segregation at every level, culminating in the landmark Brown v. Board of Education decision that ended segregation in public schools in 1954.

During his career with the NAACP, Marshall won 29 of the 32 civil rights cases he argued before the Supreme Court. Some of the important, but lesser known, victories that Justice Marshall won were: to stop the government from enforcing property covenants that restricted the sale of land by race; to end discrimination in interstate bus travel; and to end whites-only primary elections.

In 1961 President Kennedy nominated Marshall for a seat on the Second Circuit Court of Appeals, and in 1964 President Johnson appointed Marshall as solicitor general.

After serving three years as solicitor general, President Johnson nominated Thurgood Marshall for a seat on the Supreme Court. Justice Marshall overcame opposition from southern senators to be confirmed by the Senate and went on to serve on the Supreme Court for 24 years, during which time he wrote many of the Court's most important decisions. Throughout his service on the Supreme Court, Justice Marshall continued to be a strong advocate of individual rights, and remained true to his crusade to end discrimination.

By fighting and winning as he did for the protection to the rights of minorities, Justice Marshall brought greater protection to the rights of all Americans.

The career, character, and contributions of Justice Thurgood Marshall are without equal. His struggles for equality and dignity for all people were of historic proportions. He has given to the American public an enduring symbol of leadership, determination, compassion, and honor.

There is no tribute we could bestow upon him that could in any way enhance the record he complied himself as a distinguished advocate of the Constitution and its fair and equal application to all Americans.

Mr. Speaker, I am honored to support this bill and urge its passage.

Mr. COSTELLO. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Ohio (Mr. LATOURETTE), the ranking member of the subcommittee.

Mr. LATOURETTE. Mr. Speaker, I thank the gentleman for yielding to me.

H.R. 988 designates the U.S. courthouse at 40 Centre Street in New York as the Thurgood Marshall United States Courthouse.

Mr. Speaker, similar legislation to honor this great jurist passed the House in the 104th, the 105th, and the 106th Congress. Sadly, and unfortunately, the other body has not acted.

I too want to congratulate our colleague, the gentleman from New York (Mr. ENGEL) for his persistence in bringing this important matter to our attention. It is a bill worthy of being enacted by this body, and hopefully we can have it on the President's desk for his signature.

Mr. COSTELLO. Further reserving my right to object, Mr. Speaker, I yield to the gentleman from New York (Mr. ENGEL).

(Mr. ENGEL asked and was given permission to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, first of all, let me thank the gentleman from Illinois (Mr. COSTELLO), the gentleman from Ohio (Mr. LATOURETTE), the gentleman from Alaska (Mr. YOUNG), and the gentleman from Minnesota (Mr. OBERSTAR) for their assistance in bringing the bill to the floor. It is a pleasure working with them, and a special thanks to the gentleman from Illinois (Mr. COSTELLO).

Mr. Speaker, I am proud to be the sponsor of H.R. 988, which designates the United States courthouse at Foley Square in New York City as the Thurgood Marshall United States Courthouse.

Thurgood Marshall, of course, was the first African American Supreme Court justice and one of the most well-known leaders of the Civil Rights movement. His efforts were instrumental in the landmark case Brown v. Board of Education which made segregation in schools illegal.

Realizing his abilities, President Kennedy appointed him to the Second Circuit of the U.S. Court of Appeals. He next served as Solicitor General under President Johnson and won 29 of the 32 cases he argued. When he was appointed to the Supreme Court of the U.S., President Johnson stated that it was, ''The right thing to do, the right time to do it, the right man, and the right place.'' And I could not agree more.

Mr. Speaker, my legislation has the support of Thurgood Marshall's family, the New York State Senate, the New York State Bar Association, and the New York State County Lawyers Association, of which Marshall was a longtime member. The Federal courthouse at Foley Square is where Thurgood Marshall practiced when appointed by President Kennedy to the U.S. Court of Appeals for the Second Circuit in 1961.

This is an honor for Thurgood Marshall, it is a fitting honor, and I thank the House for considering this important legislation and look forward to its passage.

Mr. COSTELLO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 40 Centre Street in New York, New York, shall be known and designated as the ''Thurgood Marshall United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the ''Thurgood Marshall United States Courthouse''.

The bill was ordered to be engrossed, read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bills H.R. 2501 and H.R. 988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

EXPRESSING SENSE OF CONGRESS REGARDING ESTABLISHMENT OF NATIONAL HEALTH CENTER WEEK

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent that the Committee on Government Reform be discharged from further consideration of the concurrent resolution (H. Con. Res. 179) expressing the sense of Congress regarding the establishment of a National Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

□ 2310

The SPEAKER pro tempore (Mr. BEREUTER). Is there objection to the request of the gentleman from Ohio?

Mr. DAVIS of Illinois. Mr. Speaker, reserving the right to object, although I will not object, I rise today in support of this important resolution, and I am pleased to have been a major sponsor of this legislation along with the gentleman from Massachusetts (Mr. CAPUANO), the gentleman from Florida (Mr. BILIRAKIS), and the gentleman from Texas (Mr. BONILLA), my fellow co-chairs of the Community Health Center Caucus.

I thank the gentleman from Illinois (Mr. HASTERT), the gentleman from Missouri (Mr. GEPHARDT), the gentleman from Indiana (Mr. BURTON), and the gentleman from California (Mr. WAXMAN) for expediting this resolution to the floor.

The resolution before us simply urges the establishment of a Community Health Center Week beginning on August 19. The establishment of Community Health Center Week would raise awareness of health services provided by the more than 1,029 community health centers located in rural and urban communities throughout America.

Community health centers have stood in the gap providing health services to the poor and medically underserved throughout our Nation, in public housing, homeless shelters and in rural America. It is a program that has been successful and is currently serving over 12 million people at 3,200 health delivery sites throughout the United States, Puerto Rico, Guam and the Virgin Islands. Health centers have been cost-effective and at the same time provide quality health care to their patient population. They are truly community oriented and patient focused.

In addition, health centers play a major role in helping to reduce health disparities. We still remain a Nation divided when it comes to health care, divided along the lines of those who have and those who have not access to care. Health centers have to bridge the gap between those entities.

A National Health Center Week will allow health centers to raise awareness and educate the public about health issues and the role that they play in our communities. Therefore, I am pleased to support this resolution, and urge its immediate adoption.

Mr. Speaker, I thank the gentleman from Ohio, and urge adoption of this resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 179

Whereas community, migrant, public housing, and homeless health centers are vital to many communities in the United States;

Whereas there are more than 1,029 such health centers serving nearly 12,000,000 people at 3,200 health delivery sites, located in all 50 States of the United States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands;

Whereas such health centers have provided cost-effective, quality health care to poor and medically underserved people in the United States, including the working poor, the uninsured, and many high-risk and vulnerable populations;

Whereas such health centers help reduce health disparities, meet escalating health care needs, and provide a vital safety net, in the health care delivery system of the United States;

Whereas such health centers provide care to 1 of every 9 uninsured Americans, 1 of every 8 low-income Americans, and 1 of every 10 rural Americans;

Whereas the people to whom such health centers provide care would otherwise lack access to health care;

Whereas such health centers and other innovative programs in primary and preventive care serve 600,000 homeless persons and more than 650,000 farm workers in the United States;

Whereas such health centers make health care responsive and cost-effective by integrating the delivery of primary care with aggressive outreach, patient education, translation, and other enabling support services;

Whereas such health centers increase the use of preventive health services, including immunizations, pap smears, mammograms, and glaucoma screenings;

Whereas in communities served by such health centers, infant mortality rates have decreased between 10 and 40 percent;

Whereas such health centers are built through community initiative;

Whereas Federal grants assist participating communities in finding partners and recruiting doctors and other health professionals;

Whereas Federal grants constitute, on average, 28 percent of the annual budget of such health centers, with the remainder provided by State and local governments, medicare, medicaid, private contributions, private insurance, and patient fees;

Whereas such health centers are community-oriented and patient-focused;

Whereas such health centers tailor their services to fit the special needs and priorities of communities, working together with schools, businesses, churches, community organizations, foundations, and State and local governments;

Whereas such health centers contribute to the health and well-being of their communities by keeping children healthy and in school and helping adults remain healthy and productive;

Whereas such health centers encourage citizen participation and provide jobs for 50,000 community residents; and

Whereas the establishment of a National Community Health Center Week for the week beginning August 19, 2001, would raise awareness of the health services provided by such health centers: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) there should be established a National Community Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers; and

(2) the President should issue a proclamation calling on the people of the United States and interested organizations to observe such a week with appropriate programs and activities.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 179.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONGRATULATING UKRAINE ON TENTH ANNIVERSARY OF REESTABLISHMENT OF ITS INDEPENDENCE

Mr. TANCREDO. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the resolution (H. Res. 222) congratulating Ukraine on the tenth anniversary of reestablishment of it independence, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

Mr. SCHAFFER. Mr. Speaker, reserving the right to object, later this month on August 20, the gentleman from Illinois (Mr. HASTERT) has authorized a delegation of Members of this House to travel to Ukraine to help the Ukrainian people and to celebrate with them in their celebration of the tenth anniversary of Ukrainian independence. It is a celebration of victory that belongs to the people of Ukraine, and I thank the gentlewoman from Ohio (Ms. KAPTUR) for her help in bringing this resolution forward and delivering it to the people of Ukraine later this month.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. SCHAFFER. Further reserving the right to object, I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from Colorado (Mr. SCHAFFER) who co-chairs the Ukrainian Caucus with myself; we have several dozen Members who are participants in that. For dropping this resolution, H. Res. 222, congratulating Ukraine on the tenth anniversary of the reestablishment of its independence, we ask for the unanimous approval of the membership.

Mr. Speaker, it is important to remind ourselves and think about the fragile beginnings of our own Republic, after 10 years, where were we. We did not even have a Constitution in place, and it took us almost a century more to grant civil rights to all of our people. And voting rights did not come until almost another 70 years later to women, then in the mid-20th century to minorities.

So we see the struggle of this democratic Nation, this democratic Republic, to provide greater and fuller, more robust liberties to all of her people. We look at Ukraine after 10 years, she has been building broad and durable relations with the 1994 charter for Ukrainian-American partnership, friendship and cooperation, and also her distinctive partnership since 1997 with NATO.

Ukraine has done many things that the West has asked, including dismantling her nuclear arsenal. On June 28, 1996, Ukraine's parliament voted to adopt a democratic constitution of the Ukraine, providing for presidential and parliamentary elections, and we are about to embark on the third set of parliamentary elections.

Mr. Speaker, I would say to the gentleman from Colorado (Mr. SCHAFFER) and, indeed, our entire membership that Ukraine has been trying to pursue friendly relations with her neighboring countries and has been consistently pursuing a course of European integration with a commitment to ensuring democracy and prosperity for its citizens. The road has not always been easy.

Mr. Speaker, it still has many rough bumps in that road, certainly the full development of free press and independent media; the development of a rule of law and a judicial system; a legislative branch of the government that participates fully and equally with the executive. And as we move this resolution forward, we want to walk alongside Ukraine on this journey, and we urge her to join with the community of freedom-loving nations and European nations, and hopefully in our lifetime see her fully integrated into the European and trans-Atlantic set of institutions that we have all come to respect and love.

Mr. Speaker, I thank the gentleman for yielding, and urge this resolution's swift passage. I thank the gentleman from Illinois (Mr. HASTERT), the gentleman from Illinois (Mr. HYDE), the gentleman from California (Mr. LANTOS), the gentleman from California (Mr. GALLEGLY), the gentleman from New York (Mr. ENGEL), all Members who have supported this resolution at the authorizing level, the gentleman from Colorado (Mr. TANCREDO), and the gentleman from Nebraska (Mr. BEREUTER) who shares our interest in moving Ukraine forward.

Mr. SCHAFFER. Mr. Speaker, I thank the gentlewoman for her help and leadership on this important issue.

Mr. Speaker, Ukraine faces certain challenges. There is no question about that, and the United States is prepared to pay whatever supportive role it can to help promote private property ownership, freedom of speech, human rights and political stability. Despite all of those challenges, and some of them are not coming soon enough, the economic growth in Ukraine is opening up Ukrainian people to a tremendous amount of prosperity that they have not experienced before.

As I said before, there are lot of political figures that we have had a chance to meet over time, but the tenth anniversary of Ukrainian independence is a victory and celebration for the people of Ukraine. Their hope for freedom, democracy and an enduring, independent nation is our hope as well, and we are anxious to get to Ukraine and celebrate this monumental event with them.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 222

Whereas the proclamation on August 24, 1991 of the independence of Ukraine led to the disintegration of the Soviet Union;

Whereas Ukraine and the United States, proceeding from their shared commitment to democratic values, have expressed their determination to build broad and durable relations in the 1994 Charter for Ukrainian-American Partnership, Friendship and Cooperation and Ukraine is a country that maintains a distinctive partnership with NATO since 1997;

Whereas on June 28, 1996, Ukraine's Parliament voted to adopt the democratic Constitution and Ukraine has conducted its presidential and parliamentary elections according to it, moving further away from the former communist model of one-party totalitarian rule; and

Whereas Ukraine since its independence has successfully transferred from a colony of the Soviet empire into a viable, peaceful state, which established exemplary relations with all, neighboring countries and consistently pursues a course of European integration with a commitment to ensuring democracy and prosperity for its citizens: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) as a leader of the democratic nations of the world, the United States commends and congratulates the people of Ukraine on the tenth anniversary of Ukrainian independence;

(2) the President and Parliament of Ukraine should continue their efforts to maintain the balance of powers between the executive and legislative branches of government and ensure that their cooperation is aimed at furthering democratic reforms and strengthening civil society based on the rule of law; and

(3) the United States should continue to assist in building a truly independent Ukraine through encouraging and supporting democratic and market-economy transformations in Ukraine, keeping the doors of European and Trans-Atlantic institutions open to this nation.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 2320

APPOINTMENT OF HON. FRANK R. WOLF TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH SEPTEMBER 5, 2001

The SPEAKER pro tempore (Mr. BEREUTER) laid before the House the following communication from the Speaker:

WASHINGTON, DC,
August 2, 2001.

I hereby appoint the Honorable FRANK R. WOLF or, if not available to perform this duty, the Honorable WAYNE T. GILCHREST to act as Speaker pro tempore to sign enrolled bills and joint resolutions through September 5, 2001.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

INTRODUCTION OF DEPARTMENT OF ENVIRONMENTAL PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HORN) is recognized for 5 minutes.

Mr. HORN. Mr. Speaker, recently I introduced legislation, H.R. 2694, to elevate the Environmental Protection Agency, EPA, to a permanent Cabinet-level position. It has been 31 years since the EPA was first established, and I would suggest to my colleagues that this legislation is long overdue.

This is not the first time the House of Representatives has been asked to consider this legislation, and indeed it is not even the first bill on the subject this year. But in many respects, it is a better bill than its predecessors, and I hope it will move swiftly through the legislative process.

On December 2, 1970, our Nation marked its first major environmental milestone by establishing the Environmental Protection Agency. In so doing, then President Richard Nixon stated, ''I am making an exception to one of my own principles: that, as a matter of effective and orderly administration, additional new independent agencies normally should not be created. Because environmental protection cuts across so many jurisdictions and because environmental deterioration is of great importance to the quality of life in our country and the world, I believe that in this case a strong, independent agency is needed.''

President Nixon's overriding concern to be addressed by the establishment of the EPA was that although numerous parts of the Government may have been sympathetic to protecting environmental quality, no one distinct department existed to focus solely on our environment. Moreover, the mission statements and purposes across departments necessarily affect how each department views environmental protection, leading to inconsistent and varying ideas of real protection.

Thus, the EPA was organized. Since 1970, we have made a number of important strides to improve our environment, including such historic legislative achievements as the Clean Air and Clean Water Acts. Today, the administrator of the EPA is a member of President Bush's Cabinet. But, the Administrator serves in that capacity at the pleasure of the country's chief executive officer. If we are truly serious about maintaining our commitment to environmental protection, Cabinet-level status must be made permanent by elevating the EPA to a full department.

In each of the past several Congresses, my colleagues and I have attempted to elevate the EPA to a Cabinet-level department. The closest that we came to achieving this principle occurred in 1993. The base legislation at that time was developed by the gentleman from Michigan (Mr. CONYERS), then chairman of the House Committee on Government Operations. This bill, in turn, was similar to legislation crafted by Senator Glenn and considered by the Senate. That bill passed the Senate by a wide margin, 79–15.

The reason to introduce the bill remains as pressing today as it was in 1993 and certainly as it was in 1970. Protecting our environment is a priority for all Americans. To give this function the attention it deserves really necessitates elevating the EPA to the Department of Environmental Protection. H.R. 2694 does precisely this. In no small part, this commitment and elevation of the EPA signals to our world partners and to our own citizens that environmental protection and restoration is at the top of our policy priorities.

Besides elevating the EPA to a full department, we should look upon this as an opportunity to fix long overdue procedural challenges. In particular, we have an opportunity to ensure that in addressing environmental regulations, the Department utilizes the best science that is currently available and that sound public health priorities will actually be addressed by the proposal. It is worth noting that in passing their version of the legislation, the Senate included this very proposal and passed it by a vote of 95–3. It is refreshing to see that sometimes policy considerations can prevail over partisanship.

We face serious challenges to prevent global warming, to reduce toxic emissions, to assure quality air and to prevent other harmful discharges to ensure that we have clean sources of drinking water. These are large challenges with which we cannot afford to play politics. Evaluating the Environmental Protection Agency allows us the opportunity to take politics out of the equation, but we need to do it correctly. I look forward to working with my colleagues and the administration to move forward on this important bill.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

MINNESOTANS MOURN THE DEATH OF KOREY STRINGER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. RAMSTAD) is recognized for 5 minutes.

Mr. RAMSTAD. Mr. Speaker, the people of Minnesota and Minnesota Vikings football fans around the world are mourning today because we have had a tragic death in the family.

Minnesotans are devastated over the loss of Korey Stringer, the gifted all-pro Minnesota Vikings football player, loving husband and father, popular hero to Minnesota kids and respected role model in our great State.

As Vikings head coach Dennis Green put it, ''We have lost a brother, a teammate and a friend. Everybody loved, respected and admired Korey Stringer. He was our gift from heaven.''

Mr. Speaker, Minnesota lost more than just the anchor of the Vikings offensive line when Korey Stringer died at 1:50 this morning because of heatstroke. We lost much more than a Pro Bowl football player. We lost one of the finest people in the National Football League and our Twin Cities community.

As my friend Minnesota Vikings all-pro wide receiver Cris Carter said yesterday, ''There was not a more well-liked player on our football team, but it's far greater than about football.''

Korey was in his seventh season as a Viking after he was drafted in the first round in 1995 as a 20-year-old from Ohio State. Even though Korey was a native of Warren, Ohio, he chose to make the Twin Cities area his permanent home. He was a huge man physically, 6 feet 4, 335 pounds, and his heart was even bigger.

Known as a gentle giant, Korey Stringer gave so much to our Twin Cities community. He established Korey's Crew community service programs at local schools and at the St. Paul public library, and he was always available to help kids when help was needed. He loved to visit kids in local hospitals and schools, and he was one of the most involved Vikings in our community.

□ 2330

Brad Madson, Director of Community Relations for the Vikings said yesterday, ''Korey was one of a handful of players who wanted to get involved in the community. When he wasn't performing community service as part of his own Korey's Crew program, he was there supporting his teammates' community efforts.''

A fifth-grade teacher at Bancroft Elementary in South Minneapolis, where Korey Stringer visited the kids weekly to talk about the importance of reading and staying in school, paid tribute to Korey yesterday by saying, ''Korey stringer was not commanding or brash. He was genuine and honest, and kids were drawn to him like a magnet.

''When Stringer visited schools, he signed autographs, shook hands and posed for photographs. But then he sat down and listened to the students' stories. He made them smile and laugh. And he came with his oft-repeated message: Read, stay in school, be responsible, be respectful.''

Another teacher said yesterday, ''A lot of times celebrities come and they spend 5 to 10 minutes, give a speech and then leave. Not Korey Stringer. He arrived early, greeted each youth, took photos with them, asked them about their favorite books and talked to them about them. He stayed until the last kid left. Not only did the Vikings lose a good football player, but the community lost a good man.''

USA Today had a wonderful story in today's edition about Korey's love and concern for others. Just last week, Korey visited with Steven Arnold, who had been an assistant coach when Stringer played at Harding High School in Warren, Ohio. Coach Arnold

told Stringer they were having equipment problems with a local youth football team, not enough money to buy equipment. Stringer went right out to his truck and signed over his Pro Bowl to the youth football team. That was Korey Stringer.

Mr. Speaker, Minnesota Vikings owner Red McCombs summed it up well when he said, ''We have lost a truly remarkable man who was an outstanding husband, father and football player.''

My good friend of many years, former Viking Joe Senser, who is now the radio voice of the Minnesota Vikings, said, ''You will not find a better family man who loved his family more.''

Korey's loving wife Kelci, 3 year-old son Kodie and his extended family are in the thoughts and prayers of all of us. Korey, you might be gone, but you will never be forgotten by the people of Minnesota.

AMERICA SHOULD NOT TURN ITS BACK ON WORLD CONFERENCE AGAINST RACISM

The SPEAKER pro tempore (Mr. OSBORNE). Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I would also like to be associated with the remarks of the gentleman from Minnesota relative to the loss of Korey Stringer, who not only was a great football player, but indeed was a role model, not only for Minnesota, but for the entire Nation. So we share with you the comments you have just made.

Mr. Speaker, as we speak, an intensive 2 week effort is under way in Geneva to finalize plans for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The World Conference, to be held in Durban, South Africa, on August 31, is expected to be the most important international meeting on racism ever held.

Given America's tragic history of racial oppression, racism and inequality and the bloody struggles required to end slavery, lynching, Jim Crow discrimination in employment, education, health care and public accommodations, one would assume that America would have some important lessons to share with the international community.

Given the heavy price the world has been forced to pay as a result of the slave trade, one would assume that America would be sensitive and responsive to an attempt to clarify that history and examine means of redressing the wrongs of slavery and racism.

Given the ongoing conflicts and the heritage of conflict as a result of the exploitation of the Third World and other developed nations, largely driven by the American slave system, driven by the lingering aftereffects of the slave trade, one would assume that America would be sensitive and responsive to an attempt to clarify that history and examine means of redressing the wrongs of slavery and racism.

Given the contradictions arising from the international debt crisis, from the process of globalization and trade driven by the great inequalities between the rich nations and the poor nations, one would assume that America would be sensitive and responsive to an attempt to clarify that history and examine means of redressing the wrongs of slavery and racism.

One would assume that America would feel a powerful sense of responsibility to share those experiences, because we understand the immense human, social and economic costs associated with the evils of racism and discrimination.

Unfortunately, if one were to make those assumptions, one would be wrong. Our State Department has indicated that the United States will not attend the World Conference unless two items are struck from the proposed agenda: The characterization of Zionism as racism, and the issue of reparations for slavery and colonialism.

In international forums from Ireland to the Mideast, from Southern Africa to the Indian sub-continent, America has always insisted that problems cannot be solved, that differences cannot be narrowed, if we refuse to discuss them.

Suddenly America has become the loner in world diplomacy, insisting it is our way or no way. The Anti-Ballistic Missile Treaty, the Germ Warfare Treaty, the Kyoto Global Warming Treaty, and now the World Conference on Racism.

What kind of superpower are we? Are we about democracy, about democratic process, about transparency and mutual self-interest? Or are we about imposing our will on international consultations, about insisting on predetermining the outcomes of discussions between nations?

Only those who fear the outcome of fair and open discussion have reason to refuse to engage in debate and discussion. I believe that we have nothing to fear in openly and honestly exploring history and in repudiating racism.

It is time to come to grips with racism and the legacy of racism. It is in our national interests and in our international interests.

UN Secretary General Kofi Annan has correctly defined the problem. He stated we need to ''find ways to acknowledge the past without getting lost there; and to help heal old wounds without reopening them.''

If America is serious about its affirmation that racism and democracy are fundamentally incompatible, and I think that we are serious about it, then America must be at the table on August 31.

So I would hope, I would pray, and I would urge that America do in fact attend the conference, participate, and explore with the rest of the world attempts to find solutions to our past and present problems.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

(Mr. HUNTER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

RESPONDING TO SECESSIONIST ARGUMENTS AGAINST INDIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I come to the House floor tonight to respond to statements made by some of my colleagues in their extensions of remarks on July 24. Their reference is to various secessionist movements in India.

My colleagues suggest that Muslims in Kashmir and Sikhs in Punjab, among other religious and ethnic groups in certain Indian states, have the right to separate their states from the Indian Nation. They seek the United States' support for secession. But their theory is not based on the American experience.

These critics deem the recent landmark summit between India and Pakistan a failure because it did not produce any substantive agreement over Kashmir. They argue that Indian Prime Minister Vajpayee's refusal to speak extensively on Kashmir was a testament to India's contempt for democracy.

Mr. Speaker, I would like to draw a parallel between India, the world's largest democracy, and our own democracy in the United States. We cannot forget the principles on which this Nation was founded and the war we fought to maintain these principles, for it was in the Civil War that the Union fought to keep the South from seceding and to keep this Nation united.

□ 2340

It was South Carolina's act of secession that was fiercely battled on American soil to keep the United States together at any cost. Americans refused to give in to the South's secession on idealogical grounds and vehemently denied any right to secession based on the Constitution or the American historical experience. The framework of this Nation is founded on the fundamental notion that States cannot secede.

My colleagues condemned India for trying to keep the Nation together. India is a model for democracy in the South Asia region. India is supporting the same ideals that shaped the history and success of the United States. We should support India in its opposition to State secession.

Americans cherish the unity and patriotism that we fought so hard to maintain during the Civil War. India is fighting a battle that America fought in the 19th century and all for the same outcome: a united country.

My colleagues have made claims that India is not one nation, but rather a

multinational state put together by the British for administrative convenience. Their claims ignore India's history, its independence movement, and the principles on which India was founded.

India was founded as a secular state based on an equality of religions. Secularism is the thread that holds together the fabric of diversity that characterizes India. Muslims and Sikhs do not need to secede from such a nation. Secession based on religion or any other idealogical principle goes against the secularism that India stands for, and it is the secularism that India cannot afford to compromise in its fight for democracy.

Mr. Speaker, a divided India is a recipe for chaos. A peaceful and smooth transition to a split India is not feasible. With the diverse array of regions, 18 official languages and 17 freedom movements in India, the breakdown of India would be disruptive for its people and the international community. A divided India is more susceptible to outside influence and the possible resurgence of colonialism. For a country such as India, unity is its strength.

While a joint agreement may not have come out of the India-Pakistan summit in July, we must realize that India has a sincere desire to improve relations with its neighbors. A united and strong India is a necessary prerequisite for cultivating a positive relationship with not only Pakistan, but all of South Asia.

IMMIGRATION REFORM

The SPEAKER pro tempore (Mr. OSBORNE). Under a previous order of the House, the gentleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes.

Mr. TANCREDO. Mr. Speaker, we are once again approaching a national discussion with the regard to the issue of immigration, and I am glad we are doing so because it is, of course, an important one.

I am concerned because many times this particular issue is one that we are reluctant to deal with. We are reluctant on the floor of the House; we are reluctant oftentimes in the court of public opinion to discuss the issue of immigration or immigration reform for fear that somehow or other our concerns on this particular topic would be interpreted as being either anti-immigrant or racist in nature.

But it is a fact, Mr. Speaker, that it is one of the most significant and perplexing problems we face as a Nation. It is, I think, one of the most serious of the domestic policy issues that we face as a Nation, because it affects us in a variety of ways. Massive immigration into the United States, especially massive numbers of illegal immigrants into the United States, cause a number of problems. They cause problems not just for people in the United States, but they cause problems even for those coming in.

We have heard, of course, many times of the situations that have occurred as people have come across the border, have been taken advantage of either by people on this side or on the other side of the border, people who charge large sums of money for taking people into the United States illegally; and then when these folks get here, they are oftentimes taken advantage of by employers who know that they can pay them lower than the going rate for wages, they can withhold benefits, they can do all of this because the employee being illegally here cannot do, or refuses, or is fearful of, doing anything about it. So it is bad for the person coming across the border, and it is bad for people here for a variety of reasons.

Massive numbers of people coming across the border, legally and illegally, low-skilled and, therefore, low-wage earners, have a depressing effect on the income of low-income people in the United States. It is difficult for people here to get jobs sometimes; it is certainly difficult for them to compete with people who are working for even lower than minimum wage levels.

But there are even more important and pressing problems that we face in this country as a result of massive immigration, and those problems deal specifically with the cost of infrastructure that has to be developed and created in response to the growing numbers of people in the country.

We have time and time and time again talked about the problems that the Nation faces as a result of an energy crisis. Yesterday, this House, to its credit, passed the President's bill, an energy reform proposal that hopefully will bring us a long way towards solving the energy crisis that we face in this Nation. But why do we face the crisis, is the concern that we should all have.

Why is it that there is not enough energy to go around? Well, the fact is, Mr. Speaker, that the problem is a direct result of the numbers of people that we have coming across the borders in the United States.

The massive numbers of illegal immigrants and legal immigrants have increased the population of the United States dramatically over the last 10 years. According to the United States Census, immigration accounts for over 55 percent of the population increase in the country. As a result, there are, of course, lots of pressures that are brought about in terms of infrastructural costs.

Recently, we have witnessed something else happen. We have witnessed a proposal on the part of a Working Group in the White House, a proposal to provide amnesty to at least 3.5 million Mexicans who are here illegally. Now, that is peculiar in many ways.

First of all, we tried this once before. In 1986, we proposed and, in fact, adopted an amnesty plan. It was designed at that time to reduce the number of illegal aliens coming into the country, to help us get a grip on our immigration problem. It, of course, did not work. It did exactly what we would assume it would do, Mr. Speaker. It encouraged many millions of others to come into the country illegally in the hopes that they too, in time, would be given the opportunity to be legalized because of their illegal activity, I mean as bizarre as that sounds, as incongruous as that sounds, as illogical as that sounds. But, nonetheless, we have done that.

I am concerned about this proposal, and I do hope that we will eventually strike it down.

EMBRYONIC STEM CELL RESEARCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, I wanted to come to the well tonight to talk a little bit about an issue that has gotten a lot of attention here on the floor, lots of talk and lots of rhetoric, and that is the whole question of embryonic stem cell research. I am a physician and I know firsthand about taking care of these people; I know about health and the issues of morality, and I have devoted my life to trying to improve the health and well-being of individuals, both in the Congress and in the legislature, as well as in my office.

As a physician, I was trained almost 40 years ago, and I am amazed by the medical progress which has occurred over the last few decades. It is hard to believe that in 1924, the President of the United States' son died because he was playing tennis, he developed a blister on his heel, got an infection, and died. That certainly was before antibiotics; it could not happen today. The last 50 years have seen an absolute explosion of medical technology and knowledge in this whole arena.

In the new millennium, the issue that is of the most importance and the most promise is the whole area of stem cells. These are the most primary, primitive cells in the human body that start out as one cell and they become human beings. When we think about the things that can be done with stem cells, the possibilities are unlimited, although our knowledge is limited at this point.

□ 2350

We have to be able to imagine a day when somebody like Lou Gehrig would have a stem cell treatment that would allow him to live. People like that are hopeless at this point, and stem cell research gives them some hope. I have taken care of people like this, with Parkinson's disease, with Lou Gehrig's disease, Huntington's Chorea, paralysis, blindness, diabetes, and spinal cord injuries.

I put this picture up of Christopher Reeve, Superman, who was riding a horse, broke his neck, and is now paralyzed. This young girl next to him is

also paralyzed. These are the people we are talking about finding some help for. Right now, there is no help for either one of them, no hope that they will ever be able to walk again.

Stem cells, as I say, are the most undifferentiated cells. When given the proper signals, they become any specialized cell in the body: brain, blood, liver, lung. The opportunities are unlimited.

There are three sources of these stem cells: adult stem cells; that is, stem cells we would get out of my body or any other adult's body that are operating in the bone marrow to produce blood or something like that; fetal stem cells, that is in babies that are in the womb and/or developing fetuses that are in the womb and for one reason or another are born either naturally or some other way because of an elective procedure; or the third way is from embryos.

Now, how does an embryo come about? People sort of say, where do they come from? Our research right now under the National Institutes of Health in embryonic research is controlled by very strict guidelines. This administration stepped in and stopped what has been going on in this country for the last 8 years.

The question we have to ask ourselves is, why is this? Now, my belief is that it has nothing to do with science, it really is a moratorium on for political reasons. Let me explain why I say that.

The embryonic stem cells come from in vitro fertilization clinics. There are people out there who try to have children in the normal manner and it does not work, so they go to a clinic, and the woman goes through a procedure by which she creates a number of eggs. They are extracted from her body and put in a test tube. The man puts his semen in the test tube, and we start a baby to develop.

Now, that baby, the doctor harvests, and that is the term they use, harvests three eggs, so you have three test tubes. You put these eggs in there and you fertilize them and you start out a child.

When the time comes for the woman to get pregnant, they take one of those and put it in the woman's uterus, and hopefully it takes. If the first one takes, we now only have two left. The question is, what do we do with those? We can throw them away, or we can let them be used for this research.

My belief is that the possibilities are so great that we must continue this research. Throughout history, people have resisted scientific advancement. History is replete with examples of fundamentalist, religious leaders issuing scientific decisions based on absolutely no evidence.

I want to talk today about embryonic stem cell research. There has been a lot of rhetoric out there denying its therapeutic potential, questioning its morality, focusing on adult stem cells, and so on.

I am a physician. I know first-hand about health and morality. I have devoted my life to improving the health and well-being of people—on an individual level as a practicing physician, and through health policy—both in the Washington State legislature and here in Congress.

As a physician who trained roughly 40 years ago, I am amazed by the medical progress just over the past few decades. In the first half of this century, an infected blister could kill, as it did to President Coolidge's 16-year-old son in 1924, following a tennis match at the White House. The last 50 years have borne witness to such an explosion of scientific and medical advances that have saved countless lives and alleviated human suffering.

As we enter the new millennium, stem cell research is the wave of the future in biomedical research.

So much of what I learned in medical school has changed. The untreatable afflictions can be treated, if we just allow science to progress. Imagine the day when Lou Gehrig's Disease is not associated with a miserable and certain death. Think about diabetic children no longer requiring multiple pin-pricks throughout each and every day for the rest of his/her life in order to survive. Picture paralyzed individuals standing up and walking away from their wheelchairs.

I have taken care of patients with many of these afflictions. I have friends who have suffered and some that have died.

Embryonic stem cell research offers unprecedented promise for these and so many devastating diseases and disabilities—Parkinson's disease, ALS, Huntington's Chorea, paralysis, blindness, diabetes—the list is endless. Stem cells are undifferentiated cells, which, given the proper signal, are potentially capable of becoming any specialized cell, such as a brain or blood cell. As such, their potential for saving lives is unlimited.

There are three sources of stem cells—adult, fetal and embryo. Under the Clinton Administration, the National Institutes of Health issued explicit guidelines for research involving stem cells derived from embryos. The guidelines provide stringent requirements that enable scientists to conduct stem cell research within the constraints of careful federal oversight and standards.

Currently, the administration has placed a moratorium on these NIH guidelines and is deciding whether or not to shut the doors on the most promising biomedical research of our time.

Throughout history, people have resisted scientific advancement. History is replete with examples of fundamentalist, religious leaders issuing scientific decisions based on absolutely no evidence. It is dèjá vu all over again today with this current Administration as they inject politics into the single most promising biomedical research of the century.

The Administration unfortunately is not committed to research that would hasten medical discoveries, but rather holds science hostage to the Catholic vote. As several New York Times articles report, Karl Rove, the president's chief political adviser is concerned about the views of the Catholic Church because Catholic voters are seen as such a swing vote in the elections. The Administration has degraded medical research and the tremendous potential of embryonic stem cell research into an anti-abortion debate.

We cannot allow the current Administration to withdraw federal support for embryonic stem cell research. It is unconscionable that purely political considerations are obstructing medical discoveries that could help the 120,000 children and one million adults with Type I diabetes; the 500,000 individuals suffering from Parkinson's disease; the 200,000 living day-to-day with the disabling effects of spinal chord injuries; and millions more.

Without a microscope, one cannot even see what this debate is all about. The center of the controversy is a microscopic, days old cluster of cells—this is the embryo.

It is stored in this test tube. It is an egg fertilized by a sperm and stored frozen in one of these—is this life?

I have a question for those who oppose embryonic stem cell research on supposedly ''moral grounds''—if you were to pass a home that was on fire and there was a seven year old child in this home, would you risk your life to save that child? I imagine the answer would be yes. If, on the other hand, you passed a fertility clinic that was on fire, would you risk your life to save an embryo? Save one of these test tube?

Embryonic stem cells are developmentally the earliest of all stem cells, and, therefore, they have the greatest potential to become different body cells—greater than adult stem cells. The embryonic stem cell is a unique type of cell that holds the key to cures for so many devastating diseases and afflictions. This is perhaps the first time ever that a solitary source offers so much promise for a multitude of different illnesses.

Limiting crucial research to adult stem cells, a position suggested by the White House and many of my colleagues, is foolishly shortsighted. In fact, the general consensus shared among numerous scientists at a recent National Academy of Science workshop on stem cells was that the evidence for the broad potential of adult stem cells is at best scant.

Despite some reports of success, it is certainly unclear whether adult stem cells have the same promise as embryonic stem cells. First of all, cells for all tissue types have not yet been found in the adult human. Second, genetic disorders would be present in the patient's adult stem cells. Third, all evidence suggests that adult stem cells lack the same capacity to multiply as do embryonic stem cells.

Another compromise suggested by the White House would permit such research but limit it to the very few cell lines already in existence. Not only is this utterly foolish because there is not nearly enough cell lines to make a significant contribution, but it is also hypocritical. These cell lines were most likely not derived in compliance with the NIH guidelines. As the administration is seemingly preoccupied with the morality and ethics of this subject, they may end up advocating research on cell lines that were most likely not derived with any ethical oversight.

Another one of my colleagues has been circulating a Dear Colleague that suggests there is another alternative—that it is possible to remove the embryonic stem cell without destroying the embryo. He refers to a conference attended to by Members and staff at NIH. I was at that conference. The scientists made it abundantly clear that we lack this technology today, and rather, it is years away. We do not have years to waste while we wait.

Some of my colleagues have tried to convince us that there is no clinical evidence to

support human embryonic stem cell research. Well of course not, there is a federal moratorium on the research! These cells were only recently isolated, the first grant applications were due at NIH last March, and then the administration placed everything on hold. If they ever allow the research to proceed with full urgency, there will be clinical success.

Furthermore, my colleagues are regrettably misleading and not up-to-date with the scientific literature. There are in fact numerous studies using animal models that demonstrate the tremendous therapeutic promise of embryonic stem cells. These findings challenge much of what I learned in medical school. For instance, medical dogma for decades accepted no hope for so many neurological disorders.

For example, scientists have been able to transform embryonic stem cells derived from mice into the type of neuron that is defective with Parkinson's disease. We know that these neurons work when placed in animals. That is, when these neurons, which were originally derived from embryonic stem cells, are injected into an animal model of Parkinson's, the animal improves.

Have any doubts? Here is the scientific paper that describes these promising results.

Similarly, researchers have transformed embryonic stem cells into the cell which, when defective causes MS. When this cell was implanted into an animal model with MS, the abnormality was repaired.

And here is a scientific paper that demonstrates those findings.

Both of these examples demonstrate the therapeutic potential of embryonic stem cells. Researchers have taken embryonic stem cells and turned them into a desired cell that works. These cells are implanted into animal models with different illnesses, and the animals get better.

Lets turn to diabetes. This paper describes a study whereby embryonic stem cells are transformed into pancreatic islet stem cells. These islet cells responded to sugar in the right way by producing insulin.

For those who say the evidence is lacking, I say, get your head out of the sand. The evidence most definitely is out there.

The prevailing expert scientific opinion supports a thorough investigation of stem cells from all sources. Even the recently released NIH report recognized the unique potential of embryonic stem cells. But for the White house, it is not about advancing scientific discovery. Instead, their concern for the ''swing vote'' is their modus operandi. For them, this debate is unfortunately about the next election.

Embryonic stem cells are derived from embryos that are produced during in vitro fertilization, a process that creates many more fertilized eggs than are implanted into women trying to become pregnant. Unused embryos are stored frozen in test tubes and eventually thrown away. Embryonic stem cell research would use only these excess embryos, obtained from fertility clinics and with consent from the donors.

In other words, if the research were not performed, these embryos would be discarded. And how many embryos would be ''saved'' if the research did not take place? The answer is none. Opponents argue for embryonic adoption. But for the most part, the vast majority of couples do not want to donate their genes to strangers. No policy made in the White House or in Congress will result in these couples changing their minds.

Thus, we are having a debate over whether to perform life-saving research or to dispose of the embryos and abandon the greatest hope for a cure for so many devastating illnesses.

Those opposed to embryonic stem cell research assert that their position is based on ethical and moral grounds. But what is so ethical or moral about prohibiting research to alleviate human suffering? It is utterly hypocritical and outrageous that the opposition remains silent over the fact that these embryos are thrown away in fertility clinics, but conveys such fury over saving them to perform vital life-saving research.

How can we compare the importance of a group of cells smaller than the dot at the end of this sentence with the poor quality of life and decreased life expectancy for young children with insulin-dependent diabetes? In fact, it is completely amoral to deny access to the single most promising research of today.

The Administration lacks support from many members of its own party, with several conservative pro-life Republicans openly supportive of embryonic stem cell research. When Orin Hatch insists that a frozen embryo stored in a refrigerator in a clinic is not equivalent to an embryo or a fetus in the womb, the Administration's facade of having a commitment to promote innovative medical research is completely undermined.

Banning federal funding for such embryonic stem cell research would not eliminate it. Ironically, such research would then take place in the private market without the benefit of ethical regulation. Under the Clinton Administration, the National Institute of Health issued explicit guidelines for embryonic stem cell research. The guidelines provide stringent requirements that enable scientists to conduct research within the constraints of careful federal oversight.

Prohibiting federal support for embryonic stem cell research will severely impede medical progress. Federal support is critical because it would greatly expand resources. Not only would the government provide crucial funding, but public support also enables multiple parties to simultaneously pursue critical research, thereby increasing the chances for significant discoveries over a shorter period of time. Without federal support, scientific advances would be held hostage to exclusivity rights held by a single entity in the private market.

Furthermore, very few NIH grants were received this past March because investigators fear that the guidelines will be overturned. Without federal support, scientists who work with embryonic stem cells must create a separate lab for such work if they hope to ever receive NIH grants for other areas of research. This is to avoid the possibility of ''contaminating'' equipment for sanctioned research with that of embryonic stem cell research. The ramifications of banning this research will therefore be felt in scientific discoveries far beyond the stem cell debate.

Actually, we are already witnessing the consequences, as the exodus of our best and brightest minds has begun. A few weeks ago, UCSF (University of California at San Francisco) lost a leading stem cell researcher who moved to Cambridge, England. He left so that he can proceed with his work. As the university's chancellor for medical affairs said: ''If federal support for stem cell research is not forthcoming, the risk exists that talented scientists will leave academic centers to seek opportunities in the private sector or even overseas.''

America has been on the forefront of scientific discovery. The administration is jeopardizing our position and taking us several steps backward to assuage the fundamentalist attitudes of the minority.

The White House is currently ''reviewing'' the matter; in other words, they are assessing the polls and the impact of any decision on the 2004 elections. It is not secret that Mr. Rove has consulted the National Conference of Catholic Bishops on this issue. Enough time has been wasted. The Administration must act now to separate political aspirations from scientific discovery.

''A responsible leader is someone who makes decisions based upon principle, not based upon polls or focus groups.'' The New York Times reminds us that President Bush spoke these words a few days before Election Day. Perhaps someone should remind the President.

I implore my colleagues and this administration to support embryonic stem cell research. Furthermore, I urge you to support my bill—''The Stem Cell Research Act of 2001'' (H.R. 2059). This bill not only supports this crucial research, but it also advocates for federal support of the derivation process itself. That is, instead of relying on private companies to derive the stem cells, we must support and fund this process as well.

I want to close in the issue of morality. Here is a real-life picture of what we are talking about. This is a picture of an embryo, magnified several thousand times. This area here, between the 8 and 10 o'clock position is the area from which stem cells are obtained. It actually contains about 100 cells. There are more cells in a drop of blood from a pin-prick than there are in this one section of the photo.

And here is Mr. Christopher Reeve with a young child—both of whom who were tragically paralyzed.

Are we going to ignore Mr. Reeve and this child? I fervently believe that the moral obligation is to help these individuals and the millions of Americans who are suffering from debilitating illnesses and disabilities. We must focus on those already born who urgently await medical progress.

For the first time ever, cures for so many afflictions that historically have been considered hopeless are now on the horizon. The fact is that embryonic stem cells come from cells that were destined to be discarded in any case. It is high time to separate politics from science.

A FEW THOUGHTS ON ENERGY

The SPEAKER pro tempore (Mr. OSBORNE). Under a previous order of the House, the gentleman from Maryland (Mr. EHRLICH) is recognized for 5 minutes.

Mr. EHRLICH. Mr. Speaker, a few thoughts on energy.

Last night we acknowledged our duty as responsible stewards of America's economy in putting forth a sound energy policy that respects and protects our environment.

We adopted a long-term energy strategy, and it was balanced, Mr. Speaker,

between conservation and investments in renewable, nonrenewable, and nuclear sources. We never lost sight of our responsibility for the health and vitality of our environment.

H.R. 4 places confidence in America's ability to develop technologies and market incentives to address our energy need in an environmentally safe and cost-effective manner. Americans rely on clean, abundant, and affordable energy, Mr. Speaker. All of us want a strong economy and a clean, healthy environment.

Last night, this House reaffirmed its commitment to these principles. Further, last night's vote was more than drilling for oil or CAFE standards or gasoline additives.

We refused to reward oil-producing nations openly hostile to the United States of America. We said no to OPEC's political whims in setting the world price for oil. We said no to taking away consumer choice in preference and safety that would have eliminated tens of thousands of jobs, good jobs, Mr. Speaker, for American workers.

We did much more. We created a balanced strategy for America's national economic security and environmental need. We laid the groundwork to break this Nation's dangerous dependency on foreign oil through investments in alternative and renewable energies such as fuel cells, wind, solar, geothermal, biomass, and fusion energy.

We spoke up, Mr. Speaker, for those in our society whose voice is seldom heard, poor, low-income Americans, by reauthorizing and improving upon the Low-income Home Energy Assistance Program, the so-called LIHEAP program, and weatherization programs.

Mr. Speaker, we approved H.R. 4 last night. It is a responsible, balanced energy strategy which recognizes the need for conservation, alternative energy, and a healthy environment. This was a great day for America. It was a critical day for Marylanders, particularly, and for all Americans.

Mr. Speaker, I yield to my friend, the gentleman from the great State of Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. I thank my colleague for yielding to me, Mr. Speaker, and I appreciate his remarks on legislation on energy.

One other part of that legislation had to do with the Buy Indian Act for the first Americans, involving the first Americans in energy transmission and production, and a myriad of other activities that will help bring economic vitality to the reservations and sovereign nations.

CONCERN ABOUT SIDS AND NATIVE AMERICAN TRIBES

Mr. HAYWORTH. Mr. Speaker, I rise tonight to speak of another concern shared by all Americans, but especially the first Americans. That would be SIDS, or Sudden Infant Death Syndrome. SIDS can happen to any family and is one of the major causes of death in babies from 1 month to 1 year of age.

SIDS is used to describe the unexplained death of an infant, and the cause of this condition is not known at this time. Researchers continue to investigate this mysterious and tragic syndrome.

Congress has a special trust responsibility to assure the highest possible health status for Native Americans. Despite this trust responsibility, Native Americans and Alaska natives continue to bear a disproportionate burden of illness and premature mortality in comparison with other populations in the United States.

I am extremely concerned about SIDS because this tragic syndrome is the leading cause of infant mortality among Native Americans and Alaska natives.

CONCERN ABOUT SIDS AND NATIVE AMERICAN TRIBES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. HAYWORTH) is recognized for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, specific risk factors have been identified, and through identification and implementation of learned actions, there is a potential reduction in the incidence rate of SIDS by up to 40 percent. Infant mortality rates among Native Americans in Indian Health Service areas was 9.3 versus 7.6 in the United States for all races.

Now, understand that among Native Americans, that means the incidence of infant mortality is 22 percent higher. The areas in Tucson, Aberdeen, and Nashville exceeded the U.S. rate by over 50 percent. Infant mortality for SIDS in Indian Health Service areas average 2.3 times greater than all races in the United States, and three times the Caucasian rate.

As I mentioned earlier, Mr. Speaker, the cause of SIDS is not known at this time. Researchers continue their important work to investigate and to understand and to try to prevent this syndrome. It is known that behavior modification and risk factor awareness has proven to reduce the incidence of SIDS by up to 40 percent.

Mr. Speaker, we must look to partner with the Indian Health Service, Indian Health Service Area Health Boards, Tribal health departments, and Tribal Councils to develop culturally sensitive national, regional, and local SIDS risk reduction education programs. We must develop tribally sensitive behavior modification models in tribal-specific formats, improving communication and education to high-risk mothers and caregivers.

Mr. Speaker, I would commend such organizations as CJ Foundation for SIDS as a model to raise awareness of the steps to reduce the risks of SIDS and to decrease the frequency of SIDS-related deaths.

As indicated in recent study by the Center for Disease Control and Prevention, the disparity between the health of Native Americans and the rest of the population is ever widening.

Mr. Speaker, we must work for public health for the special Tribal trust relationship between the Government of the United States and the sovereign Indian nations to help solve this problem, which falls disproportionately on the first Americans.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. THOMPSON of California (at the request of Mr. GEPHARDT) for today after 9:15 p.m. and the balance of the week on account of family business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Ms. BROWN of Florida, for 5 minutes, today.

Mr. HOLDEN, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. HORN, for 5 minutes, today.

Mr. RAMSTAD, for 5 minutes, today.

Mr. HUNTER, for 5 minutes, today.

Mr. HUTCHINSON, for 5 minutes, today.

Mr. EHLERS, for 5 minutes, today.

Mr. EHRLICH, for 5 minutes, today.

Mr. TANCREDO, for 5 minutes, today.

Mr. HAYWORTH, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. MCDERMOTT, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 494. An act to provide for a transition to democracy and to promote economic recovery in Zimbabwe; to the Committee on Financial Services; in addition to the Committee on International Relations for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly, pursuant to the previous order of the House of today, the House adjourned until noon on Monday, August 6, 2001, unless it sooner has received a message from the Senate transmitting its concurrence in House Concurrent Resolution 208, in which case the House shall stand adjourned pursuant to that concurrent resolution.

Thereupon (at midnight) pursuant to House Concurrent Resolution 208, the House adjourned under the previous order of the House until noon on Wednesday, September 5, 2001, if not sooner in receipt of a message from the Senate transmitting its concurrence in House Concurrent Resolution 208.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3301. A letter from the Acting Administrator, Foreign Agricultural Service, Department of Agriculture, transmitting the Department's final rule—Export Sales Reporting Requirements (RIN: 0551–AA51) received July 31, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3302. A letter from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Onions Grown in South Texas; Decreased Assessment Rate [Docket No. FV01–959–1 FIR] received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3303. A letter from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches [Docket No. FV01–916–1 FIR] received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3304. A letter from the Acting Administrator, Foreign Agricultural Service, Department of Agriculture, transmitting the Department's final rule—Program to Assist U.S. Producers in Developing Domestic Markets for Value-Added Wheat Gluten and Wheat Starch Products (RIN: 0551–AA60) received July 31, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3305. A letter from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for 2000–01 Crop Natural (Sun-Dried) Seedless and Zante Currant Raisins [Docket No. FV01–989–3 IFR] received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3306. A letter from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Raisins Produced From Grapes Grown in California; Reporting on Organic Raisins [Docket No. FV01–989–2 FR] received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3307. A letter from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Almonds Grown in California; Revision of Requirements Regarding Quality Control Program [Docket No. FV01–981–1 FR] received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3308. A letter from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Kiwifruit Grown in California; Removal of Certain Inspection and Pack Requirements [Docket No. FV01–920–1 FR] received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3309. A letter from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Tart Cherries Grown in the States of Michigan, et al.; Suspension of Provisions Under the Federal Marketing Order for Tart Cherries [Docket No. FV01–930–5 IFR] received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3310. A letter from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting the Department's final rule—Nectarines and Peaches Grown in California; Revision of Reporting Requirements for Fresh Nectarines and Peaches [Docket No. FV01–916–3 IFR] received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3311. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Argiculture, transmitting the Department's final rule—Karnal Bunt; Compensation for the 1999–2000 and Subsequent Crop Seasons [Docket No. 96–016–37] (RIN: 0579–AA83) received August 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3312. A letter from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of Defense, transmitting the Secretary of the Air Force's determination to temporarily waive the provisions of 10 U.S.C. Subsection 2466(a); to the Committee on Armed Services.

3313. A letter from the Alternate, Office of the Secretary of Defense, Department of Defense, transmitting the Department's ''Major'' final rule—TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Eligibility and Payment Procedures for CHAMPUS Beneficiaries Age 65 and Over—received August 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

3314. A letter from the Assistant General Counsel for Regulatory Affairs, Consumer Product Safety Commission, transmitting a letter responding to the Commission's memorandum concerning the review by the General Accounting Office (''GAO'') of regulations that were not submitted to GAO pursuant to the Congressional Review Act; to the Committee on Energy and Commerce.

3315. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Wyoming: Final Authorization of State Hazardous Waste Management Program Revision [FRL–7025–1] received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3316. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—New Mexico: Final Authorization of State Hazardous Waste Management Program Revisions [FRL–7026–1] received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3317. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins [AD-FRL–7025–2] (RIN: 2060–AH47) received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3318. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans for Designated Facilities; New York [Region II Docket No. NY50–224a, FRL–7024–7] received August 1, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3319. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Japan for defense articles and services (Transmittal No. 01–22), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

3320. A letter from the Personnel Management Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3321. A letter from the Chairman, Federal Trade Commission, transmitting the semiannual report on the activities of the Office of Inspector General for the period ending March 31, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

3322. A letter from the Assistant Administration, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Improved Methods for Ballast Water Treatment and Management and Lake Champlain Canal Barrier Demonstration: Request for Proposals for FY 2001 [Docket No. 000404094–1144–02] (RIN: 0648–ZA84) received July 31, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3323. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 010112013–1013–01; I.D. 072001B] received August 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3324. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustment for the Commercial Fishery from the U.S.—Canada Border to Cape Falcon, OR [Docket No. 000501119–0119–01; I.D. 061201A] received August 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3325. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Closure of the Commercial Fishery from Horse Mountain to Point Arena, CA

[Docket No. 000501119–0119–01; I.D. 061201B] received August 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3326. A letter from the Acting Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery [Docket No. 010413094–1178–02; I.D. 060701A] (RIN: 0648–AP10) received August 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3327. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Guidance under section 355(e); Recognition of Gain on Certain Distributions of Stocks or Securities In Connection with an Acquisition [TD 8960] (RIN: 1545–BA01) received August 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3328. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Administrative, Procedural, and Miscellaneous [Notice 2001–49] received August 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3329. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Interest-free adjustments with respect to underpayments of employment taxes [TD 8959] (RIN: 1545–AY21) received August 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3330. A letter from the General Counsel, Department of Defense, transmitting the Department's proposed legislation relating to the operations and management of the Department; jointly to the Committees on Education and the Workforce and Armed Services.

3331. A letter from the Secretary, Department of Transportation, transmitting a draft of proposed legislation entitled, ''To authorize appropriations for fiscal years 2001 and 2002 for the United States Coast Guard, and for other purposes''; jointly to the Committees on Transportation and Infrastructure, Energy and Commerce, and the Judiciary.

3332. A letter from the Vice President of the United States, transmitting notification of certain actions undertaken by an agent of the Congress, Comptroller General David M. Walker, which exceed his lawful authority and which, if given effect, would unconstitutionally interfere with the functioning of the Executive Branch received August 2, 2001; to the Committee on Government Reform.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Filed on August 2 (legislative day, August 1), 2001]

Mr. GOSS: Committee on Rules. House Resolution 219. Resolution providing for consideration of the bill (H.R. 2563) to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage (Rept. 107–184). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 220. Resolution providing for pro forma sessions during the summer district work period (Rept. 107–185). Referred to the House Calendar.

[Submitted August 2, 2001]

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2175. A bill to protect infants who are born alive (Rept. 107–186). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2277. A bill to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors (Rept. 107–187). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2278. A bill to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States (Rept. 107–188). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2048. A bill to require a report on the operations of the State Justice Institute (Rept. 107–189). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2047. A bill to authorize appropriations for the United States Patent and Trademark Office for fiscal year 2002, and for other purposes; with an amendment (Rept. 107–190). Referred to the Committee of the Whole House on the State of the Union.

Mr. COMBEST: Committee on Agriculture. H.R. 2646. A bill to provide for the continuation of agricultural programs through fiscal year 2011; with an amendment (Rept. 107–191 Pt. 1). Ordered to be printed.

Mr. OXLEY: Committee on Financial Services. H.R. 1408. A bill to safeguard the public from fraud in the financial services industry, to streamline and facilitate the antifraud information-sharing efforts of Federal and State regulators, and for other purposes; with an amendment (Rept. 107–192 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Agriculture discharged from further consideration of H.R. 1408.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 1408. Referral to the Committee on Agriculture extended for a period ending not later than August 2, 2001.

H.R. 1408. Referral to the Committee on the Judiciary extended for a period ending not later than September 14, 2001.

H.R. 2646. Referral to the Committee on International Relations extended for a period ending not later than September 7, 2001.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

[Omitted from the Record of August 1, 2001]

By Mr. PAYNE:

H.R. 2707. A bill to restrict United States assistance of any kind to Turkey until Turkey uses its influence with the Turkish Cypriot leadership to achieve a settlement on Cyprus based on United Nations Security Council resolutions; to the Committee on International Relations.

By Mr. FROST:

H. Res. 218. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

[Submitted August 2, 2001]

By Mr. LARGENT (for himself, Mr. HALL of Texas, Mr. PORTMAN, Mr. DEMINT, Mr. AKIN, Mr. ARMEY, Mr. BARR of Georgia, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BLUNT, Mr. BRADY of Texas, Mr. BRYANT, Mr. BURR of North Carolina, Mr. BURTON of Indiana, Mr. BUYER, Mr. CAMP, Mr. CANTOR, Mr. COOKSEY, Mr. COX, Mr. CRENSHAW, Mrs. CUBIN, Mr. CULBERSON, Mr. DEAL of Georgia, Mr. DELAY, Ms. DUNN, Mrs. EMERSON, Mr. EVERETT, Mr. FOSSELLA, Mr. GIBBONS, Mr. GILLMOR, Mr. GOODE, Mr. GOODLATTE, Mr. GRAHAM, Mr. GREEN of Wisconsin, Mr. HEFLEY, Mr. HERGER, Mr. HILLEARY, Mr. ISAKSON, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KELLER, Mr. KERNS, Mr. KNOLLENBERG, Mr. LUCAS of Oklahoma, Mr. MICA, Mr. OTTER, Mr. OXLEY, Mr. REYNOLDS, Mrs. ROUKEMA, Mr. SCHAFFER, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHIMKUS, Mr. SOUDER, Mr. STEARNS, Mr. SUNUNU, Mr. SWEENEY, Mr. TANCREDO, Mr. TAUZIN, Mr. TERRY, Mr. THORNBERRY, Mr. TIBERI, Mr. TIAHRT, Mr. VITTER, Mr. WELDON of Florida, and Mr. WAMP):

H.R. 2714. A bill to terminate the Internal Revenue Code of 1986; to the Committee on Ways and Means.

By Mr. SCHIFF (for himself, Mr. MCKEON, Mr. BERMAN, Mr. GALLEGLY, Mr. SHERMAN, Ms. SOLIS, and Mr. DREIER):

H.R. 2715. A bill to direct the Secretary of the Interior to conduct a special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area; to the Committee on Resources.

By Mr. SMITH of New Jersey (for himself, Mr. BUYER, and Mr. SIMMONS):

H.R. 2716. A bill to amend title 38, United States Code, to revise, improve, and consolidate provisions of law providing benefits and services for homeless veterans; to the Committee on Veterans' Affairs, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TAUZIN (for himself, Mr. TRAFICANT, Mr. BARR of Georgia, Mr. BRADY of Texas, Mr. BURTON of Indiana, Mr. CALLAHAN, Mr. CULBERSON, Mr. DEMINT, Mr. HALL of Texas, and Mr. STUMP):

H.R. 2717. A bill to promote freedom, fairness, and economic opportunity for families by repealing the income tax, abolishing the Internal Revenue Service, and enacting a national retail sales tax to be administered primarily by the States; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARKEY (for himself and Mrs. TAUSCHER):

H.R. 2718. A bill to take the 50 Peacekeeper (MX) missiles off of high-alert status, and for other purposes; to the Committee on Armed Services.

By Mrs. JO ANN DAVIS of Virginia:

H.R. 2719. A bill to amend the Federal Water Pollution Control Act to impose limitations on wetlands mitigation activities carried out through the condemnation of private property; to the Committee on Transportation and Infrastructure.

By Mr. MARKEY (for himself and Mr. BARTON of Texas):

H.R. 2720. A bill to amend the privacy provisions of the Gramm-Leach-Bliley Act; to the Committee on Financial Services.

By Ms. CARSON of Indiana (for herself, Mr. BONIOR, Mrs. THURMAN, Mr. MCDERMOTT, Mr. SANDERS, Mr. GEORGE MILLER of California, Ms. MCKINNEY, Mr. PAYNE, and Mr. PALLONE):

H.R. 2721. A bill to amend the Agricultural Marketing Act of 1946 to require that a warning label be affixed to arsenic-treated wood sold in the United States; to the Committee on Agriculture, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOUGHTON (for himself, Mr. RANGEL, Mr. HALL of Ohio, Mr. WOLF, Mr. ROYCE, Mr. PAYNE, Mr. EHLERS, Mr. LANTOS, Mr. COOKSEY, Mr. RUSH, Mr. GREENWOOD, Mr. GEORGE MILLER of California, Mr. FLETCHER, Mr. ACKERMAN, Mr. LATOURETTE, Ms. CARSON of Indiana, Mrs. NORTHUP, Mr. BOUCHER, Mr. ROGERS of Michigan, Mr. ALLEN, Mr. SCHAFFER, Mr. DELAHUNT, Mr. WELDON of Florida, Ms. BALDWIN, Mr. UPTON, Mr. MCDERMOTT, Mr. DIAZ-BALART, Ms. RIVERS, Mr. ENGLISH, Mr. SNYDER, Mr. UDALL of Colorado, Ms. WOOLSEY, Mr. COYNE, Mr. STARK, Mr. JEFFERSON, Mr. NEAL of Massachusetts, Mr. EVANS, Mr. HOEFFEL, and Mr. LEWIS of Georgia):

H.R. 2722. A bill to implement a system of requirements on the importation of diamonds, and for other purposes; to the Committee on Ways and Means.

By Ms. MCKINNEY (for herself, Mr. LEWIS of Georgia, Mr. PALLONE, Mr. FILNER, Ms. LEE, Ms. CARSON of Indiana, Mr. CUMMINGS, Mr. FATTAH, Mr. HASTINGS of Florida, Mr. HILLIARD, Mr. THOMPSON of Mississippi, Mr. PAYNE, Mr. MEEKS of New York, Mr. OWENS, Mr. TOWNS, Mrs. JONES of Ohio, Mr. WATT of North Carolina, Mr. RUSH, Mr. SCOTT, Mr. MCNULTY, Mr. CLAY, Mr. FORD, Mrs. CHRISTENSEN, Mrs. MEEK of Florida, Ms. WATERS, Ms. MILLENDER-MCDONALD, Mr. DAVIS of Illinois, Mr. BRADY of Pennsylvania, Mr. FROST, Ms. NORTON, Mr. ROSS, Mr. SABO, Mr. BONIOR, Mr. JACKSON of Illinois, Mr. KUCINICH, Mrs. CAPPS, Mr. LAHOOD, Mrs. MINK of Hawaii, Mr. MCGOVERN, Mr. WYNN, Mr. HONDA, Mr. BLAGOJEVICH, Mr. BARRETT, Mr. FARR of California, Mr. ETHERIDGE, Mr. DOGGETT, Mrs. CLAYTON, Mr. DEFAZIO, Mr. KILDEE, Mr. SANDLIN, Mr. ENGEL, Mr. GONZALEZ, Mr. NADLER, Mr. JEFFERSON, Mr. CARSON of Oklahoma, Ms. PELOSI, Mr. UNDERWOOD, Mr. GUTIERREZ, Mr. RANGEL, Mr. RODRIGUEZ, Mr. LANTOS, Mr. SOUDER, Mr. BECERRA, Mrs. THURMAN, Mr. CONYERS, Ms. BROWN of Florida, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CLYBURN, Mr. HOLT, Ms. KILPATRICK, Mr. PASCRELL, Mr. EVANS, Mr. FERGUSON, Mr. VISCLOSKY, Mr. COSTELLO, Ms. SCHAKOWSKY, Mr. CAPUANO, Mr. LATOURETTE, Mr. GILCHREST, Mr. MEEHAN, Mr. ISRAEL, Mr. SERRANO, Mr. BAIRD, Mr. MATSUI, Mr. GEORGE MILLER of California, Mr. BISHOP, Mr. WATTS of Oklahoma, Mr. SNYDER, Mr. SANDERS, Mrs. MALONEY of New York, Mr. FRANK, Ms. WATSON, Ms. JACKSON-LEE of Texas, Mr. LOBIONDO, Mr. GRUCCI, Ms. SANCHEZ, Mr. WU, Mr. CROWLEY, Mr. SHOWS, Mr. GREEN of Texas, Mr. BARCIA, Ms. SLAUGHTER, and Mr. HOEFFEL):

H.R. 2723. A bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement; to the Committee on Financial Services.

By Mr. CANNON (for himself and Mr. BOUCHER):

H.R. 2724. A bill to amend title 17, United States Code, and for other purposes; to the Committee on the Judiciary.

By Mrs. KELLY (for herself, Ms. MILLENDER-MCDONALD, Mr. DREIER, Mr. DAVIS of Illinois, Mr. HAYWORTH, Ms. DUNN, Mr. KING, Mr. BALDACCI, Ms. LEE, Mrs. BONO, Mr. WYNN, Mr. CAPUANO, Mr. CUMMINGS, Mr. HINCHEY, Mrs. MCCARTHY of New York, Mrs. CHRISTENSEN, Mr. BILIRAKIS, Mr. FORBES, Mr. ISAKSON, Mr. POMEROY, Mr. SHOWS, Mr. GREEN of Wisconsin, Mr. BAKER, Mr. BUYER, Mr. HILLEARY, Mr. SESSIONS, Mr. FATTAH, Ms. HARMAN, Mr. LAFALCE, Mr. GRAHAM, Mr. HORN, Mr. MCINNIS, Ms. PELOSI, Mr. KLECZKA, Mr. OBERSTAR, Ms. ESHOO, Mr. PAYNE, Mr. TOM DAVIS of Virginia, Mr. NEAL of Massachusetts, Mr. SANDLIN, Mrs. MYRICK, Mrs. BIGGERT, Mrs. CAPPS, Mr. BOYD, Mr. PALLONE, Mr. LEVIN, Mr. TOWNS, Mr. MATSUI, Ms. BERKLEY, Mr. UNDERWOOD, Mr. HULSHOF, Mr. ENGLISH, Mr. RILEY, Mr. JONES of North Carolina, Mr. TERRY, Mr. BASS, Mr. GREEN of Texas, Mr. MORAN of Kansas, Mr. CUNNINGHAM, Mr. MCINTYRE, Mr. DICKS, Mr. THOMPSON of Mississippi, Mr. PICKERING, Mr. RUSH, Ms. JACKSON-LEE of Texas, Mr. GRUCCI, Ms. GRANGER, Mr. WELLER, Mr. LAMPSON, Mr. HOYER, Mr. DAVIS of Florida, Mr. CALLAHAN, Mr. PRICE of North Carolina, Mrs. EMERSON, Mr. CRAMER, Mr. GONZALEZ, Mr. MCGOVERN, Mr. GOODE, Mr. SKELTON, Mr. EHLERS, Mr. MCNULTY, Mr. CROWLEY, Ms. KAPTUR, Mr. JACKSON of Illinois, Mr. JEFFERSON, Ms. BROWN of Florida, Mr. DINGELL, Mrs. MALONEY of New York, Mr. BORSKI, Mr. STARK, Mrs. THURMAN, Ms. MCKINNEY, Mr. BROWN of Ohio, Mr. LIPINSKI, Mr. FROST, Mr. CONYERS, Mr. WEINER, Mr. PASCRELL, Mr. COSTELLO, Mr. FRANK, Mr. WATT of North Carolina, Ms. MCCARTHY of Missouri, Mr. GILMAN, Mr. MEEKS of New York, Mr. PETERSON of Pennsylvania, Mr. SHAYS, Mr. CLAY, Mr. PORTMAN, Mr. WHITFIELD, Mr. CARDIN, Mr. LOBIONDO, Ms. SOLIS, Mr. RANGEL, Mr. COMBEST, Mr. GREENWOOD, Mrs. MORELLA, Mr. KIRK, Mrs. ROUKEMA, Mr. WELDON of Pennsylvania, Ms. ROS-LEHTINEN, Ms. WOOLSEY, Mr. NEY, Mrs. CAPITO, Mr. MCDERMOTT, Mr. BURTON of Indiana, and Mr. BACA):

H.R. 2725. A bill to provide for the reauthorization of the breast cancer research special postage stamp, and for other purposes; to the Committee on Government Reform, and in addition to the Committees on Energy and Commerce, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska:

H.R. 2726. A bill to provide for the payment of State taxes and local taxes collected by the State on the sale of cigarettes and motor fuel by a tribal retail enterprise to persons that are not members of the tribe, and for other purposes; to the Committee on Resources.

By Mr. BONIOR (for himself, Ms. CARSON of Indiana, Mr. GEORGE MILLER of California, Mr. PALLONE, Ms. DELAURO, Mr. KILDEE, Ms. PELOSI, and Mr. SANDERS):

H.R. 2727. A bill to establish a labeling requirement under the Federal Insecticide, Fungicide, and Rodenticide Act in order to prohibit the use of arsenic-treated lumber to manufacture playground equipment, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. JACKSON-LEE of Texas:

H.R. 2728. A bill to amend the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to allow States and localities to provide primary and preventive care to all individuals; to the Committee on Energy and Commerce.

By Mr. ALLEN (for himself, Mr. SAXTON, Mr. BONIOR, Mr. WAXMAN, Mr. ABERCROMBIE, Ms. BALDWIN, Mr. BALDACCI, Mr. BARRETT, Mr. CAPUANO, Mr. DELAHUNT, Mr. FERGUSON, Mr. HINCHEY, Mr. INSLEE, Mr. KENNEDY of Rhode Island, Ms. KILPATRICK, Mr. KUCINICH, Mr. LANTOS, Ms. LEE, Ms. MCKINNEY, Mrs. MALONEY of New York, Mr. GEORGE MILLER of California, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. QUINN, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SERRANO, and Mr. STARK):

H.R. 2729. A bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SESSIONS (for himself and Ms. PRYCE of Ohio):

H.R. 2730. A bill to amend the Gramm-Leach-Bliley Act to provide for uniform national financial privacy standards for financial institutions, and for other purposes; to the Committee on Financial Services.

By Mr. BAIRD (for himself, Ms. HOOLEY of Oregon, Mr. DEFAZIO, and Mr. INSLEE):

H.R. 2731. A bill to direct the Secretary of Education, in consultation with the Secretary of Energy, to establish a 2-year grant program to compensate schools for rising energy costs; to the Committee on Education and the Workforce.

By Mr. BAIRD (for himself, Mr. EHLERS, Mr. OTTER, Mr. BONIOR, Mr. RAHALL, Mr. OBERSTAR, Mr. DEFAZIO, Mr. WALDEN of Oregon, Mr. INSLEE, Mr. HASTINGS of Washington, Mr. MCDERMOTT, Mr. WU, Mr. BLUMENAUER, Ms. HOOLEY of Oregon, Mr. BORSKI, Mr. BARCIA, Mr. GEORGE MILLER of California, Mr. SIMPSON, Mr. THOMPSON of California, Mr. NETHERCUTT, Mr. DICKS, and Mr. HALL of Texas):

H.R. 2732. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to prevent the westward spread of aquatic nuisance species by directing the Secretary of the Interior to prevent westward spread of such species across and beyond the 100th meridian, monitor water bodies, and provide rapid response capacity in certain Western States, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARCIA (for himself and Mr. EHLERS):

H.R. 2733. A bill to authorize the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise integration; to the Committee on Science.

By Mr. BARR of Georgia (for himself, Mr. WEXLER, Mr. BASS, Mr. BURTON of Indiana, Mr. KELLER, Mr. RANGEL, Mr. DEUTSCH, Mr. MEEKS of New York, Mr. MICA, Mr. CALVERT, Mr. DAVIS of Florida, Mr. SCOTT, Mr. CHABOT, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCDERMOTT, and Mr. BOEHNER):

H.R. 2734. A bill to amend title 18, United States Code, and the Federal Rules of Criminal Procedure with respect to bail bond forfeitures; to the Committee on the Judiciary.

By Mr. BARTON of Texas (for himself, Mr. TOWNS, Mr. BRYANT, Mr. BLUNT, and Mr. CONDIT):

H.R. 2735. A bill to protect the rights of American consumers to diagnose, service, and repair motor vehicles purchased in the United States, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BERMAN:

H.R. 2736. A bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BORSKI (for himself, Ms. DUNN, Mr. CAPUANO, Mr. DICKS, Ms. KAPTUR, Mr. LAMPSON, Mr. MCGOVERN, Mrs. MEEK of Florida, Mr. FOLEY, Mr. NEAL of Massachusetts, Mr. BRADY of Pennsylvania, Mr. LATOURETTE, Mr. FATTAH, Mr. DELAHUNT, Mr. OBERSTAR, Mr. INSLEE, Mr. DEFAZIO, Mr. FILNER, Mr. BAIRD, Mr. HASTINGS of Washington, Mr. PAUL, Mr. SMITH of Washington, Mr. LARSEN of Washington, Mr. LIPINSKI, Ms. MCKINNEY, and Mr. UNDERWOOD):

H.R. 2737. A bill to amend the Internal Revenue Code of 1986 to repeal the harbor maintenance tax and to amend the Water Resources Development Act of 1986 to authorize appropriations for activities formerly funded with revenues from the Harbor Maintenance Trust Fund; to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOUCHER (for himself, Mr. SHAYS, and Mr. WAXMAN):

H.R. 2738. A bill to amend title 5, United States Code, to clarify that all protections offered under the Freedom of Information Act and Privacy Act apply to members of the uniformed services to the same extent and in the same manner as to any other individual; to the Committee on Government Reform.

By Mr. BROWN of Ohio (for himself and Mr. CHABOT):

H.R. 2739. A bill to amend Public Law 107–10 to require a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2002 in Geneva, Switzerland, and for other purposes; to the Committee on International Relations.

By Mr. BURR of North Carolina (for himself and Mr. KLECZKA):

H.R. 2740. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the receipt of donated prescription drug samples by charitable health care entities; to the Committee on Energy and Commerce.

By Mr. CALVERT:

H.R. 2741. A bill to amend the Internal Revenue Code of 1986 to decrease the class life for petroleum refinery property placed in service to comply with petroleum product specifications as promulgated by rule by the Administrator of Environmental Protection Agency under, and to provide compliance with refinery site, terminal, and other infrastructure air emissions requirements under, the Clean Air Act; to the Committee on Ways and Means.

By Mr. CARSON of Oklahoma (for himself, Mr. LARGENT, Mr. ISTOOK, Mr. WATTS of Oklahoma, Mr. WATKINS, and Mr. KILDEE):

H.R. 2742. A bill to authorize the construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma; to the Committee on Resources.

By Mrs. CHRISTENSEN (for herself, Mr. CUMMINGS, Mr. CLYBURN, Ms. BROWN of Florida, Mrs. MEEK of Florida, Ms. JACKSON-LEE of Texas, Ms. MCKINNEY, Mr. HILLIARD, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LEE, Mr. THOMPSON of Mississippi, Mr. RUSH, Mr. HASTINGS of Florida, Mr. RANGEL, Mr. DAVIS of Illinois, Ms. KILPATRICK, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Ms. WATSON, Mr. WYNN, Mrs. JONES of Ohio, Mr. PAYNE, Ms. CARSON of Indiana, Mr. FORD, Mr. CONYERS, Mr. OWENS, Mrs. CLAYTON, Mr. BISHOP, Mr. TOWNS, and Mr. JACKSON of Illinois):

H.R. 2743. A bill to require managed care organizations to contract with providers in medically underserved areas, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COLLINS:

H.R. 2744. A bill to amend the Internal Revenue Code of 1986 to classify qualified rental office furniture as 5-year property for purposes of depreciation; to the Committee on Ways and Means.

By Mr. COLLINS (for himself and Mr. POMEROY):

H.R. 2745. A bill to amend title XI of the Social Security Act to clarify the coordination of benefits among health plans; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CROWLEY (for himself, Mr. SHAYS, Mrs. LOWEY, Mr. GILMAN, Ms. MCKINNEY, Mr. KUCINICH, Mr. GREEN of Texas, Mrs. MALONEY of New York, Mrs. MCCARTHY of New York, Mr. SERRANO, Mr. HOEFFEL, and Mr. WEINER):

H.R. 2746. A bill to establish the Airport Noise Curfew Commission and to define its functions and duties; to the Committee on Transportation and Infrastructure.

By Ms. DEGETTE (for herself and Mr. RAMSTAD):

H.R. 2747. A bill to require implementation of the National Institutes of Health Guidelines for Research Using Human Pluripotent Stem Cells, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DREIER (for himself and Mr. SCHIFF):

H.R. 2748. A bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans; to the Committee on Veterans' Affairs, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DUNN (for herself, Mr. LARSEN of Washington, Mr. DICKS, and Mr. SOUDER):

H.R. 2749. A bill to amend title 49, United States Code, improve pipeline safety and enhance community access to pipeline safety information; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL (for himself, Ms. HART, Mr. TOWNS, and Mr. RUSH):

H.R. 2750. A bill to amend title XVIII of the Social Security Act to provide for coverage of home infusion drug therapies under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ETHERIDGE (for himself, Mr. MCINTYRE, Mr. MURTHA, Mr. GREEN of Texas, Mr. DOOLEY of California, Mr. PRICE of North Carolina, Mr. JONES of North Carolina, Mr. WATT of North Carolina, Mr. SCHROCK, Mrs. CLAYTON, Mr. EDWARDS, and Mr. SPRATT):

H.R. 2751. A bill to authorize the President to award a gold medal on behalf of the Congress to General Henry H. Shelton and to provide for the production of bronze duplicates of such medal for sale to the public; to the Committee on Financial Services.

By Mr. FERGUSON (for himself, Mr. SAXTON, Mr. LOBIONDO, Mrs. ROUKEMA, Mr. FRELINGHUYSEN, Mr. SMITH of New Jersey, Mr. ROTHMAN, Mr. ANDREWS, and Mr. PALLONE):

H.R. 2752. A bill to protect school web pages from fraud and related activity; to the Committee on the Judiciary.

By Mr. GREEN of Wisconsin (for himself, Ms. VELAZQUEZ, Mr. SCHAFFER, Mr. JONES of North Carolina, Mr. RUSH, Mr. GONZALEZ, and Mr. SOUDER):

H.R. 2753. A bill to require a housing impact analysis of any new rule of a Federal agency that has an economic impact of $100,000,000 or more; to the Committee on the Judiciary.

By Mr. GREEN of Wisconsin (for himself and Mr. SCOTT):

H.R. 2754. A bill to amend title 18, United States Code, to reform Federal Prison Industries, and for other purposes; to the Committee on the Judiciary.

By Mr. GUTIERREZ (for himself, Mr. OWENS, Mr. DAVIS of Illinois, Mr. LIPINSKI, Ms. MCKINNEY, Ms. LEE, Ms. KAPTUR, Mr. TOWNS, Mr. STARK, Mr. MCGOVERN, Mr. RUSH, Mr. CUMMINGS, Mr. FRANK, Mr. FILNER, Ms. CARSON of Indiana, Ms. SOLIS, Mr. KUCINICH, Mr. JACKSON of Illinois, Mr. BLAGOJEVICH, Mr. COSTELLO, Mr. CONYERS, and Mr. THOMPSON of Mississippi):

H.R. 2755. A bill to protect day laborers from unfair labor practices; to the Committee on Education and the Workforce.

By Mr. HALL of Texas (for himself, Mr. LARGENT, Mr. BARTON of Texas, Mr. BOEHLERT, Ms. JACKSON-LEE of Texas, Mr. GREEN of Texas, Mr. SANDLIN, Mr. ORTIZ, and Mr. CANNON):

H.R. 2756. A bill to establish a mechanism for funding research, development, and demonstration activities relating to ultra-deepwater and unconventional natural gas and other petroleum exploration and production technologies, and for other purposes; to the Committee on Science, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARMAN (for herself, Ms. ESHOO, Mrs. CAPPS, Mr. WAXMAN, Ms. LOFGREN, Ms. WOOLSEY, Mr. HONDA, Mr. FARR of California, Mr. SHERMAN, Mr. FILNER, Mr. BACA, Ms. WATSON, Mr. CONDIT, Mr. SCHIFF, Mrs. DAVIS of California, Ms. SOLIS, Mr. GEORGE MILLER of California, Ms. PELOSI, Mr. THOMPSON of California, Mrs. NAPOLITANO, Mrs. TAUSCHER, and Mr. MATSUI):

H.R. 2757. A bill to provide for the refund of certain overcharges for electricity in the Western States, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HASTINGS of Florida:

H.R. 2758. A bill to require that general Federal elections be held during the first consecutive Saturday and Sunday in November, and for other purposes; to the Committee on House Administration.

By Mr. HOEKSTRA:

H.R. 2759. A bill to permit voters to vote for ''None of the Above'' in elections for Federal office and to require an additional election if ''None of the Above'' receives the most votes; to the Committee on House Administration.

By Mr. HOEKSTRA:

H.R. 2760. A bill to provide that the voters of the United States be given the right, through advisory voter initiative, to propose the enactment and repeal of Federal laws in a national election; to the Committee on House Administration, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HOOLEY of Oregon:

H.R. 2761. A bill to amend the Internal Revenue Code of 1986 to provide tax benefits for small businesses, to repeal the Federal communications excise tax, and for other purposes; to the Committee on Ways and Means.

By Ms. HOOLEY of Oregon:

H.R. 2762. A bill to provide incentives to encourage private sector efforts to reduce earthquake losses, to establish a national disaster mitigation program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Financial Services, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HUNTER (for himself, Mr. BARCIA, Mr. BARR of Georgia, Mr. BARTLETT of Maryland, Mr. BURTON of Indiana, Mr. DEMINT, Mr. HOSTETTLER, Mr. LEWIS of Kentucky, Mr. PITTS, Mr. SHOWS, Mr. SMITH of New Jersey, Mr. STEARNS, Mr. PETRI, Mr. BACHUS, and Mr. DOOLITTLE):

H.R. 2763. A bill to implement equal protection under the 14th article of amendment to the Constitution for the right to life of each born and preborn human person from the moment of fertilization; to the Committee on the Judiciary.

By Mr. HUNTER:

H.R. 2764. A bill to address certain matters related to Colorado River water management and the Salton Sea by providing funding for habitat enhancement projects at the Salton Sea, authorization and direction to the Secretary of the Interior regarding Federal environmental compliance, and funding for offstream water management reservoirs and associated facilities near the All American Canal; to the Committee on Resources.

By Mr. INSLEE (for himself, Mr. HASTINGS of Florida, Mr. HINCHEY, Mrs. MINK of Hawaii, Mr. CROWLEY, Mr. SCHIFF, Mr. MCDERMOTT, Ms. MCKINNEY, and Ms. LEE):

H.R. 2765. A bill to expand the teacher loan forgiveness programs under the guaranteed and direct student loan programs, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. JACKSON-LEE of Texas (for herself and Mr. TERRY):

H.R. 2766. A bill to amend the Immigration and Nationality Act to modify the requirements for a child born abroad and out of wedlock to acquire citizenship based on the citizenship of the child's father, and for other purposes; to the Committee on the Judiciary.

By Mr. JEFFERSON:

H.R. 2767. A bill to amend title 36, United States Code, to provide for maintenance by the American Battle Monuments Commission of a memorial park in Nairobi, Kenya, honoring the persons killed by the bombing of the United States Embassy; to the Committee on International Relations.

By Mrs. JOHNSON of Connecticut (for herself, Mr. STARK, Mr. CAMP, Mr. CARDIN, Mr. CRANE, Ms. DUNN, Mr. ENGLISH, Mr. FOLEY, Mr. HAYWORTH, Mr. SAM JOHNSON of Texas, Mr. KLECZKA, Mr. LEWIS of Georgia, Mr. LEWIS of Kentucky, Mr. MCCRERY, Mr. MCDERMOTT, Mr. MCNULTY, Mr. RAMSTAD, Mr. SHAW, Mrs. THURMAN, and Mr. WELLER):

H.R. 2768. A bill to amend title XVIII of the Social Security Act to provide regulatory relief and contracting flexibility under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. KELLY:

H.R. 2769. A bill to amend title 38, United States Code, to improve the automobile assistance program for disabled veterans; to the Committee on Veterans' Affairs.

By Mr. KOLBE (for himself, Mr. MORAN of Virginia, and Mr. RAMSTAD):

H.R. 2770. A bill to amend United States trade laws to provide more fairness to U.S. industry; to the Committee on Ways and Means.

By Mr. KOLBE (for himself, Mr. STENHOLM, Mr. SMITH of Michigan, Mr. DOOLEY of California, and Mr. TOOMEY):

H.R. 2771. A bill to amend title II of the Social Security Act to provide for individual security accounts funded by employee and employer Social Security payroll deductions, to extend the solvency of the old-age, survivors, and disability insurance program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAFALCE:

H.R. 2772. A bill to amend the Immigration and Nationality Act to modify restrictions added by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; to the Committee on the Judiciary.

By Mr. LANGEVIN (for himself, Mr. ABERCROMBIE, Mr. BERMAN, Mr. BLAGOJEVICH, Mr. CAPUANO, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. COYNE, Mr. CROWLEY, Mr. DELAHUNT, Mr. ENGEL, Mr. FARR of California, Mr. FILNER, Mr. FRANK, Mr. HOEFFEL, Mr. HONDA, Mr. KENNEDY of Rhode Island, Mr. KIRK, Mr. KLECZKA, Mr. CLAY, Mr. LANTOS, Ms. LEE, Mrs. MCCARTHY of New York, Ms. MCCOLLUM, Mr. MCGOVERN, Ms. MCKINNEY, Mr. MORAN of Virginia, Mr. NADLER, Mr. OWENS, Mr. PASCRELL, Mr. PAYNE, Ms. PELOSI, Mr. RUSH, Ms. SOLIS, Mr. STARK, Mr. TIERNEY, Mr. TOWNS, Mr. WAXMAN, Mr. WEINER, Mr. WEXLER, and Ms. WOOLSEY):

H.R. 2773. A bill to amend title 18, United States Code, to prohibit the manufacture or importation, or transfer by a licensed firearms dealer, of a pistol that does not have a chamber load indicator and, in the case of a semiautomatic pistol that has a detachable magazine, a mechanism that prevents the pistol from being fired when the magazine is not attached; to the Committee on the Judiciary.

By Mr. LARSEN of Washington (for himself and Ms. BERKLEY):

H.R. 2774. A bill to establish a loan guarantee program for renewable energy source facilities; to the Committee on Financial Services.

By Mr. LEVIN (for himself, Mr. CASTLE, and Mr. WAXMAN):

H.R. 2775. A bill to amend title XIX of the Social Security Act to revise and simplify the transitional medical assistance (TMA) program; to the Committee on Energy and Commerce.

By Mr. LOBIONDO (for himself, Mr. MENENDEZ, Mr. SAXTON, Mr. PALLONE, Mr. PASCRELL, Mr. ROTHMAN, Mr. PAYNE, and Mr. HOLT):

H.R. 2776. A bill to designate buildings 315, 318, and 319 located at the Federal Aviation Administration's William J. Hughes Technical Center in Atlantic City, New Jersey, as the ''Frank R. Lautenberg Aviation Security Complex''; to the Committee on Transportation and Infrastructure.

By Mrs. LOWEY (for herself, Mr. CROWLEY, Mr. GILMAN, Ms. DELAURO, Ms. SLAUGHTER, Mr. WAXMAN, Ms. DEGETTE, Mr. BOEHLERT, Mrs. MORELLA, Mr. LEACH, and Mrs. BIGGERT):

H.R. 2777. A bill to amend title XIX of the Social Security Act to provide States with options for providing family planning services and supplies to individuals eligible for medical assistance under the Medicaid Program; to the Committee on Energy and Commerce.

By Mrs. McCARTHY of New York (for herself, Ms. SCHAKOWSKY, Mr. PASCRELL, Mr. WEINER, Mr. CAPUANO, Mrs. MALONEY of New York, Mr. CROWLEY, Mr. MCGOVERN, Ms. SOLIS, Mr. NADLER, Ms. NORTON, Mr. MORAN of Virginia, Mrs. TAUSCHER, and Mrs. LOWEY):

H.R. 2778. A bill to protect ability of law enforcement to effectively investigate and prosecute illegal gun sales and protect the privacy of the American people; to the Committee on the Judiciary.

By Ms. McCOLLUM (for herself, Ms. BALDWIN, Mr. BLUMENAUER, Mr. FILNER, Mr. MCGOVERN, and Mr. OBERSTAR):

H.R. 2779. A bill to repeal section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which requires the collection of information regarding nonimmigrant foreign students and other exchange program participants; to the Committee on the Judiciary.

By Ms. McCOLLUM:

H.R. 2780. A bill to amend the Federal Election Campaign Act of 1971 to establish a program under which Congressional candidates may receive public funding for carrying out campaigns for election for Federal office, to amend the Internal Revenue Code of 1986 to establish an income tax checkoff to provide funding for such program and to provide a refundable tax credit for individuals who make contributions to such candidates, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McKEON (for himself, Mr. BOEHNER, Mrs. ROUKEMA, Mr. BALLENGER, Mr. EHLERS, Mr. TOM DAVIS of Virginia, Mr. ISAKSON, Mr. GORDON, Mr. OSBORNE, Mr. HOEKSTRA, Mr. ARMEY, Mr. WALSH, Mr. CASTLE, Mrs. KELLY, Mr. DEMINT, Mr. PETERSON of Pennsylvania, Mr. THOMAS, Mr. CALVERT, and Mr. HILLEARY):

H.R. 2781. A bill to amend the Higher Education Act of 1965 to make certain interest rate changes permanent; to the Committee on Education and the Workforce.

By Ms. McKINNEY (for herself, Mr. STARK, Mr. EVANS, Ms. KAPTUR, Mr. FILNER, Mr. MCGOVERN, Mr. SANDERS, Mr. HILLIARD, Mr. PHELPS, Mr. KUCINICH, Mr. CONYERS, Mr. DEFAZIO, Mr. HINCHEY, Ms. WOOLSEY, Mr. THOMPSON of Mississippi, Ms. CARSON of Indiana, Ms. LEE, Mr. ABERCROMBIE, Mr. JACKSON of Illinois, Mr. CUMMINGS, Mr. WATT of North Carolina, Ms. SOLIS, Mr. DAVIS of Illinois, Mr. BROWN of Ohio, and Ms. BROWN of Florida):

H.R. 2782. A bill to require nationals of the United States that employ more than 20 persons in a foreign country to implement a Corporate Code of Conduct with respect to the employment of those persons, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Government Reform, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY of New York:

H.R. 2783. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for research on whether drugs approved under such Act for human use affect women differently than men, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. MALONEY of New York:

H.R. 2784. A bill to amend the Family and Medical Leave Act of 1993 to allow employees to take, as additional leave, parental involvement leave to participate in or attend their children's and grandchildren's educational and extracurricular activities and to clarify that leave may be taken for routine medical needs and to assist elderly relatives, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARKEY:

H.R. 2785. A bill to suspend temporarily the duty on certain R-core transformers; to the Committee on Ways and Means.

By Mr. MARKEY:

H.R. 2786. A bill to provide deployment criteria for the National Missile Defense system, and to provide for operationally realistic testing of the National Defense system against countermeasures; to the Committee on Armed Services, and in addition to the Committees on Rules, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MEEK of Florida (for herself, Mr. SERRANO, Mr. RUSH, Mr. BLAGOJEVICH, Mr. PETRI, and Ms. ROS-LEHTINEN):

H.R. 2787. A bill to amend the Child Care and Development Block Grant Act of 1990 to increase the availability of, and improve quality care for, children with disabilities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MENENDEZ (for himself, Mr. CAPUANO, Mr. RUSH, Mr. BALDACCI, Ms. SCHAKOWSKY, Mr. FROST, Mr. BONIOR, Mrs. JONES of Ohio, Mr. BORSKI, Mr. McDERMOTT, Mr. WEXLER, Ms. SANCHEZ, Mr. ENGEL, Mr. GUTIERREZ, Mr. CLAY, Mr. CUMMINGS, and Mr. GREEN of Texas):

H.R. 2788. A bill to ensure that children enrolled in Medicaid and other Federal means-tested programs at highest risk for lead poisoning are identified and treated, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLENDER-McDONALD (for herself and Mr. RANGEL):

H.R. 2789. A bill to amend title XIX of the Social Security Act to permit States to expand Medicaid eligibility to uninsured, poor adults; to the Committee on Energy and Commerce.

By Ms. MILLENDER-McDONALD (for herself and Mr. NETHERCUTT):

H.R. 2790. A bill to provide, with respect to diabetes in minority populations, for an increase in the extent of activities carried out by the Centers for Disease Control and Prevention and the National Institutes of Health; to the Committee on Energy and Commerce.

By Mrs. MINK of Hawaii:

H.R. 2791. A bill to amend the Immigration and Nationality Act to remove from an alien the initial burden of establishing that he or she is entitled to nonimmigrant status under section 101(a)(15)(B) of such Act, in the case of an alien seeking such status in order to enter the United States for a brief temporary stay occasioned by a family obligation, such as the illness or death of a close relative; to the Committee on the Judiciary.

By Mr. MORAN of Kansas (for himself, Mr. SMITH of New Jersey, and Mr. SIMMONS):

H.R. 2792. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to make service dogs available to disabled veterans and to make various other improvements in health care benefits provided by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. NADLER:

H.R. 2793. A bill to amend the Elementary and Secondary Education Act of 1965 to permit local educational agencies to use professional development funds to provide incentives, including bonus payments, to recognized educators who achieve an information technology certification that is directly related to the curriculum or content area in which the teacher provides instruction; to the Committee on Education and the Workforce.

By Mr. NEAL of Massachusetts (for himself, Mr. TOM DAVIS of Virginia, Ms. LOFGREN, Mr. WELLER, Mr. MATSUI, Ms. DUNN, Mr. DOGGETT, Mr. WOLF, Ms. HARMAN, Mr. CANNON, Mr. FRANK, Mr. CANTOR, Mr. MORAN of Virginia, Mr. POMEROY, Ms. ESHOO, Mr. OSE, and Mr. MCGOVERN):

H.R. 2794. A bill to provide relief from the alternative minimum tax with respect to incentive stock options exercised during 2000; to the Committee on Ways and Means.

By Mr. NETHERCUTT (for himself, Mr. CHAMBLISS, and Mr. CUNNINGHAM):

H.R. 2795. A bill to amend title 18, United States Code, to protect and promote the public safety and interstate commerce by establishing Federal criminal penalties and civil remedies for certain violent, threatening, obstructive and destructive conduct that is intended to injure, intimidate, or interfere with plant or animal enterprises, and for other purposes; to the Committee on the Judiciary.

By Mr. NEY (for himself, Mr. OXLEY, Ms. PRYCE of Ohio, Mr. GILLMOR, Mrs. JONES of Ohio, and Mr. TIBERI):

H.R. 2796. A bill to amend the Federal Home Loan Bank Act to permit privately insured credit unions to become members of a Federal home loan bank; to the Committee on Financial Services.

By Mr. NEY:

H.R. 2797. A bill to amend title 18, United States Code, to provide specific penalties for taking a firearm from a Federal law enforcement officer; to the Committee on the Judiciary.

By Mr. OTTER:

H.R. 2798. A bill to amend the Federal Water Pollution Control Act to require plaintiffs to file certain bonds when bringing citizen suits; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself and Ms. RIVERS):

H.R. 2799. A bill to amend title XVIII of the Social Security Act to provide for coverage of pharmacist services under part B of the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period

to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL:

H.R. 2800. A bill to amend section 8(a) of the National Labor Relations Act; to the Committee on Education and the Workforce.

By Mr. PAUL (for himself and Mr. SCHAFFER):

H.R. 2801. A bill to amend the Internal Revenue Code of 1986 with respect to the purchase of prescription drugs by individuals who have attained retirement age, and to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs and the sale of such drugs through Internet sites; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL (for himself, Mr. CALVERT, Mr. COOKSEY, Mr. HAYWORTH, Mr. HOEKSTRA, Mr. ROYCE, and Mr. SENSENBRENNER):

H.R. 2802. A bill to amend title XVIII of the Social Security Act to remove the sunset and numerical limitation on Medicare participation in MedicareChoice medical savings account (MSA) plans; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAYNE (for himself, Mr. ANDREWS, Mr. FERGUSON, Mr. FRELINGHUYSEN, Mr. HOLT, Mr. LOBIONDO, Mr. MENENDEZ, Mr. PALLONE, Mr. PASCRELL, Mr. SMITH of New Jersey, Mr. SAXTON, Mrs. ROUKEMA, and Mr. ROTHMAN):

H.R. 2803. A bill to designate the air traffic control tower at Newark International Airport in Newark, New Jersey, as the ''William J. 'Whitey' Conrad Air Traffic Control Tower''; to the Committee on Transportation and Infrastructure.

By Ms. PELOSI (for herself, Mr. BERMAN, Ms. LOFGREN, Ms. WOOLSEY, and Ms. BERKLEY):

H.R. 2804. A bill to designate the United States courthouse located at 95 Seventh Street in San Francisco, California, as the ''James R. Browning United States Courthouse''; to the Committee on Transportation and Infrastructure.

By Mr. PITTS:

H.R. 2805. A bill to provide for research on, and services for individuals with, post-abortion depression and psychosis; to the Committee on Energy and Commerce.

By Mr. PITTS (for himself, Mr. CLEMENT, Mr. WOLF, and Mr. SCOTT):

H.R. 2806. A bill to direct the Secretary of the Interior to provide assistance for the maintenance of gravesites of former Presidents of the United States; to the Committee on Resources.

By Mr. PORTMAN (for himself and Mr. CARDIN):

H.R. 2807. A bill to amend the Internal Revenue Code of 1986 to clarify the status of professional employer organizations and to promote and protect the interests of professional employer organizations, their customers, and workers; to the Committee on Ways and Means.

By Mr. PORTMAN (for himself and Mr. POMEROY):

H.R. 2808. A bill to amend the Internal Revenue Code of 1986 to transfer all excise taxes imposed on alcohol fuels to the Highway Trust Fund, and for other purposes; to the Committee on Ways and Means.

By Mr. REYES:

H.R. 2809. A bill to increase the total number of nonimmigrant visas that may be issued to nurses under section 101(a)(15)(H)(i)(c) of the Immigration and Nationality Act in each fiscal year, to increase the number of such visas that may be allocated for employment in States with larger populations, and to exempt locally-owned hospitals in health professional shortage areas from certain requirements applicable to employment of physicians and nurses admitted under section 101(a)(15)(H)(i)(b) of such Act; to the Committee on the Judiciary.

By Mr. REYES:

H.R. 2810. A bill to modify the benefits provided under the NAFTA Transitional Adjustment Assistance Program; to the Committee on Ways and Means.

By Mr. ROTHMAN:

H.R. 2811. A bill to improve the quality of life and safety of persons living and working near railroad tracks; to the Committee on Transportation and Infrastructure.

By Mr. SANDERS (for himself, Mr. KUCINICH, Ms. LEE, Ms. MCKINNEY, Mr. OWENS, Ms. BROWN of Florida, Mr. BROWN of Ohio, Mrs. CLAYTON, Mr. COSTELLO, Mr. DAVIS of Illinois, Mr. FILNER, Mr. KILDEE, Ms. NORTON, Mr. SERRANO, Ms. SOLIS, Mr. STARK, and Mr. WEINER):

H.R. 2812. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage to the value it had in 1968, and to provide for increases in such wage based on the cost of living; to the Committee on Education and the Workforce.

By Mr. SANDERS (for himself, Mr. CLAY, Mr. DEFAZIO, Mr. HINCHEY, Mr. KUCINICH, Ms. LEE, Ms. NORTON, Mr. STARK, and Mrs. THURMAN):

H.R. 2813. A bill to authorize States to regulate the rates for cable television service and to impose a one-year moratorium on increases in such rates; to the Committee on Energy and Commerce.

By Mr. SAWYER (for himself and Mr. BURR of North Carolina):

H.R. 2814. A bill to provide for expansion of electricity transmission networks in order to support competitive electricity markets, to ensure reliability of electric service, to modernize regulation, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCARBOROUGH (for himself, Mr. ROEMER, Mr. QUINN, Mr. LEWIS of Georgia, Mrs. MALONEY of New York, Mr. MCNULTY, Ms. NORTON, Mr. DELAHUNT, Mr. BROWN of Ohio, Mr. WEXLER, Ms. CARSON of Indiana, Mr. MOORE, Mr. CUMMINGS, Mr. MEEHAN, Mr. MCGOVERN, Mr. NADLER, Ms. SOLIS, Mr. KENNEDY of Rhode Island, Mr. BALDACCI, Mr. FRANK, Mr. KILDEE, Mr. FROST, Mr. COYNE, Mr. PALLONE, Mr. HOYER, Mr. LANTOS, Mr. STRICKLAND, Ms. MCCARTHY of Missouri, Ms. MCKINNEY, Mr. MENENDEZ, Mr. WOLF, Mr. KING, Mr. SANDERS, Mr. RANGEL, Mr. BERMAN, Mr. BARRETT, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WATT of North Carolina, Mr. PAYNE, Mr. COSTELLO, Mr. RODRIGUEZ, Ms. KAPTUR, Mr. HONDA, Mr. STARK, Ms. BALDWIN, Mr. LANGEVIN, Mr. HOLDEN, Mr. MALONEY of Connecticut, Ms. ESHOO, Mr. HASTINGS of Florida, Mr. WAXMAN, Ms. ROYBAL-ALLARD, Mr. LAHOOD, Mrs. LOWEY, Mr. SPRATT, Mrs. CAPPS, Mr. MORAN of Virginia, Mr. GONZALEZ, Ms. SCHAKOWSKY, Mr. RUSH, Ms. SANCHEZ, Mr. CARSON of Oklahoma, Mr. SANDLIN, Mr. TIERNEY, Mrs. THURMAN, Mr. BOYD, Mr. MCDERMOTT, Mr. BLAGOJEVICH, Mr. SHIMKUS, Mr. SESSIONS, Mr. GREENWOOD, Mr. FOLEY, Mr. EHRLICH, Mr. GILMAN, Mr. ENGLISH, Mr. WALSH, Mr. BORSKI, Mr. BARCIA, Mr. SOUDER, Mr. NEAL of Massachusetts, Mrs. CHRISTENSEN, Mr. GEPHARDT, Ms. JACKSON-LEE of Texas, Mr. TOM DAVIS of Virginia, Mr. HINCHEY, Mr. RAHALL, Mr. LEVIN, Mr. SKELTON, Mr. CARDIN, Mrs. MINK of Hawaii, Mr. LAFALCE, Ms. LOFGREN, Mr. FARR of California, Mr. BISHOP, Mr. FILNER, Mr. CLYBURN, Mr. SCOTT, Mr. BONIOR, Mr. HILLIARD, Mr. SABO, Mrs. CLAYTON, Mr. OLVER, Mr. KLECZKA, Mr. TRAFICANT, Mr. SERRANO, Mr. THOMPSON of Mississippi, Ms. PELOSI, Mr. KIND, and Mr. UDALL of New Mexico):

H.R. 2815. A bill to designate the Federal building located at 10th Street and Constitution Avenue, NW, in Washington, DC, as the ''Robert F. Kennedy Department of Justice Building''; to the Committee on Transportation and Infrastructure.

By Mr. SIMMONS:

H.R. 2816. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase and installation of equipment to test for radon and to remove radon from the air and water; to the Committee on Ways and Means.

By Mr. SIMMONS (for himself and Mrs. JOHNSON of Connecticut):

H.R. 2817. A bill to provide for the effective punishment of online child molesters, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SIMPSON:

H.R. 2818. A bill to authorize the Secretary of the Interior to convey certain public land within the Sand Mountain Wilderness Study Area in the State of Idaho to resolve an occupancy encroachment dating back to 1971; to the Committee on Resources.

By Mr. SMITH of Texas:

H.R. 2819. A bill to amend the Clayton Act with respect to the exemptions from the notification requirements of section 7A of such Act; to the Committee on the Judiciary.

By Mr. STRICKLAND (for himself and Mr. NEY):

H.R. 2820. A bill to amend title 38, United States Code, to suspend for five years the authority of the Secretary of Veterans Affairs to increase the copayment amount in effect for medication furnished by the Secretary on an outpatient basis for the treatment of nonservice-connected disabilities; to the Committee on Veterans' Affairs.

By Mr. THORNBERRY:

H.R. 2821. A bill to amend title 10, United States Code, to improve the organization and management of the Department of Defense with respect to space programs and activities, and for other purposes; to the Committee on Armed Services.

By Mrs. THURMAN (for herself, Mr. FOLEY, Mr. BOYD, Mr. DOYLE, Mr. FILNER, Mr. GEKAS, Mr. HASTINGS of Florida, Mr. PETERSON of Pennsylvania, Mr. PLATTS, Mr. PUTNAM, Ms. ROS-LEHTINEN, Ms. WATSON, and Ms. WOOLSEY):

H.R. 2822. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to include compensation received for compulsory or involuntary commercial plant conversions

as income or gain over a 10-year period; to the Committee on Ways and Means.

By Mrs. THURMAN (for herself, Mr. FOLEY, Mr. BOYD, Mr. HASTINGS of Florida, Mr. PUTNAM, and Ms. ROS-LEHTINEN):

H.R. 2823. A bill to amend the Internal Revenue Code of 1986 to expand the nontaxable exchange period within which commercial citrus trees destroyed under public order due to the citrus tree canker may be replaced; to the Committee on Ways and Means.

By Mrs. THURMAN (for herself, Mr. FOLEY, Mr. BOYD, Mr. HASTINGS of Florida, Mr. PUTNAM, and Ms. ROS-LEHTINEN):

H.R. 2824. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to include citrus canker tree replacement payments made by the Secretary of Agriculture as income or gain over a 10-year period; to the Committee on Ways and Means.

By Mr. TOOMEY (for himself, Mr. FLAKE, Mr. PITTS, Mr. GOODE, Mr. HOEKSTRA, Mr. RYUN of Kansas, Mr. CHABOT, Mr. TIAHRT, Mr. PENCE, Mr. VITTER, Mr. WELDON of Florida, Mr. ROGERS of Michigan, and Mr. THUNE):

H.R. 2825. A bill to amend the Economic Growth and Tax Relief Reconciliation Act of 2001 to change the October 1, 2001, due date for corporate estimated taxes to September 24, 2001; to the Committee on Ways and Means.

By Mr. UNDERWOOD (for himself, Mr. FALEOMAVAEGA, and Mrs. CHRISTENSEN):

H.R. 2826. A bill to increase the waiver requirement for certain local matching requirements for grants provided to American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, and for other purposes; to the Committee on Resources.

By Mr. WALDEN of Oregon (for himself, Mr. HERGER, Mr. POMBO, Mr. DOOLITTLE, Mr. SIMPSON, Mr. HASTINGS of Washington, Mr. NETHERCUTT, and Mr. GIBBONS):

H.R. 2827. A bill to respond to the economic disaster threatening certain farmers and communities resulting from the Federal Government's denial of irrigation water for the Klamath Irrigation Project in the States of Oregon and California; to the Committee on Agriculture.

By Mr. WALDEN of Oregon (for himself, Mr. DEFAZIO, Mr. HERGER, Mr. POMBO, Mr. DOOLITTLE, Mr. SIMPSON, Mr. HASTINGS of Washington, Mr. NETHERCUTT, and Mr. GIBBONS):

H.R. 2828. A bill to authorize refunds of amounts collected from Klamath Project irrigation and drainage districts for operation and maintenance of the Project's transferred and reserved works for water year 2001, and for other purposes; to the Committee on Resources.

By Mr. WALDEN of Oregon (for himself, Mr. HERGER, Mr. DOOLITTLE, Mr. SIMPSON, Mr. HASTINGS of Washington, Mr. NETHERCUTT, and Mr. GIBBONS):

H.R. 2829. A bill to amend the Endangered Species Act of 1973 to require the Secretary of the Interior to give greater weight to scientific or commercial data that is empirical or has been field-tested or peer-reviewed, and for other purposes; to the Committee on Resources.

By Ms. WATERS:

H.R. 2830. A bill to restore the eligibility to vote and register to vote in Federal elections to individuals who have completed sentences for criminal offenses, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARMEY:

H. Con. Res. 208. Concurrent resolution providing for a conditional adjournment of the House of Representatives anda conditional recess or adjournment of the Senate.; considered and agreed to.

By Mr. CALVERT:

H. Con. Res. 209. Concurrent resolution expressing the sense of the Congress that the Secretary of Health and Human Services should administratively provide for coverage under the Medicare Program of backup systems for durable medical equipment in the case of a power failure; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FROST:

H. Con. Res. 210. Concurrent resolution expressing the sense of Congress regarding the establishment of a Disability Arts Month; to the Committee on Government Reform.

By Mr. KING (for himself, Ms. ROS-LEHTINEN, Mr. ROHRABACHER, Mr. MCGOVERN, Mr. ABERCROMBIE, Mr. PITTS, Mr. STARK, Mr. CAPUANO, Mr. OWENS, Mr. SOUDER, Mr. ENGLISH, Mr. DIAZ-BALART, Mr. EVANS, Mr. UNDERWOOD, Mr. SHAYS, Mr. CASTLE, and Mr. CHABOT):

H. Con. Res. 211. Concurrent resolution commending Daw Aung San Suu Kyi on the 10th anniversary of her receiving the Nobel Peace Prize and expressing the sense of the Congress with respect to the Government of Burma; to the Committee on International Relations.

By Mr. RODRIGUEZ:

H. Con. Res. 212. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued in honor of William C. Velasquez, the national Hispanic civic leader; to the Committee on Government Reform.

By Mr. ROYCE (for himself, Mr. BECERRA, Ms. ROS-LEHTINEN, Mr. PAYNE, Mr. SMITH of New Jersey, Mr. ROHRABACHER, Mr. GILMAN, Mr. KIRK, and Mr. HORN):

H. Con. Res. 213. Concurrent resolution expressing the sense of Congress regarding North Korean refugees who are detained in China and returned to North Korea where they face torture, imprisonment, and execution; to the Committee on International Relations.

By Mr. SHAW (for himself, Mr. THOMAS, Mr. CRANE, Mrs. JOHNSON of Connecticut, Mr. HOUGHTON, Mr. HERGER, Mr. MCCRERY, Mr. CAMP, Mr. SAM JOHNSON of Texas, Ms. DUNN, Mr. COLLINS, Mr. PORTMAN, Mr. ENGLISH, Mr. WATKINS, Mr. HAYWORTH, Mr. WELLER, Mr. HULSHOF, Mr. MCINNIS, Mr. LEWIS of Kentucky, Mr. FOLEY, Mr. BRADY of Texas, Mr. RYAN of Wisconsin, Mr. BROWN of South Carolina, Mrs. CAPITO, Mr. DIAZ-BALART, Mr. DOOLITTLE, Mr. DREIER, Mr. GOSS, Mr. HORN, Mr. MILLER of Florida, Mr. NETHERCUTT, Mr. OSE, Mr. PLATTS, Mr. PETERSON of Pennsylvania, Mr. PUTNAM, Mr. SCARBOROUGH, Mr. SESSIONS, Mr. STEARNS, Mr. SWEENEY, Mr. WATTS of Oklahoma, Mr. WAMP, and Mr. YOUNG of Florida):

H. Con. Res. 214. Concurrent resolution expressing the sense of the Congress that the President and the Congress should save Social Security as soon as possible and vigorously safeguard Social Security surpluses, and that the President's Commission to Strengthen Social Security should recommend innovative ways to protect workers' financial commitment without benefit cuts or payroll tax increases; to the Committee on Ways and Means.

By Mr. UNDERWOOD:

H. Con. Res. 215. Concurrent resolution expressing the sense of Congress that a series of postage stamps should be issued to commemorate each of the 50 States, the District of Columbia, and the territories of Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Commonwealth of Puerto Rico; to the Committee on Government Reform.

By Mr. SCHAFFER (for himself, Mr. BILIRAKIS, Mr. WYNN, Mr. SESSIONS, Mr. CRANE, Mr. SMITH of New Jersey, Mrs. LOWEY, Mr. WEXLER, Mr. CHABOT, and Mr. BROWN of Ohio):

H. Res. 221. A resolution expressing the sense of the House regarding United States policy toward Taiwan's membership in international organizations; to the Committee on International Relations.

By Mr. SCHAFFER (for himself and Ms. KAPTUR):

H. Res. 222. A resolution congratulating Ukraine on the tenth anniversary of re-establishment of its independence; to the Committee on International Relations. considered and agreed to.

By Mr. ARMEY:

H. Res. 223. A resolution authorizing the cleaning and repair of the mace of the House of Representatives by the Smithsonian Institution.; considered and agreed to.

By Mr. FERGUSON (for himself, Mr. SAXTON, Mrs. ROUKEMA, Mr. FRELINGHUYSEN, Mr. HOLT, Mr. PAYNE, Mr. ANDREWS, and Mr. LOBIONDO):

H. Res. 224. A resolution honoring the New Jersey State Law Enforcement Officers Association; to the Committee on the Judiciary.

By Mr. HASTINGS of Florida:

H. Res. 225. A resolution expressing the sense of the House of Representatives that the United States Postal Service should issue a postage stamp commemorating the Fisk Jubilee Singers; to the Committee on Government Reform.

By Mr. MATSUI (for himself, Ms. NORTON, Ms. CARSON of Indiana, Mr. CAPUANO, Mr. MATHESON, Mr. LANGEVIN, Mr. SKELTON, Mr. SHIMKUS, Mr. PASTOR, Mr. SMITH of New Jersey, Mr. PRICE of North Carolina, and Mr. REYES):

H. Res. 226. A resolution expressing the sense of the House of Representatives that there should be established a Children's Vision Awareness Day; to the Committee on Government Reform.

By Ms. MILLENDER-MCDONALD:

H. Res. 227. A resolution expressing the sense of the House of Representatives regarding the 80th Anniversary of the city of Lynwood, California, and its role as a flourishing, multi-cultural city in Los Angeles County; to the Committee on Government Reform.

By Ms. MILLENDER-MCDONALD:

H. Res. 228. A resolution expressing the sense of the House of Representatives regarding the 55th anniversary of the Lynwood Chamber of Commerce, California, and its outstanding leadership for Lynwood business owners; to the Committee on Government Reform.

By Ms. MILLENDER-MCDONALD:

H. Res. 229. A resolution expressing the sense of the House of Representatives regarding the military service of Filipinos during World War II and their eligibility for benefits under programs administered by the Secretary of Veterans Affairs; to the Committee

on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SESSIONS (for himself, Mr. HAYWORTH, Mr. FLAKE, Mr. SHADEGG, Mr. KOLBE, Mr. ROYCE, Mr. TANCREDO, Mr. MILLER of Florida, Mr. NUSSLE, Mr. MANZULLO, Mr. HYDE, Mr. JOHNSON of Illinois, Mrs. BIGGERT, Mr. HOSTETTLER, Mr. GUTKNECHT, Mr. THUNE, Mr. PAUL, Mr. BONILLA, Mr. GREEN of Wisconsin, Mr. STUMP, Mr. RADANOVICH, Mr. SIMPSON, Mr. OTTER, Mr. WELLER, Mr. SOUDER, Mr. BOEHNER, Mr. PETRI, Mr. SENSENBRENNER, Mr. RYAN of Wisconsin, Mr. KENNEDY of Minnesota, Mr. CULBERSON, Mr. ISSA, Mr. LATHAM, Mr. LEACH, Mr. GANSKE, Mr. SHIMKUS, Mr. CRANE, Mr. SKEEN, Mr. ROHRABACHER, Mr. DOOLEY of California, Mr. RUSH, Mr. DAVIS of Illinois, Mr. COSTELLO, Mr. JACKSON of Illinois, Mr. STUPAK, Mr. OBERSTAR, Mr. SABO, Mr. TRAFICANT, Ms. BALDWIN, Mr. BARRETT, Mr. KIND, Mr. OBEY, Mr. KLECZKA, and Mr. PHELPS):

H. Res. 230. A resolution expressing the sense of the House of Representatives that Article I, section 10 of the United States Constitution should not be used to renew the interstate economic protectionism of our Nation's early history; to the Committee on the Judiciary.

By Mr. SHAW (for himself and Mr. WYNN):

H. Res. 231. A resolution expressing the sense of the House of Representatives that a National Child's Day ought to be established; to the Committee on Government Reform.

By Mr. SWEENEY:

H. Res. 232. A resolution establishing a Select Committee on Medical Research; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. THOMPSON of California introduced a bill (H.R. 2831) for the relief of Patricia and Michael Duane, Gregory Hansen, Mary Pimental, Randy Ruiz, Elaine Schlinger, and Gerald Whitaker; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. STRICKLAND.
H.R. 28: Mr. LEACH.
H.R. 41: Mrs. NAPOLITANO.
H.R. 71: Mr. DAVIS of Illinois, Ms. MCKINNEY, Mr. CUMMINGS, and Mrs. JONES of Ohio.
H.R. 72: Mr. CUMMINGS.
H.R. 75: Mr. BONIOR, Mr. JACKSON of Illinois, Mrs. JONES of Ohio, Mr. BRADY of Pennsylvania, Mr. FROST, Mr. CUMMINGS, Mr. BALDACCI, Ms. BROWN of Florida, and Mr. MEEKS of New York.
H.R. 98: Mr. DAVIS of Florida.
H.R. 122: Mr. WELLER.
H.R. 183: Mr. NADLER.
H.R. 257: Mr. FORBES, Mr. KINGSTON, and Mr. NORWOOD.
H.R. 265: Ms. EDDIE BERNICE JOHNSON of Texas and Mrs. LOWEY.
H.R. 267: Mr. MCKEON, Mrs. KELLY, Mr. GRUCCI, and Mr. JACKSON of Illinois.
H.R. 275: Mr. OSE.
H.R. 281: Ms. VELAZQUEZ.
H.R. 292: Mr. JACKSON of Illinois, Ms. SOLIS, and Mr. RUSH.
H.R. 321: Mr. MCDERMOTT, Mr. SANDERS, Mr. DELAHUNT, Mr. HINCHEY, and Mr. RANGEL.
H.R. 389: Mr. DEFAZIO.
H.R. 397: Mr. MCNULTY, Mr. MEEKS of New York, and Mr. PASTOR.
H.R. 437: Mr. OSE.
H.R. 440: Mr. MCGOVERN.
H.R. 448: Mr. SOUDER.
H.R. 455: Mr. COOKSEY.
H.R. 500: Mr. ACEVEDO-VILA.
H.R. 525: Mr. BISHOP.
H.R. 626: Mr. LATHAM, Mr. HAYES, Mr. HOBSON, Mr. MANZULLO, and Mr. OSBORNE.
H.R. 656: Mr. MATHESON, Mr. SOUDER, and Mr. MCHUGH.
H.R. 662: Mr. TOOMEY.
H.R. 663: Ms. WOOLSEY.
H.R. 664: Mr. FATTAH, Mr. MATHESON, and Mr. LAFALCE.
H.R. 680: Ms. LOFGREN.
H.R. 690: Mr. UNDERWOOD.
H.R. 702: Mr. THOMPSON of California.
H.R. 709: Mr. HONDA.
H.R. 730: Mr. ENGLISH.
H.R. 749: Mr. SOUDER.
H.R. 751: Mr. WICKER.
H.R. 781: Mr. ACEVEDO-VILA.
H.R. 786: Mr. ALLEN and Mr. JACKSON of Illinois.
H.R. 792: Mr. BROWN of Ohio and Mr. BLAGOJEVICH.
H.R. 822: Mr. CANTOR and Mr. CLEMENT.
H.R. 831: Mr. REYES, Mr. LAMPSON, Mr. GILCHREST, Ms. CARSON of Indiana, Mr. TOOMEY, Mr. BACHUS, Mr, BLUNT, Mr. PITTS, Mr. CALLAHAN, Mr. ACKERMAN, Mr. PHELPS, Mr. SHERMAN, Mr. MEEKS of New York, and Mr. MATHESON.
H.R. 840: Mrs. CAPPS and Mr. HASTINGS of Florida.
H.R. 844: Mr. SMITH of New Jersey.
H.R. 848: Mr. MCGOVERN, Mr. HASTINGS of Florida, and Mr. LAHOOD.
H.R. 853: Mr. BISHOP.
H.R. 854: Mrs. JO ANN DAVIS of Virginia and Mr. DICKS.
H.R. 868: Mr. BASS, Ms. BALDWIN, Mr. HOEKSTRA, Mr. CANNON, and Mr. LEACH.
H.R. 877: Mr. EHRLICH.
H.R. 914: Mr. MANZULLO.
H.R. 919: Mr. RANGEL.
H.R. 938: Mr. KUCINICH.
H.R. 948: Mr. PRICE of North Carolina, Ms. LEE, Mr. DAVIS of Illinois, Mr. LEACH, Mr. LUCAS of Kentucky, Ms. VELAZQUEZ, Mr. WYNN, and Mr. ENGEL.
H.R. 951: Mr. FERGUSON, Mr. FATTAH, Mr. TRAFICANT, Mr. LEACH, and Mr. EVANS.
H.R. 968: Mr. GORDON and Mr. BROWN of South Carolina.
H.R. 969: Mr. MANZULLO.
H.R. 981: Mr. CHAMBLISS.
H.R. 1021: Mr. SCHAFFER and Mr. CLAY.
H.R. 1024: Mr. PLATTS.
H.R. 1030: Mrs. NORTHUP, Mr. PICKERING, Mr. BAKER, Mr. BROWN of South Carolina, Mr. WICKER, and Mr. STRICKLAND.
H.R. 1035: Mr. BRADY of Pennsylvania.
H.R. 1038: Mr. MCDERMOTT, Mr. SANDERS, Mr. PASTOR, Mr. HINCHEY, and Mr. RANGEL.
H.R. 1051: Mr. Bonio, Mr. JACKSON of Illinois, and Ms. SOLIS.
H.R. 1052: Mr. STARK.
H.R. 1055: Mr. GONZALEZ and Mr. HILLIARD.
H.R. 1060: Ms. CARSON of Indiana.
H.R. 1073: Mr. MATHESON.
H.R. 1076: Mr. JOHNSON of Illinois.
H.R. 1090: Mr. MICA.
H.R. 1092: Mr. MEEHAN, Mr. BLUMENAUER, and Mr. DEFAZIO.
H.R. 1109: Mr. BRYANT, Mr. KELLER, Ms. PRYCE of Ohio, Mr. FOLEY, and Ms. GRANGER.
H.R. 1110: Mr. HOBSON.
H.R. 1136: Mr. BEREUTER.
H.R. 1155: Ms. VELAZQUEZ, Mr. FORD, Mr. OWENS, and Mrs. CLAYTON.
H.R. 1160: Ms. HOOLEY of Oregon.
H.R. 1170: Mr. SAWYER, Mr. MASCARA, Mr. SHOWS, Mr. COYNE, and Mr. WEINER.
H.R. 1172: Ms. LOFGREN, Mr. QUINN, Mr. SABO, Mr. GRUCCI, Mr. BOEHLERT, Mr. SERRANO, Mr. LUCAS of Oklahoma, and Mr. ORTIZ.
H.R. 1177: Mr. OLVER and Mr. WATT of North Carolina.
H.R. 1191: Mr. EVANS.
H.R. 1198: Mr. PASCRELL, Mr. COYNE, Mrs. LOWEY, Ms. ROYBAL-ALLARD, and Mrs. NAPOLITANO.
H.R. 1202: Ms. WOOLSEY, Ms. SCHAKOWSKY, Mr. STRICKLAND, Mr. KLECZKA, Mr. KUCINICH, Mr. CANTOR, and Mr. KING.
H.R. 1212: Mr. CLEMENT and Mr. NORWOOD.
H.R. 1232: Mr. HINCHEY.
H.R. 1238: Mr. MEEKS of New York and Mr. ENGLISH.
H.R. 1242: Mr. OLVER.
H.R. 1252: Mr. SKELTON and Ms. WATERS.
H.R. 1274: Mr. MANZULLO.
H.R. 1290: Mrs. MINK of Hawaii and Mr. MEEKS of New York.
H.R. 1296: Mr. OXLEY, Mr. RAMSTAD, and Mr. CANNON.
H.R. 1305: Mr. BRADY of Texas and Mr. CULBERSON.
H.R. 1307: Mr. GREEN of Texas.
H.R. 1319: Ms. MCCOLLUM.
H.R. 1322: Ms. PELOSI, Mr. NADLER, Mr. RUSH, Ms. KAPTUR, Mr. SABO, Mr. COSTELLO, Ms. WOOLSEY, Mr. PASTOR, Mr. SANDLIN, Mr. WYNN, Mr. LANTOS, Mr. LANGEVIN, Mr. KENNEDY of Rhode Island, Mr. PASCRELL, Mr. BLAGOJEVICH, Mr. STUPAK, Mr. PALLONE, Ms. VELAZQUEZ, and Ms. LOFGREN.
H.R. 1341: Mr. DUNCAN.
H.R. 1353: Mr. EVANS, Mr. BAIRD, Mr. SHOWS, Mr. SHIMKUS, Mr. REHBERG, Mr. POMBO, Mr. WATKINS, and Mr. LUCAS of Oklahoma.
H.R. 1357: Mr. OXLEY and Mr. NEY.
H.R. 1358: Mr. ENGEL.
H.R. 1377: Mr. FOLEY, Mr. CRANE, and Mr. BURTON of Indiana.
H.R. 1381: Mr. PRICE of North Carolina.
H.R. 1405: Mr. DAVIS of Florida.
H.R. 1412: Mr. COSTELLO and Mrs. NAPOLITANO.
H.R. 1436: Ms. BERKLEY, Mr. DIAZ-BALART, and Mr. BECERRA.
H.R. 1476: Mr. HINCHEY and Mr. BONIOR.
H.R. 1509: Mr. BACA, Mr. ORTIZ, Mr. SERRANO, Mr. ACEVEDO-VILA, Mrs. NAPOLITANO, Mr. RODRIGUEZ, Mr. BECERRA, Ms. SOLIS, Mr. HINOJOSA, Mr. PASTOR, and Ms. VELAZQUEZ.
H.R. 1520: Mrs. MCCARTHY of New York.
H.R. 1522: Mr. LEVIN and Mrs. LOWEY.
H.R. 1524: Mr. BALLENGER.
H.R. 1525: Mr. BONIOR and Mr. FATTAH.
H.R. 1556: Ms. HART and Mr. EVANS.
H.R. 1577: Mr. CUBIN, Mr. KINGSTON, Mr. QUINN, Mr. PLATTS, Ms. PRYCE of Ohio, TIAHRT, Mr. MCKEON, Mrs. WILSON, and Mr. CRAMER.
H.R. 1587: Ms. SLAUGHTER.
H.R. 1600: Mr. LAHOOD.
H.R. 1609: Mr. DICKS.
H.R. 1613: Ms. SLAUGHTER.
H.R. 1621: Mr. BONIOR.
H.R. 1624: Mr. BRADY of Pennsylvania, Mr. RAMSTAD, Mr. LAHOOD, and Mr. BONILLA.
H.R. 1642: Mr. MATHESON.
H.R. 1645: Mr. REYES, Mr. DEFAZIO, and Mr. RUSH.
H.R. 1669: Mr. BECERRA.
H.R. 1675: Mr. KERNS and Mr. PLATTS.
H.R. 1680: Ms. CARSON of Indiana and Mr. SCOTT.
H.R. 1685: Ms. CARSON of Indiana and Mr. BERRY.
H.R. 1700: Ms. SOLIS and Mr. RANGEL.
H.R. 1703: Mr. GEORGE MILLER of California, Mr. KIND, Mr. MOORE, and MS. SOLIS.

H.R. 1711: Ms. CARSON of Indiana.
H.R. 1734: Ms. CARSON of Indiana.
H.R. 1744: Ms. CARSON of Indiana and Mr. HINCHEY.
H.R. 1773: Mr. HOLT, Mr. WU, and Mr. PASCRELL.
H.R. 1779: Mr. WEINER, Mr. SMITH of New Jersey, Mr. OLVER, Mr. WU, Ms. JACKSON-LEE of Texas, and Mrs. KERRY.
H.R. 1782: Mr. DEMINT.
H.R. 1789: Mr. GREEN of Texas.
H.R. 1790: Ms. KILPATRICK.
H.R. 1798: Mr. BURTON of Indiana.
H.R. 1810: Mr. UDALL of New Mexico and Mr. OLVER.
H.R. 1816: Ms. MCKINNEY, Ms. RIVERS, Mr. KILDEE, Mrs. MINK of Hawaii, Mr. BROWN of Ohio, and Mr. MCGOVERN.
H.R. 1822: Mr. MCINTYRE, Mr. SHOWS, Mr. PRICE of North Carolina, and Mr. RANGEL.
H.R. 1839: Mr. GOODLATTE.
H.R. 1860: Mr. MANZULLO, and Ms. VELAZQUEZ.
H.R. 1861: Mr. DAVIS of Illinois.
H.R. 1897: Ms. ESHOO, Ms. BERKLEY, and Mrs. MALONEY of New York.
H.R. 1918: Mr. SMITH of New Jersey and Mr. DOOLEY of California.
H.R. 1956: Mr. RILEY, Mr. CRAMER, Mr. WELDON of Pennsylvania, and Mr. BACHUS.
H.R. 1975: Mr. CANNON, Mrs. BIGGERT, and Mr. UDALL of New Mexico.
H.R. 1979: Mr. HAYWORTH, and Mr. HASTINGS of Washington.
H.R. 1986: Mr. WAMP.
H.R. 1987: Mr. DREIER, Mr. FRANK, Mr. LEWIS of Georgia, Mr. LAHOOD, Mr. NUSSLE, Mr. BERRY, and Mr. CAMP.
H.R. 1988: Mr. MOLLOHAN.
H.R. 2002: Mr. RADANOVICH, Mr. CANNON, Mr. OSBORNE, and Mr. MORAN of Kansas.
H.R. 2009: Mr. WATT of North Carolina.
H.R. 2014: Mr. SCHAFFER.
H.R. 2023: Mr. HASTINGS of Washington, Mr. BERRY, Mr. COBLE, Mr. SIMMONS, Ms. PRYCE of Ohio, Mr. KING, Mr. NUSSLE, Mr. BACA, Mrs. TAUSCHER, Mr. RADANOVICH, Mr. BOSWELL, Mr. ROSS, and Mr. KNOLLENBERG.
H.R. 2031: Ms. CARSON of Indiana.
H.R. 2033: Mrs. CHRISTENSEN, Mr. HINOJOSA, Mr. PASCRELL, and Mr. ACEVEDO-VILA.
H.R. 2034: Mr. SERRANO.
H.R. 2035: Mr. GORDON and Mr. MCGOVERN.
H.R. 2036: Mr. PASTOR, Ms. JACKSON-LEE of Texas, Mrs. CUBIN, and Ms. SLAUGHTER.
H.R. 2038: Mr. STRICKLAND.
H.R. 2058: Mr. GUTIERREZ.
H.R. 2059: Mr. TOWNS and Mr. PRICE of North Carolina.
H.R. 2063: Mr. BLUMENAUER and Mr. PRICE of North Carolina.
H.R. 2073: Mr. FOLEY.
H.R. 2074: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BLUMENAUER, Mr. COYNE, Ms. BALDWIN, and Ms. SCHAKOWSKY.
H.R. 2096: Mr. BROWN of South Carolina and Mr. BARTLETT of Maryland.
H.R. 2097: Mr. BONIOR, Mr. PASCRELL, Ms. WATSON, Mr. REYES, and Mrs. NAPOLITANO.
H.R. 2098: Mr. HOEFFEL.
H.R. 2117: Ms. NORTON, Mr. BLUNT, Ms. MCCARTHY of Missouri, and Mr. GORDON.
H.R. 2121: Mr. ENGEL.
H.R. 2125: Mr. MENENDEZ.
H.R. 2126: Mr. FROST and Mr. STENHOLM.
H.R. 2134: Mr. FILNER, Mr. ENGLISH, and Mr. DOYLE.
H.R. 2138: Mr. MEEKS of New York, and Mr. PRICE of North Carolina.
H.R. 2142: Mr. BACA, Mr. WU, Mr. ANDREWS, Mrs. MINK of Hawaii, Mr. WEXLER, Mr. MCDERMOTT, and Mr. EHLERS.
H.R. 2155: Mr. HAYWORTH.
H.R. 2158: Mr. RAHALL and Ms. CARSON of Indiana.
H.R. 2166: Mrs. THURMAN, Mr. RANGEL, Mr. MCNULTY, and Mr. RUSH.
H.R. 2173: Ms. CARSON of Indiana, Mr. BROWN of Ohio, and Mr. DIAZ-BALART.
H.R. 2179: Mr. FILNER, Ms. MCKINNEY, Mr. FROST, and Mr. SOUDER.
H.R. 2180: Mr. CONDIT.
H.R. 2220: Ms. ESHOO.
H.R. 2233: Ms. CARSON of Indiana.
H.R. 2240: Mr. WELDON of Florida.
H.R. 2244: Mr. HILLIARD.
H.R. 2258: Mr. CAPUANO, Ms. SOLIS, and Ms. MCKINNEY.
H.R. 2275: Mr. LAMPSON, Mr. UDALL of Colorado, Mr. HALL of Texas, Mr. BAIRD, Ms. RIVERS, Mr. GORDON, Mr. SHAYS, Mrs. MORELLA, Mr. BOEHLERT, and Ms. HART.
H.R. 2281: Mr. EVANS.
H.R. 2294: Mr. DEFAZIO, Mr. MEEKS of New York, Mr. MEEHAN, and Mr. CLEMENT.
H.R. 2308: Mr. CLEMENT, Mr. GREEN of Texas, and Mrs. JO ANN DAVIS of Virginia.
H.R. 2316: Mr. FRELINGHUYSEN, Mr. GOODLATTE, Mr. STUMP, Mr. BARTLETT of Maryland, Mr. EVERETT, and Mr. COLLINS.
H.R. 2319: Mrs. CLAYTON.
H.R. 2328: Mr. RUSH.
H.R. 2329: Mr. HOEFFEL, Mr. KENNEDY of Rhode Island, Mr. NEAL of Massachusetts, Mr. CLYBURN, and Mr. CROWLEY.
H.R. 2340: Ms. CARSON of Indiana and Mr. RUSH.
H.R. 2341: Mr. GALLEGLY.
H.R. 2343: Mr. HILLIARD.
H.R. 2348: Mrs. CLAYTON, Mr. UDALL of New Mexico, Mr. CLAY, Mr. SMITH of Washington, Mr. ENGLISH, Mr. HINOJOSA, Mr. SHERMAN, Mr. PAYNE, Mr. DAVIS of Illinois, Mr. SCHIFF, Mr. ACEVEDO-VILA, Mr. PAUL, and Ms. HOOLEY of Oregon.
H.R. 2349: Mr. EVANS.
H.R. 2357: Mr. SAM JOHNSON of Texas, Mr. CALLAHAN, Mrs. EMERSON, Mr. MICA, and Mr. SESSIONS.
H.R. 2362: Mr. MCGOVERN, Mr. BLUMENAUER, and Ms. CARSON of Indiana.
H.R. 2375: Mrs. KELLY.
H.R. 2380: Mr. GUTIERREZ, Mr. BONIOR, Mr. MCGOVERN, Mr. MEEKS of New York, Mr. BORSKI, Mr. JACKSON of Illinois, Mr. LAHOOD, Mrs. LOWEY, Ms. HOOLEY of Oregon, and Mrs. BIGGERT.
H.R. 2417: Mr. MCKEON.
H.R. 2422: Mr. COYNE and Mr. SMITH of New Jersey.
H.R. 2428: Mr. FALEOMAVAEGA.
H.R. 2435: Mr. OXLEY.
H.R. 2454: Mr. HERGER, Mr. CONDIT, Mr. BECERRA, Mr. DOOLEY of California, Mr. LEWIS of California, Mr. MATSUI, Mr. LANTOS, Mr. DREIER, Mr. OSE, Mr. SHERMAN, Mr. GARY G. MILLER of California, Mr. THOMAS, Mr. POMBO, Mr. COX, Mr. HONDA, Mr. ROHRABACHER, Mrs. NAPOLITANO, Mrs. TAUSCHER, Mr. FILNER, Mr. RADANOVICH, Mr. MCKEON, Mr. GEORGE MILLER of California, Ms. MILLENDER-MCDONALD, and Ms. WOOLSEY.
H.R. 2457: Mr. KINGSTON.
H.R. 2462: Mr. BORSKI, Mr. GORDON, Mrs. THURMAN, Mr. DOYLE, Mr. PAUL, and Mr. MOORE.
H.R. 2466: Mr. WICKER.
H.R. 2476: Mr. HINOJOSA and Mr. RUSH.
H.R. 2482: Mr. STARK, Ms. WOOLSEY, and Mr. BACA.
H.R. 2513: Mr. BARRETT.
H.R. 2550: Mr. FOLEY.
H.R. 2555: Mr. BERMAN, Ms. DELAURO, Mrs. JONES of Ohio, Mr. PENCE, Mr. BAIRD, Mr. FROST, and Mr. KUCINICH.
H.R. 2560: Mr. LIPINSKI.
H.R. 2563: Mr. LANTOS and Mr. ROTHMAN.
H.R. 2566: Mr. MCNULTY, Mr. ACKERMAN, Ms. HART, Mrs. MCCARTHY of New York, Mr. NADLER, MS. RIVERS, Mr. ENGEL, Mr. KERNS, and Mrs. JO ANN DAVIS of Virginia.
H.R. 2570: Ms. LOFGREN, Mr. MCGOVERN, Mr. WEXLER, Mr. KUCINICH, Mr. MATSUI, and Mr. HINCHEY.
H.R. 2573: Ms. WOOLSEY, Mr. COYNE, Mr. FILNER, Ms. PELOSI, and Mr. RAMSTAD.
H.R. 2576: Mr. GOODE.
H.R. 2578: Mr. BACA, Mr. CALVERT, Mr. CONDIT, Mr. DOOLEY of California, Mr. FARR of California, Mr. HERGER, Mr. HORN, Mr. LANTOS, Mr. LEWIS of California, Ms. ROYBAL-ALLARD, Mr. SHERMAN, Ms. SOLIS, and Mr. WAXMAN.
H.R. 2605: Mr. KUCINICH.
H.R. 2609: Mr. QUINN.
H.R. 2613: Mr. COBLE, Ms. CARSON of Indiana, Mrs. CLAYTON, and Mr. ETHERIDGE.
H.R. 2618: Mrs. JOHNSON of Connecticut and Mr. KENNEDY of Rhode Island.
H.R. 2622: Ms. VELAZQUEZ and Mr. KUCINICH.
H.R. 2623: Mr. FROST, Mr. SANDERS, and Ms. ROS-LEHTINEN.
H.R. 2624: Mr. FORBES.
H.R. 2629: Mr. BONIOR, Mr. BORSKI, Ms. MCKINNEY, and Mr. PASCRELL.
H.R. 2631: Mr. NETHERCUTT and Mr. HERGER.
H.R. 2635: Ms. JACKSON-LEE of Texas and Mr. FROST.
H.R. 2637: Ms. DELAURO and Mr. SCOTT.
H.R. 2640: Mr. FILNER.
H.R. 2641: Mrs. EMERSON and Ms. SLAUGHTER.
H.R. 2649: Mr. BLUNT, Mr. SHAW, Mr. FOSSELLA, and Mr. BEREUTER.
H.R. 2659: Mr. EHLERS.
H.R. 2661: Mr. MCGOVERN, Mr. STUPAK, and Mr. LEVIN.
H.R. 2663: Mr. CLEMENT.
H.R. 2666: Mr. ENGLISH, Mr. PASCRELL, and Mr. PENCE.
H.R. 2669: Mr. HASTINGS of Washington.
H.R. 2675: Mr. HAYWORTH, Mr. GREEN of Texas, and Mr. OSBORNE.
H.R. 2676: Mrs. CLAYTON, Mr. HILLIARD, Mr. CLYBURN, Ms. WATERS, Ms. MCKINNEY, Mr. BISHOP, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TOWNS, Mr. LEWIS of Georgia, Mrs. THURMAN, Mr. ROSS, and Mr. RANGEL.
H.R. 2678: Mr. CUNNINGHAM, Mr. WOLF, and Mr. HOYER.
H.J. Res. 54: Mr. GOODLATTE and Mr. GREEN of Texas.
H. Con. Res. 20: Mr. SANDERS.
H. Con. Res. 42: Mr. UDALL of Colorado and Mr. GREEN of Texas.
H. Con. Res. 60: Ms. SCHAKOWSKY.
H. Con. Res. 77: Mr. SCHIFF.
H. Con. Res. 102: Mr. LUCAS of Kentucky.
H. Con. Res. 131: Mr. KUCINICH and Mr. PAYNE.
H. Con. Res. 141: Ms. BALDWIN.
H. Con. Res. 144: Mr. VISCLOSKY.
H. Con. Res. 166: Mr. WAXMAN, Ms. HARMAN, Ms. WATERS, Mr. BONIOR, and Mr. STUPAK.
H. Con. Res. 173: Ms. ROYBAL-ALLARD, Mr. LEACH, and Ms. HOOLEY of Oregon.
H. Con. Res. 175: Mr. HORN, Mr. DEFAZIO, Mr. WAXMAN, Mr. TIERNEY, Mr. KUCINICH, Ms. MCKINNEY, Mr. MORAN of Virginia, and Mr. TRAFICANT.
H. Con. Res. 177: Mr. HASTINGS of Florida, Mr. KUCINICH, and Mr. CUMMINGS.
H. Con. Res. 181: Mr. LUCAS of Kentucky, and Mr. BONIOR.
H. Con. Res. 184: Mr. LEWIS of Kentucky, Mr. TIAHRT, Mr. WICKER, Mr. DEMINT, Mr. RILEY, Mr. HAYWORTH, Mr. BAKER, Mr. HOEKSTRA, Mr. SCHAFFER, Mr. SMITH of Texas, Mr. DOOLITTLE, Mr. BARTLETT of Maryland, Mr. SKEEN, Mr. GRAHAM, Mr. LARGENT, Mr. HILLEARY, Ms. HART, Mr. MCINNIS, and Mr. RYUN of Kansas.
H. Con. Res. 188: Mr. CANTOR, Mr. HAYWORTH, and Mr. COYNE.
H. Con. Res. 191: Mr. FILNER and Mr. WATT of North Carolina.
H. Con. Res. 195: Mr. STARK.
H. Con. Res. 203: Mr. ENGEL, Mrs. LOWEY, and Ms. MCKINNEY.
H. Res. 117: Mr. TIERNEY and Mr. MEEHAN.
H. Res. 125: Mr. ISSA.
H. Res. 132: Mr. COYNE.
H. Res. 133: Mr. GILMAN, Mr. CROWLEY, Mr. WOLF, and Mr. DAVIS of Illinois.

H. Res. 144: Mr. STARK.
H. Res. 177: Mr. PASTOR and Mr. COSTELLO.
H. Res. 197: Mr. WELDON of Florida.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 770: Mr. PHELPS.
H.R. 2037: Mr. SENSENBRENNER.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 3. July 30, 2001, by Mr. JIM TURNER on House Resolution 203, was signed by the following Members: Jim Turner, Stephen Horn, Christopher Shays, Michael N. Castle, Lindsey O. Graham, Todd Russell Platts, Marge Roukema, Ken Lucas, Brad Carson, Thomas H. Allen, Sherrod Brown, Marion Berry, James H. Maloney, Leonard L. Boswell, Ron Kind, Robert E. Andrews, Joseph Crowley, Louise McIntosh Slaughter, Nick Lampson, John Lewis, Hilda L. Solis, Zoe Lofgren, Steve Israel, Gary L. Ackerman, James R. Langevin, Michael M. Honda, Dale E. Kildee, Ted Strickland, Joseph M. Hoeffel, James P. McGovern, Jay Inslee, Rush D. Holt, Darlene Hooley, Carolyn McCarthy, Ellen O. Tauscher, Charles A. Gonzalez, Shelley Berkley, Lynn C. Woolsey, Ruben Hinojosa, John B. Larson, Amo Houghton, Stephanie Tubbs Jones, Mike McIntyre, Baron P. Hill, Earl Blumenauer, Rick Larsen, Brad Sherman, John W. Olver, Grace F. Napolitano, James C. Greenwood, Xavier Becerra, Ciro D. Rodriguez, Gene Green, Steven R. Rothman, Susan A. Davis, Barney Frank, Steny H. Hoyer, David E. Bonior, Charles W. Stenholm, Peter Deutsch, Nancy Pelosi, Charles B. Rangel, Maurice D. Hinchey, Michael E. Capuano, Eva M. Clayton, Edward J. Markey, John F. Tierney, Henry A. Waxman, Jerrold Nadler, Nita M. Lowey, John Elias Baldacci, Lois Capps, Martin T. Meehan, James P. Moran, Sam Farr, Chet Edwards, Tom Udall, Jim Davis, Tim Holden, Luis V. Gutierrez, Tom Sawyer, Frank Pallone, Jr., Richard A. Gephardt, Ken Bentsen, Allen Boyd, Diane E. Watson, David E. Price, Chaka Fattah, Gerald D. Kleczka, Jim McDermott, Rosa L. DeLauro, Bob Etheridge, Ed Pastor, Mike Thompson, Melvin L. Watt, Nydia M. Velazquez, David D. Phelps, Adam B. Schiff, Betty McCollum, Robert A. Borski, Bob Filner, Robert T. Matsui, Peter A. DeFazio, John M. Spratt, Jr., Tammy Baldwin, Ike Skelton, Bob Clement, Diana DeGette, Dennis J. Kucinich, Robert Wexler, George Miller, Janice D. Schakowsky, Lane Evans, Jim Matheson, Constance A. Morella, Brian Baird, Benjamin L. Cardin, Lucille Roybal-Allard, Silvestre Reyes, Harold E. Ford, Jr., Anna G. Eshoo, Marcy Kaptur, Bill Pascrell, Jr., Bart Gordon, Adam Smith, Eliot L. Engel, Dennis Moore, Lynn N. Rivers, John J. LaFalce, Patsy T. Mink, Martin Frost, Christopher John, Thomas M. Barrett, Max Sandlin, Tom Lantos, Major R. Owens, Anthony D. Weiner, Patrick J. Kennedy, Karen McCarthy, Barbara Lee, Jane Harman, Norman D. Dicks, David Wu, Earl Pomeroy, Bernard Sanders, Michael R. McNulty, Tony P. Hall, John D. Dingell, Vic Snyder, Gary A. Condit, John Conyers, Jr., Paul E. Kanjorski, Lloyd Doggett, James L. Oberstar, Sander M. Levin, Gene Taylor, Elijah E. Cummings, Karen L. Thurman, Mark Steven Kirk, Carolyn C. Kilpatrick, Calvin M. Dooley, Robert A. Brady, Bill Luther, Mark Udall, William J. Coyne, Jerry F. Costello, Edolphus Towns, Gregory W. Meeks, Howard L. Berman, Donald M. Payne, William D. Delahunt, John S. Tanner, Carolyn B. Maloney, Julia Carson, William J. Jefferson, Carrie P. Meek, Nancy L. Johnson, Jesse L. Jackson, Jr., James A. Leach, Zach Wamp, Frank Mascara, Jose E. Serrano, Rod R. Blagojevich, Nick J. Rahall II, Alan B. Mollohan, Michael F. Doyle, Bart Stupak, James A. Barcia, Neil Abercrombie, Solomon P. Ortiz, Robert E. (Bud) Cramer, Jr., Rob Simmons, Mike Ross, Tim Roemer, Danny K. Davis, Sheila Jackson-Lee, Bobby L. Rush, Jim Ramstad, Loretta Sanchez, Robert C. Scott, Robert Menendez, Fortney Pete Stark, Juanita Millender-McDonald, and Joe Baca.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members' names were withdrawn from the following discharge petitions:

Petition 2 by Mr. INSLEE on House Resolution 165: Dennis Moore.

Petition 3 by Mr. TURNER on House Resolution 166: Wm. Lacy Clay.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147 WASHINGTON, THURSDAY, AUGUST 2, 2001 No. 111

Senate

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself and Mr. HATCH):

S. 1302. A bill to authorize the payment of a gratuity to members of the Armed Forces and civilian employees of the United States who performed slave labor for Japan during World War II, or the surviving spouses of such members, and for other purposes; to the Committee on Veterans' Affairs.

Mr. BINGAMAN. Madam President, during the last Congress, I introduced the Bataan-Corregidor Veterans Compensation Act to recognize American veterans who served at Bataan and Corregidor during World War II and were captured, held as prisoners of war, and forced to perform slave labor to support the Japanese war effort. That bill helped bring attention to the plight of Americans captured and enslaved in the Pacific theater at a time when our Government undertook important efforts on behalf of enslaved victims of Nazi oppression in Europe. I believe that our government should also take action on behalf of those who were enslaved in the Pacific theater. Since the waning days of those heroes are quickly passing, the time to take action on this important matter is now.

Today I am introducing an updated version of last year's bill, now entitled the World War II Pacific Theater Veterans Compensation Act, to acknowledge the contributions of all ex-prisoners of war in the Pacific who were forced into slave labor by the Japanese. The bill would award a gratuity of $20,000 to each surviving veteran, government, or government contractor employee who was imprisoned by the Japanese during World War II and forced to perform slave labor to support Japan's war effort. The bill would also extend that gratuity to surviving spouses of such veterans or employees.

I believe that this bill is both necessary and appropriate, particularly as those Americans who sacrificed so much approach their final years. Why is it necessary? First, because Americans who were enslaved by Japan have never been adequately compensated for the excruciating sacrifices they made while in Japanese military and company prisons and labor camps. In the War Claims Acts of 1948 and 1952, our Government paid former U.S. prisoners of war $1.00 per day for ''missed meals'' during their captivity, and later, $1.50 per day for ''forced labor, pain, and suffering.'' Even those paltry compensations were not widely known about or received by all veterans who qualified for them. Second, this bill is necessary since ongoing efforts to obtain appropriate compensation from the government of Japan, or from Japanese companies through litigation, have been unsuccessful and are not likely to succeed in a timely enough manner to compensate surviving veterans or others who would be eligible.

My colleagues might ask, ''Why is this bill appropriate?'' If enacted into law, it would have our own government recognize the vital military contributions made by members of the Armed Forces and civilians employed by the government in the Pacific theater, and would compensate those heroes for the many sacrifices they were forced to make at the hands of their Japanese captors. From December 1941 to April 1942, for example, American military forces stationed in the Philippines fought valiantly for almost six months against overwhelming Japanese military forces on the Bataan peninsula. As a result of that prolonged conflict, U.S. forces prevented Japan from achieving its strategic objective of capturing Australia and thereby dooming Allied hopes in the Pacific theater from the outset of the war.

Once captured by the Japanese, American prisoners of war in the Philippines endured the infamous ''Death March'' during which approximately 730 Americans died to the notorious Japanese prison camp north of Manila. Of the survivors of the March, more than 5,000 more Americans perished during the first six months of captivity. The Japanese forced many of those who survived captivity to embark on ''hell ships''—unmarked merchant ships—to be transported to Japan to work as slave laborers in company-owned mines, shipyards, and factories. How tragic and cruel it was that many of our own men perished in those unmarked vessels, victims of attacks by American military aircraft and submarines who unknowingly caused their demise! The stories of other American military and civilian employees captured by the Japanese at Wake Island, Java, Manchuria, Taiwan, and other locations in the Pacific and enslaved to support the war effort are equally compelling.

This bill is also appropriate because it reflects international precedents by Allied nations to honor their enslaved veterans in the way which I propose in this bill. Allied governments, including Canada, New Zealand, the Netherlands, and the United Kingdom have authorized compensation gratuities. In 1998, the Canadian Government authorized the payment of $15,600 (Canadian dollars) to veterans who were captured in Hong Kong and enslaved by the Japanese. Last October, Prime Minister Tony Blair announced a multi-million pound compensation fund for former enslaved Japanese prisoners of war in recognition of their heroic experiences. Given those important precedents by our Allies, is it no less appropriate for our own nation to compensate those who gave so much to defend and preserve our freedom? Surely, the denial of personal freedom; the severe physical punishment; the lifetime of health problems many suffered as a result of prolonged malnutrition and physical beatings—as well as the impact of those experiences on family and loved ones—merit the recognition that I propose in this legislation.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Printed on recycled paper.

I believe the Congress should act as soon as possible to enact this legislation into law. These brave heroes are leaving us at an increasing rate each year while the court system struggles to resolve the compensation claims of worthy American heroes. The time to act is now, else justice and honor may not ever be served. I thank Senator HATCH for agreeing to cosponsor this legislation, and I urge my fellow Senators to support it.

By Mr. KERRY:

S. 1303. A bill to amend title XVIII of the Social Security Act to provide for payment under the medicare program for more frequent hemodialysis treatments; to the Committee on Finance.

Mr. KERRY. Madam President, I am pleased to introduce legislation to improve the quality of life for the more than 250,000 Americans with End Stage Renal Disease, ESRD. The Kidney Patient Daily Dialysis Quality Act of 2001 will update the Medicare program to reflect the current state of medical science on the efficacy of hemodialysis by eliminating the limitation on the number of sessions now covered by Medicare. Specifically, this bill move Medicare beyond its conventional coverage of three hemodialysis sessions per week to provide coverage of more frequent hemodialysis, as defined by at least five times a week at a dialysis facility or in the home, if determined appropriate by a patient's physician.

ESRD is irreversible kidney failure. Without treatment or transplantation, death invariably results. Unfortunately, the number of Americans with ESRD is growing at a rate of 6 percent to 7 percent per year, and this population is projected to double over the next ten years. Due to the shortage of organs available for transplantation, almost 90 percent of patients with ESRD received hemodialysis treatments three times per week. This has been standard policy since 1972, when Congress created the Medicare End Stage Renal Disease Program. This program has been enormously successful in saving hundreds of thousands of lives, and increasing the life expectancy for hundreds of thousands of others with this terrible disease. However, the program now needs to be modernized.

Today, scientific and medical evidence shows that more frequent hemodialysis enhances the health of patients with ESRD by improving toleration of dialysis, high blood pressure and anemia control, cardiovascular status, nutrition, quality of sleep, mental clarity, and increasing energy and strength. In addition to these improvements in patient health, and subsequent reductions in required medications and hospitalizations, daily hemodialysis can significantly reduce costs to the Medicare program. According to a Project Hope study, more frequent hemodialysis could save the Medicare program between $120 million and $260 million per year.

The Kidney Patient Daily Dialysis Quality Act of 2001 stands to improve the quality of life for hundreds of thousands of Americans suffering from kidney failure. Scientific evidence supports the promise of this legislation and modern technology exists to provide it, it is time to deliver.

By Mr. KERRY:

S. 1304. A bill to amend title XVII of the Social Security Act to provide for coverage under the medicare program of oral drugs to reduce serum phosphate levels in dialysis patients with end-stage renal disease; to the Committee on Finance.

Mr. KERRY. Madam President, I am pleased to introduce legislation to improve the quality of life for the more than 250,000 Americans with End Stage Renal Disease, ESRD. My legislation will update the Medicare program to provide patients with better treatment for ESRD by providing coverage of oral prescription medications that reduce the serum phosphate levels in dialysis patients.

Patients with ESRD cannot eliminate dietary phosphorus and, without undergoing a kidney transplant, risk developing a condition known as hyperphosphatemia. This condition, and the hospitalization that accompanies it, can be prevented through the use of phosphate binding drugs, which are taken orally with meals and bind to dietary phosphorus, thereby reducing absorption in the body. Making phosphate binders available to Medicare-eligible ESRD patients makes both medical and economical sense. Not only do these medications improve the quality of life for patients with kidney failure, but they stand to reduce overall Medicare costs associated with treating patients who develop hyperphosphatemia. A recent scientific study by the U.S. Renal Data System found that the use of one such drug could save Medicare, on average, $17,328 per patient on an annual basis.

Under current law, ESRD patients are prohibited from enrolling in Medicare+Choice plans. Many ESRD patients are also ineligible for ''Medigap'' coverage as 63 percent of the patients are under the age of 65. Thus, ESRD patients are denied access to the only existing mechanisms under which Medicare enrollees can obtain prescription drug coverage.

ESRD patients are among the sickest, poorest, most likely to be disabled, and most frequently hospitalized of all Medicare beneficiaries. In light of the shortage of organs available for transplant, it is imperative that we do all we can to supplement traditional hemodialysis treatment and improve the quality of life for those patients with kidney disease. Scientific evidence supports the promise of phosphate binding drugs to enhance the health of Americans with ESRD, and it is time that every patient realize that promise.

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

S. 1305. A bill to amend the Internal Revenue Code of 1986 to clarify the status of professional employer organizations and to promote and protect the interests of professional employer organizations, their customers, and workers; to the Committee on Finance.

Mr. GRAHAM. Madam President, today, together with my Finance Committee colleague, Senator GRASSLEY, I am introducing the Professional Employer Organization Workers Benefits Act of 2001. Companion legislation is being introduced in the House by Representatives CARDIN and PORTMAN. This legislation expands retirement and health benefits for workers at small and medium-sized businesses in this country.

This bill is a narrower version of a bill that I sponsored in the last Congress, S. 2979, the Graham-Mack bill. Our new bill incorporates several improvements recommended by interested parties over the course of the past several years. Most significantly, the scope of this bill has been limited to address technical issues that were raised by the Treasury Department, Internal Revenue Service, and the Labor Department. I think it is fair to say that a much improved version of this proposal has emerged, one that ensures that the legislation's objective of expanding retirement and health coverage is achieved, while also ensuring that other important Federal policies are not affected. I am very pleased that, the Commissioner of the IRS, in a letter sent to one of the House companion bill sponsors recently, has indicated his interest in seeing this legislation enacted in a timely fashion.

In brief, this bill would permit certified professional employer organizations, PEOs, to assist small and medium-sized businesses in complying with the multiple responsibilities of being an employer. It does this by permitting the PEOs to accept responsibility for employment taxes and provide employee benefits to workers in small businesses. For many of these workers, the PEO's pension, health and other benefits represent benefits that the worker would not have received otherwise because they are too costly for the small business to provide on its own. PEOs provide the expertise and the economies of scale necessary to provide health and retirement benefits in an affordable and efficient manner.

Congress must take every opportunity to encourage businesses to provide retirement and health benefits to their employees. PEOs offer one creative way to bridge the gap between what workers need and what small businesses can afford to provide them. This legislation clarifies the tax law to make it clear that PEOs meeting certain standards will be able to offer those needed employee benefits and collect Federal employment taxes for their business customers.

In addition, I would like to make clear what this bill does not do. Unlike certain other bills, this bill applies only to PEOs, i.e., arrangements where

the PEO accepts responsibility for all or almost all of the workers at a worksite. It does not have anything to do with temporary staffing agencies or similar arrangements. Further, this bill by its terms applies only to the two areas of the tax law I have mentioned, employment tax and employee benefit laws. It does not affect any other law, nor does it affect the determination of who is the employer for tax law or any other purpose. The bill specifically states that it creates no inferences with respect to those issues.

I am hopeful that, with this narrower focus, this legislation can be considered quickly on its own merits, without getting bogged down in the disputes over the so-called contingent workforce and independent contractor issues, issues that are not addressed in this bill. While those are important issues that Congress may want to examine, we should not allow those complex issues to delay resolution of the unrelated PEO issues addressed by this bill. We believe that the changes made by our legislation will help expand retirement and health plan coverage both in the short-term and the longer run.

I look forward to working with Senator GRASSLEY and my other colleagues on the Finance Committee and the Administration in moving this bill during this Congress so that we can begin to address the difficulties faced by small businesses and their workers in obtaining benefits and meeting the other challenges of operating in an increasingly globalized economy.

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

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

S. 1305

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 ''Professional Employer Organization Workers Benefits Act of 2001''.

SEC. 2. NO INFERENCE.

Nothing contained in this Act or the amendments made by this Act shall be construed to create any inference with respect to the determination of who is an employee or employer—

(1) for Federal tax purposes (other than the purposes set forth in the amendments made by section 3), or

(2) for purposes of any other provision of law.

SEC. 3. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

(a) EMPLOYMENT TAXES.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end the following new section:

''SEC. 3511. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

''(a) GENERAL RULES.—For purposes of the taxes imposed by this subtitle—

''(1) a certified professional employer organization shall be treated as the employer (and no other person shall be treated as the employer) of any work site employee performing services for any customer of such organization, but only with respect to remuneration remitted by such organization to such work site employee, and

''(2) the exemptions and exclusions which would (but for paragraph (1)) apply shall apply with respect to such taxes imposed on such remuneration.

''(b) SUCCESSOR EMPLOYER STATUS.—For purposes of sections 3121(a) and 3306(b)(1)—

''(1) a certified professional employer organization entering into a service contract with a customer with respect to a work site employee shall be treated as a successor employer and the customer shall be treated as a predecessor employer, and

''(2) a customer whose service contract with a certified professional employer organization is terminated with respect to a work site employee shall be treated as a successor employer and the certified professional employer organization shall be treated as a predecessor employer.

''(c) LIABILITY WITH RESPECT TO INDIVIDUALS PURPORTED TO BE WORK SITE EMPLOYEES.—

''(1) GENERAL RULES.—Solely for purposes of its liability for the taxes imposed by this subtitle—

''(A) the certified professional employer organization shall be treated as the employer of any individual (other than a work site employee or a person described in subsection (e)) who is performing services covered by a contract meeting the requirements of section 7705(e)(2)(F), but only with respect to remuneration remitted by such organization to such individual, and

''(B) the exemptions and exclusions which would (but for subparagraph (A)) apply shall apply with respect to such taxes imposed on such remuneration.

''(d) SPECIAL RULE FOR RELATED PARTY.—Subsection (a) shall not apply in the case of a customer which bears a relationship to a certified professional employer organization described in section 267(b) or 707(b). For purposes of the preceding sentence, such sections shall be applied by substituting '10 percent' for '50 percent'.

''(e) SPECIAL RULE FOR CERTAIN INDIVIDUALS.—For purposes of the taxes imposed under this subtitle, an individual with net earnings from self-employment derived from the customer's trade or business (including a partner in a partnership that is a customer), is not a work site employee with respect to remuneration paid by a certified professional employer organization.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) EMPLOYEE BENEFITS.—Section 414 of such Code (relating to definitions and special rules) is amended by adding at the end the following new subsection:

''(w) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—

''(1) PLANS MAINTAINED BY CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—

''(A) IN GENERAL.—Except as otherwise provided in this subsection, in the case of a plan or program established or maintained by a certified professional employer organization to provide employee benefits to work site employees, then, for purposes of applying the provisions of this title applicable to such benefits—

''(i) such plan shall be treated as a single employer plan established and maintained by the organization,

''(ii) the organization shall be treated as the employer of the work site employees eligible to participate in the plan, and

''(iii) the portion of such plan covering work site employees shall not be taken into account in applying such provisions to the remaining portion of such plan or to any other plan established or maintained by the certified professional employer organization providing employee benefits (other than to work site employees).

''(B) SPECIAL EXCEPTIONS IN APPLYING RULES TO BENEFITS.—

''(i) IN GENERAL.—In applying any requirement listed in clause (iii) to a plan or program established by the certified professional employer organization—

''(I) the portion of the plan established by the certified professional employer organization which covers work site employees performing services for a customer shall be treated as a separate plan of the customer (including for purposes of any disqualification or correction),

''(II) the customer shall be treated as establishing and maintaining the plan, as the employer of such employees, and as having paid any compensation remitted by the certified professional employer organization to such employees under the service contract entered into under section 7705, and

''(III) a controlled group that includes a certified professional employer organization shall not include in the controlled group any work site employees performing services for a customer.

For purposes of subclause (III), all persons treated as a single employer under subsections (b), (c), (m), and (o) shall be treated as members of the same controlled group.

''(ii) SELF-EMPLOYED INDIVIDUALS.—A work site employee who would be treated as a self-employed individual (as defined in section 401(c)(1)), a disqualified person (as defined in section 4975(e)(2)), a 2-percent shareholder (as defined in section 1372(b)(2), or a shareholder-employee (as defined in section 4975(f)(6)(C)), but for the relationship with the certified professional employer organization, shall be treated as a self-employed individual, disqualified person, a 2-percent shareholder, or shareholder-employee for purposes of rules applicable to employee benefit plans maintained by such certified professional employer organization.

''(iii) LISTED REQUIREMENTS.—The requirements listed in this clause are:

''(I) NONDISCRIMINATION AND QUALIFICATION.—Sections 79(d), 105(h), 125(b), 127(b)(2) and (3), 129(d)(2), (3), (4), and (5), 132(j)(1), 274(j)(3)(B), 401(a)(4), 401(a)(17), 401(a)(26), 401(k)(3) and (12), 401(m)(2) and (11), 404 (in the case of a plan subject to section 412), 410(b), 412, 414(q), 415, 416, 419, 422, 423(b), 505(b), 4971 4972, 4975, 4976, 4978, and 4979.

''(II) SIZE.—Sections 220, 401(k)(11), 401(m)(10), 408(k), and 408(p).

''(III) ELIGIBILITY.—Section 401(k)(4)(B).

''(IV) AUTHORITY.—Such other similar requirements as the Secretary may prescribe.

''(iv) WELFARE BENEFIT FUNDS.—With respect to a welfare benefit fund maintained by a certified professional employer organization for the benefit of work site employees performing services for a customer, section 419 shall be treated as not listed in clause (iii)(I) if the fund provides only 1 or more of the following:

''(I) Medical benefits other than retiree medical benefits.

''(II) Disability benefits.

''(III) Group term life insurance benefits which do not provide for any cash surrender value or other money that can be paid, assigned, borrowed or pledged for collateral for a loan.

''(v) EXCISE TAXES.—Notwithstanding clause (iii), the certified professional employer organization and the customer contracting for work site employees to pay services shall be jointly and severally liable for the tax imposed by section 4971 with respect to failure to meet the minimum funding requirements and the tax imposed by section 4976 with respect to funded welfare benefit plans.

''(vi) CONTINUATION COVERAGE REQUIREMENTS.—For purposes of applying the provisions of section 4980B with respect to a group health plan maintained by a certified professional employer organization for the benefit of work site employees:

''(I) TERMINATION OF EMPLOYMENT EVENTS.—Each of the following events shall constitute a termination of employment of a work site employee for purposes of section 4980B(f)(3)(B):

''(aa) The work site employee ceasing to provide services to any customer of such certified professional employer organization.

''(bb) The work site employee ceasing to provide services to one customer of such certified professional employer organization and becoming a work site employee with respect to another customer of such certified professional employer organization; and

''(cc) The termination of a service contract between the certified professional employer organization and the customer with respect to which the work site employee performs services, provided, however, that such a contract termination shall not constitute a termination of employment under section 4980B(f)(3)(B) for such work site employee if, at the time of such contract termination, such customer maintains a group health plan (other than a plan providing only excepted benefits within the meaning of sections 9831 and 9832 or a plan covering less than two participants who are employees).

''(II) TERMINATION EVENT CONSTITUTING A QUALIFYING EVENT.—If an event described in subparagraph (vi)(I) also constitutes a qualifying event under section 4980B(f)(3) with respect to the group health plan maintained by the certified professional employer organization for the affected work site employee, such plan shall no longer be required to provide continuation coverage as of any new coverage date.

''(III) NEW COVERAGE DATE WHEN TERMINATION EVENT CONSTITUTES QUALIFYING EVENT.—For purposes of subclause (II), a new coverage date shall be the first date on which—

''(aa) the customer maintains a group health plan other than a plan described in section 4980B(d), a plan providing only excepted benefits within the meaning of sections 9831 and 9832, or a plan covering less than two participants who are employees, or

''(bb) a service contract between such customer and another certified professional employee organization becomes effective under which worksite employees performing services for such customer are covered under a group health plan of such other certified professional employee organization, other than a plan described in section 4980B(d), a plan providing only excepted benefits within the meaning of sections 9831 and 9832, or a plan covering less than two participants who are employees.

''(IV) EFFECT OF CUSTOMER-MAINTAINED PLAN.—As of a new coverage date described in subclause (III)(aa), the customer shall be required to make continuation coverage available to any qualified beneficiary who was receiving (or was eligible to elect to receive) continuation coverage under a certified professional employer organization's group health plan and who is, or whose qualifying event occurred in connection with, a person whose last employment prior to such employee's qualifying event was as a work site employee providing services to such customer pursuant to a service contract with such certified professional employer organization.

''(C) EFFECT OF NEW SERVICE CONTRACT WITH CERTIFIED PEO.—As of a new coverage date described in subclause (III)(bb), the second certified professional employee organization shall be required to make continuation coverage available to any qualified beneficiary who was receiving (or was eligible to elect to receive) continuation coverage under the first certified professional employer organization's group health plan and who is, or whose qualifying event occurred in connection with, a person whose last employment prior to such employee's qualifying event was as a work site employee providing services to the customer pursuant to a service contract with the first certified professional employer organization.

''(vii) CONTINUED COVERAGE FOR QUALIFIED BENEFICIARIES.—As of the date that a certified professional employee organization's group health plan first provides coverage to one or more work site employees providing services to a customer, such group health plan shall be required to make continuation coverage available to any qualified beneficiary who was receiving (or was eligible to receive or elect to receive) continuation coverage under a group health plan sponsored by such customer if, in connection with coverage being provided by the organization's plan, such customer terminates each of its group health plans, other than a plan or plans providing only excepted benefits within the meaning of sections 9831 and 9832 or covering less than two participants who are employees.

''(viii) EFFECT OF TERMINATION OF PEO STATUS.—The termination of a professional employer organization's status as a certified professional employer organization—

''(I) shall constitute an event described in section 4980B(f)(3)(B) for any work site employee performing services pursuant to a contract between a customer and such professional employer organization, but

''(II) no loss of coverage within the meaning of section 4980B(f)(3) occurs unless, in connection with such termination of status as a certified professional employer organization, the individual formerly treated as a work site employee performing services for the customer pursuant to a contract with such professional employer organization ceases to be covered under the arrangement of the professional employer organization that had been, prior to such termination of status, the group health plan of such organization.

''(ix) PERSON LIABLE FOR TAX.—For purposes of the liability for tax under section 4980B, the person or entity required to provide continuation coverage under this clause (vi) shall be deemed to be the employer under section 4980B(e)(1)(A).

''(2) PLANS MAINTAINED BY CUSTOMERS OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a customer of a certified professional employer organization provides (other than through such organization) any employee benefits, then with respect to such benefits—

''(A) work site employees of the organization who perform services for the customer shall be treated as leased employees of such customer,

''(B) such customer shall be treated as a recipient for purposes of subsection (n), and paragraphs (4) and (5) of subsection (n) shall not apply for such purposes, and

''(C) with respect to such work site employees, sections 105(h), 403(b)(12), 422, and 423 shall be treated as a benefit listed in subsection (n)(3)(C).

''(3) PLANS MAINTAINED BY COMPANIES IN SAME CONTROLLED GROUP AS CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION.—In applying any requirement listed in paragraph (1)(B)(iii), a controlled group which includes a certified professional employer organization shall not include in such controlled group any work site employees performing services for a customer. For purposes of this paragraph, all persons treated as a single employer under subsections (b), (c), (m) and (o) shall be treated as members of the same controlled group.

''(4) RULES APPLICABLE TO PLANS MAINTAINED BY CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS AND PLANS MAINTAINED BY THEIR CUSTOMERS.—

''(A) SERVICE CREDITING FOR PARTICIPATION AND VESTING PURPOSES.—In the case of a plan maintained by a certified professional employer organization or a customer, for purposes of determining a work site employee's service for eligibility to participate and vesting under sections 410(a) and 411, rules similar to the rules of paragraphs (1) and (3) of section 413(c) shall apply to service for the certified professional employer organization and customer.

''(B) COMPENSATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), for purposes of subsection (s) and section 415(c)(3), or other comparable provisions of this title based on compensation which affects employee benefit plans, compensation received from the customer with respect to which the work site employee performs services shall be taken into account together with compensation received from the certified professional employer organization.

''(ii) EXCEPTION.—For purposes of applying sections 404 and 412 to a plan maintained by a certified professional employer organization, only compensation received from the certified professional employer organization shall be taken into account.

''(C) ELIGIBLE EMPLOYERS.—The provisions of sections 457(f)(1)(A) and (B) apply to a work site employee performing services for a customer that is an eligible employer as defined in section 457(e)(1). The preceding sentence shall not apply in the case of a plan described in section 401(a) which includes a trust exempt from tax under section 501(a), an annuity plan or contract described in section 403, the portion of a plan which consists of a transfer of property described in section 83, the portion of a plan which consists of a trust to which section 402(b) applies, or a qualified governmental excess benefit arrangement described in section 415(m).

''(5) SPECIAL RULES WHERE MULTIPLE PLANS.—

''(A) IN GENERAL.—For purposes of applying section 415 with respect to a plan maintained by a certified professional employer organization, the organization and customers of such organization shall be treated as a single employer, except that if plans are maintained by a certified professional employer organization and a customer with respect to a work site employee, any action required to be taken by such plans shall be taken first with respect to the plan maintained by the customer.

''(B) MINIMUM BENEFIT.—If a minimum benefit is required to be provided under section 416, such benefit shall, to the extent possible, be provided through the plan maintained by the certified professional employer organization.

''(6) TERMINATION OF SERVICE CONTRACT BETWEEN CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION AND CUSTOMER.—

''(A) IN GENERAL.—

''(i) TREATMENT OF SUCCESSOR PLAN.—If a service contract between a customer and a certified professional employer organization is terminated and work site employees of the customer were covered by a plan maintained by the organization, then, except as provided in regulations, any plan of another certified professional employer organization or the customer which covers such work site employees shall be treated as a successor plan for purposes of any rules governing in-service distributions.

''(ii) TREATMENT AS SEVERANCE FROM EMPLOYMENT AND SEPARATION FROM SERVICE.—If a service contract between a customer and a certified professional employer organization is terminated, and there is no plan treated as a successor plan under clause (i), then such termination shall be treated as a plan termination with respect to each work site employee of such customer.

''(B) DISTRIBUTION RULES APPLICABLE TO SUBPARAGRAPH (A)(ii).—Except as otherwise required by this title, in any case to which subparagraph (A)(ii) applies, the certified professional employer organization plan may distribute—

''(i) during the 2-year period beginning on the date of such termination (in accordance with plan terms) only—

''(I) elective deferrals and earnings attributable thereto,

''(II) qualified nonelective contributions (within the meaning of section 401(m)(4)(C)) and earnings attributable thereto, and

''(III) matching contributions described in section 401(k)(3)(D)(ii)(I) and earnings attributable thereto,

of former work site employees associated with the terminated customer only in a direct rollover described in section 401(a)(31), and

''(ii) after such 2-year period, amounts in such plan in accordance with plan terms.''.

(c) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION DEFINED.—Chapter 79 of such Code (relating to definitions) is amended by adding at the end the following new section:

''SEC. 7705. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

''(a) IN GENERAL.—For purposes of this title, the term 'certified professional employer organization' means a person who applies to be treated as a certified professional employer organization for purposes of sections 414(w) and 3511 and who has been certified by the Secretary as meeting the requirements of subsection (b).

''(b) CERTIFICATION.—A person meets the requirements of this subsection if such person—

''(1) demonstrates that such person (and any owner, officer, and such other persons as may be specified in regulations) meets such requirements as the Secretary shall establish with respect to tax status, background, experience, business location, and annual financial audits,

''(2) represents that it will satisfy the bond and independent financial review requirements of subsections (c) on an ongoing basis,

''(3) represents that it will satisfy such reporting obligations as may be imposed by the Secretary,

''(4) represents that it will maintain a qualified plan (as defined in section 408(p)(2)(D)(ii)) or an arrangement to provide simple retirement accounts (within the meaning of section 408(p)) which benefit at least 95 percent of all work site employees who are not highly compensated employees for purposes of section 414(q),

''(5) computes its taxable income using an accrual method of accounting unless the Secretary approves another method,

''(6) agrees to verify the continuing accuracy of representations and information which was previously provided on such periodic basis as the Secretary may prescribe, and

''(7) agrees to notify the Secretary in writing of any change that materially affects the continuing accuracy of any representation or information which was previously made or provided.

''(c) REQUIREMENTS.—

''(1) IN GENERAL.—An organization meets the requirements of this paragraph if such organization—

''(A) meets the bond requirements of subparagraph (2), and

''(B) meets the independent financial review requirements of subparagraph (3).

''(2) BOND.—

''(A) IN GENERAL.—A certified professional employer organization meets the requirements of this paragraph if the organization has posted a bond for the payment of taxes under subtitle C (in a form acceptable to the Secretary) that is in an amount at least equal to the amount specified in subparagraph (B).

''(B) AMOUNT OF BOND.—

''(i) IN GENERAL.—For the period April 1 of any calendar year through March 31 of the following calendar year, the amount of the bond required is equal to the greater of:

''(I) 5 percent of the organization's liability for taxes imposed by this subtitle during the preceding calendar year (but not to exceed $1,000,000), or

''(II) $50,000.

''(ii) SPECIAL RULE FOR NEWLY CREATED PROFESSIONAL EMPLOYER ORGANIZATIONS.—During the first three full calendar years that an organization is in existence, subclause (I) of clause (i) shall not apply. For this purpose—

''(I) under rules provided by the Secretary, an organization is treated as in existence as of the date that such organization began providing services to any client which were comparable to the services being provided with respect to worksite employees, regardless of whether such date occurred before or after the organization is certified under section 7705, and

''(II) an organization with liability for taxes imposed by this subtitle during the preceding calendar year in excess of $5,000,000 shall no longer be described in this clause (ii) as of April 1 of the year following such calendar year.

''(3) INDEPENDENT FINANCIAL REVIEW REQUIREMENTS.—A certified professional employer organization meets the requirements of this subparagraph if such organization—

''(A) has, as of the most recent audit date, caused to be prepared and provided to the Secretary (in such manner as the Secretary may prescribe) an opinion of an independent certified public accountant as to whether the certified professional employer organization's financial statements are presented fairly in accordance with generally accepted accounting principles, and

''(B) provides to the Secretary an assertion regarding Federal employment tax payments and an examination level attestation on such assertion from an independent certified public accountant not later than the last day of the second month beginning after the end of each calendar quarter. Such assertion shall state that the organization has withheld and made deposits of all taxes imposed by chapters 21, 22, and 24 of the Internal Revenue Code in accordance with regulations imposed by the Secretary for such calendar quarter and such examination level attestation shall state that such assertion is fairly stated, in all material respects.

''(4) SPECIAL RULE FOR SMALL CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—The requirements of paragraph (3)(A) shall not apply with respect to a fiscal year of an organization if such organization's liability for taxes imposed by subtitle C during the calendar year ending on (or concurrent with) the end of the fiscal year were $5,000,000 or less.

''(5) FAILURE TO FILE ASSERTION AND ATTESTATION.—If the certified professional employer organization fails to file the assertion and attestation required by paragraph (3) with respect to a particular quarter, then the requirements of paragraph (3) with respect to such failure shall be treated as not satisfied for the period beginning on the due date for such attestation.

''(6) AUDIT DATE.—For purposes of paragraph (3)(A), the audit date shall be six months after the completion of the organization's fiscal year.

''(d) SUSPENSION AND REVOCATION AUTHORITY.—The Secretary may suspend or revoke a certification of any person under subsection (b) for purposes of section 414(w) or 3511, or both, if the Secretary determines that such person is not satisfying the representations or requirements of subsections (b) or (c), or fails to satisfy applicable accounting, reporting, payment, or deposit requirements.

''(e) WORK SITE EMPLOYEE.—For purposes of this title—

''(1) IN GENERAL.—The term 'work site employee' means, with respect to a certified professional employer organization, an individual who—

''(A) performs services for a customer pursuant to a contract which is between such customer and the certified professional employer organization and which meets the requirements of paragraph (2), and

''(B) performs services at a work site meeting the requirements of paragraph (3).

''(2) SERVICE CONTRACT REQUIREMENTS.—A contract meets the requirements of this paragraph with respect to an individual performing services for a customer if such contract is in writing and provides that the certified professional employer organization shall—

''(A) assume responsibility for payment of wages to the individual, without regard to the receipt or adequacy of payment from the customer for such services,

''(B) assume responsibility for reporting, withholding, and paying any applicable taxes under subtitle C, with respect to the individual's wages, without regard to the receipt or adequacy of payment from the customer for such services,

''(C) assume responsibility for any employee benefits which the service contract may require the certified professional employer organization to provide, without regard to the receipt or adequacy of payment from the customer for such services,

''(D) assume shared responsibility with the customer for firing the individual and for recruiting and hiring any new worker,

''(E) maintain employee records relating to the individual, and

''(F) agree to be treated as a certified professional employer organization for purposes of sections 414(w) and 3511 with respect to such individual.

''(3) WORK SITE COVERAGE REQUIREMENT.—

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to an individual if at least 85 percent of the individuals performing services for the customer at the work site where such individual performs services are subject to 1 or more contracts with the certified professional employer organization which meet the requirements of paragraph (2).

''(B) SPECIAL RULES.—For purposes of subparagraph (A)—

''(i) WORK SITE.—The term 'work site' means a physical location at which an individual generally performs service for the customer or, if there is no such location, the location from which the individual receives job assignments from the customer.

''(ii) CONTIGUOUS LOCATIONS.—For purposes of clause (i), work sites which are contiguous locations shall be treated as a single physical location.

''(iii) NONCONTIGUOUS LOCATIONS.—For purposes of clause (i), noncontiguous locations shall be treated as separate work sites, except that each work site within a reasonably proximate area must satisfy the 85 percent

test under subparagraph (A) for the individuals performing services for the customer at such work site. In determining whether noncontiguous locations are reasonably proximate, all facts and circumstances shall be taken into account.

''(iv) WORK SITES 35 MILES OR MORE APART.—Any work site which is separated from all other customer work sites by at least 35 miles shall not be treated as reasonably proximate under clause (iii).

''(v) DIFFERENT INDUSTRY.—A work site shall not be treated as reasonably proximate to another work site under clause (iii) if the work site operates in a different industry or industries from such other work site as determined by the Secretary.

''(f) EMPLOYER AGGREGATION RULES.—

''(1) IN GENERAL.—For purposes of subsections (c)(2)(B)(ii), (c)(4) and (e), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 person.

''(2) PLANS MAINTAINED BY COMPANIES IN SAME CONTROLLED GROUP AS CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION.—For purposes of subsection (b)(4), if certified professional employer organizations are part of a controlled group, then the certified professional employer organizations (but no other member of the controlled group) shall be treated as 1 person.

''(3) QUALIFIED PLANS.—For purposes of subsection (b)(4)—

''(A) a qualified plan (as defined in section 408(p)(2)(D)(ii)) which is maintained by, or an arrangement to provide a simple retirement account (within the meaning of section 408(p)) to, a customer with respect to a work site employee performing services for such customer shall be treated as if it were maintained by the applicant, and

''(B) work site employees who do not meet the minimum age and service requirements of section 410(a)(1)(A) (or who are excludable from consideration under section 410(b)(3)) shall not be taken into account.

''(g) DETERMINATION OF EMPLOYMENT STATUS.—Except to the extent necessary for purposes of section 414(w) or 3511, nothing in this section shall be construed to affect the determination of who is an employee or employer for purposes of this title.

''(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section and sections 414(w) and 6503(k).''.

(d) CONFORMING AMENDMENTS.—

(1) Section 45B of such Code is amended by adding at the end the following new subsection:

''(e) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—For purposes of this section, in the case of a certified professional employer organization that is treated, under section 3511, as the employer of a worksite employee who is a tipped employee, the credit determined under this section does not apply to such organization, but does apply to the customer of such organization. For this purpose the customer shall take into account any remuneration and taxes remitted by the certified professional employer organization.''.

(2) Section 707 of such Code is amended by adding at the end the following new subsection:

''(d) PAYMENTS TO CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a partnership that is a customer of a certified professional employer organization (as defined in section 7705) makes a payment to such an organization on behalf of a partner, and the payment, if made directly to the partner, would be treated as a guaranteed payment under section 707(c), the partnership shall treat the payment as if it were a guaranteed payment made to a partner. To the extent that the relevant partner receives all or any portion of such a payment, such partner shall be treated as receiving a guaranteed payment for services under section 707(c).''.

(3) Section 3302 of such Code is amended by adding at the end the following new subsection:

''(h) TREATMENT OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a certified professional employer organization (as defined in section 7705) (or a client of such organization) makes a payment to the State's unemployment fund with respect to a work site employee, such organization shall be eligible for the credits available under this section with respect to such payment.''.

(4) Section 3303(a) of such Code is amended—

(A) by striking the period at the end of subparagraph (D) of paragraph (3) and inserting ''; and'',

(B) by inserting immediately after paragraph (3) the following new paragraph:

''(4) a certified professional employer organization (as defined in section 7705) is permitted to collect and remit, in accordance with paragraphs (1), (2), and (3), contributions during the taxable year to the State unemployment fund with respect to a work site employee.'', and

(C) in the last sentence—

(i) by striking ''paragraphs (1), (2), and (3)'' and inserting ''paragraphs (1), (2), (3), and (4)'', and

(ii) by striking ''paragraph (1), (2), or (3)'' and inserting ''paragraph (1), (2), (3), or (4)''.

(5) Section 6053(c) such Code is amended by adding at the end the following new paragraph:

''(8) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—For purposes of any report required by this section, in the case of a certified professional employer organization that is treated, under section 3511, as the employer of a worksite employee, the customer with respect to whom a worksite employee performs services shall be the employer for purposes of reporting under this section and the certified professional employer organization shall furnish to the customer any information necessary to complete such reporting no later than such time as the Secretary shall prescribe.''.

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 25 of such Code is amended by adding at the end the following new item:

''Sec. 3511. Certified professional employer organizations.''.

(2) The table of sections for chapter 79 of such Code is amended by inserting after the item relating to section 7704 the following new item:

''Sec. 7705. Certified professional employer organizations.''.

(f) REPORTING REQUIREMENTS AND OBLIGATIONS.—The Secretary of the Treasury shall develop such reporting and recordkeeping rules, regulations, and procedures as the Secretary determines necessary or appropriate to ensure compliance with the amendments made by this Act with respect to entities applying for certification as certified professional employer organizations or entities that have been so certified. Such rules shall be designed in a manner which streamlines, to the extent possible, the application of requirements of such amendments, the exchange of information between a certified professional employer organization and its customers, and the reporting and recordkeeping obligations of the certified professional employer organization.

(f) USER FEES.—Subsection (b) of section 10511 of the Revenue Act of 1987 (relating to fees for requests for ruling, determination, and similar letters) is amended by adding at the end the following new paragraph:

''(4) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—The fee charged under the program in connection with the certification by the Secretary of a professional employer organization under section 7705 of the Internal Revenue Code of 1986 shall not exceed $500.''.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this Act shall take effect on the later of—

(A) January 1, 2003, or

(B) the January 1st of the first calendar year beginning more than 12 months after the date of the enactment of this Act.

(2) CERTIFICATION PROGRAM.—The Secretary of the Treasury shall establish the certification program described in section 7705(b) of the Internal Revenue Code of 1986 (as added by subsection (c) of this section) not later than 3 months before the effective date determined under paragraph (1).

(3) TRANSITION ISSUES.—For years beginning before the effective date specified in paragraph (1), subject to such conditions as the Secretary of the Treasury may prescribe, employee benefit plans in existence on the date of the enactment of this Act shall not be treated as failing to meet the requirements of the Internal Revenue Code of 1986 merely because such plans were maintained by an organization prior to such organization becoming a certified professional employer organization (as defined by section 7705 of such Code (as so added)).

By Mr. BAUCUS (for himself, Mr. HARKIN, Mr. LOTT, Mr. JEFFORDS, Mr. WARNER, Mrs. LINCOLN, Mr. SMITH of New Hampshire, Mr. REID, Mr. VOINOVICH, Mr. CRAPO, Mr. BURNS, Mr. THOMAS, Mr. BOND, Mr. DEWINE, Mr. GRAMM, Mr. HUTCHINSON, Mr. LIEBERMAN, Ms. LANDRIEU, and Mr. ENZI):

S. 1306. A bill to amend the Internal Revenue Code of 1986 to transfer all excise taxes imposed on alcohol fuels to the Highway Trust Fund, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Madam President, I rise today to introduce a piece of legislation that will help ensure that the Trust is restored to the Highway Trust Fund.

The Highway Trust Fund Recovery Act, HTFRA, of 2001 will direct 2.5 cents from the sale of gasohol into the Highway Trust Fund beginning in Fiscal Year 2004.

This bill is important for several reasons. First, the bill reconfirms the landmark 1998 highway bill—TEA 21, which is so important to economic development in Montana and throughout the country. Second, the bill will ensure that much needed highway improvements are made throughout the country. Third, this bill means more jobs for Montanans and others throughout the country.

It is, in short, the right thing to do.

By way of background, the gas tax was established for one simply reason: to finance the construction of the national highway system.

In 1993, there was a departure. The tax was increased, by 4.3 cents a gallon. And, for the first time, the tax was

used not for the highway program, but instead for deficit reduction.

I supported the increase, reluctantly, as part of an overall compromise that was a key step towards balancing the budget.

Even so, many of us were determined to restore the principle that the gas tax should only be used to fund our highway and related transportation programs. We worked, as we said, to ''put the trust back in the trust fund.''

It was a long, difficult fight. We faced tough opposition, from the Administration, the budget committees, and elsewhere. But, in the end, we prevailed. During the Senate's consideration of the 1998 highway bill, we provided that the entire gas tax, including the 4.3 cents, would go into the Highway Trust Fund and be used exclusively for highway construction and other transportation needs. When an amendment was offered to repeal the 4.3 cents tax, it was defeated.

Don't get me wrong. Nobody likes taxes. But, since its inception, the gas tax is how we get money to pay for our highways. As these things go, the gas tax has worked well.

Ensuring necessary and affordable energy supplies, including ethanol-blended motor fuels and other initiatives, is important to the quality of life and economic prosperity of all Americans. Policies to achieve these objectives, however, should not come at the expense of transportation infrastructure improvements.

Under current law, ethanol enjoys an exemption from current excise tax rates. This exemption allows the price of gasohol, ethanol mixed with gasoline, to be lower than the price of gasoline. Two and one half cents from the sale of this lower priced fuel is still sent to the General Fund of the U.S. Treasury. It should be going to the Highway Trust Fund.

Let me explain what the Highway Trust Fund Recovery Act of 2001 would mean for our nation's highway program. At least $400 million a year would now go where it belongs, toward the maintenance of our Nation's highways.

I'll get right to the point. Most of my colleagues were here for the highway bill debate. You know how difficult it was. You know how hard we fought to make sure that each of our states would get enough funding to support our transportation needs.

We still need more. As was made clear in the debate over TEA–21 in 1998, America still has a significant shortfall in funding when it comes to maintaining a serviceable highway system. The Department of Transportation estimates that the Nations requires $56.6 billion annually just to maintain existing road and bridge conditions on our Federal highway system. Yet TEA–21 meets only 56 percent of that need.

This 2.5 cent transfer means that thousands of hard-working folks who show up every day, in good weather and bad, to build our roads and improve our communities will have jobs to go to. These are people who depend on their jobs to support themselves and their families.

Pulling this all together, the Congress needs to find a way to enhancing our energy independence without undermining our highway programs. The Highway Trust Fund Recovery Act of 2001 is a step in the right direction.

There's one final point.

For the past few years, Congress has been criticized for putting partisan politics ahead of the public interest. In short, of not getting much done.

There have been some notable exceptions. Balancing the budget. Reforming the welfare system.

And, yes, reaching a bipartisan compromise on the 1998 highway bill, TEA–21. That bill did not just reauthorize the highway program. It renewed and revitalized the highway program. We passed it overwhelmingly, by a vote of 88–5. It was a great accomplishment.

We can confirm that accomplishment by passing the Highway Trust Fund Recovery Act of 2001.

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. 1306

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 ''Highway Trust Fund Recovery Act of 2001''.

SEC. 2. ALL ALCOHOL FUELS TAXES TRANSFERRED TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(4) of the Internal Revenue Code of 1986 (relating to certain taxes not transferred to Highway Trust Fund) is amended—

(1) by adding ''or'' at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(3) by striking subparagraphs (E) and (F).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received in the Treasury after September 30, 2003.

Mr. VOINOVICH. Madam President, I rise today to join my colleague, Senator MAX BAUCUS, in introducing The Highway Trust Fund Recovery Act of 2001. The tax treatment of ethanol-blended fuels is an issue that is disproportionately reducing the amount of Federal highway funding States receive, serving as a disincentive to ethanol use, and impacting our ability to address fully our highway improvement needs. The legislation we are introducing today addresses this problem by ensuring that the portion of the per gallon Federal tax on ethanol-blended fuels which is currently deposited into the General Fund is deposited into the Highway Trust Fund instead.

As my colleagues may be aware, the Federal tax on gasoline that does not contain ethanol is 18.4 cents per gallon, whereas the Federal tax on gasohol, a blend of gasoline and ethanol, is 13.0 cents per gallon. The 5.4 cents per gallon tax difference is meant to keep the price of ethanol down, and serve as an incentive to help promote ethanol's use as a renewable and alternative fuel.

The 18.4 cents per gallon tax on gasoline is the major source of income to the Highway Trust Fund. The money that accumulates in the Highway Trust Fund is used for highway, highway safety, transit, and other surface transportation programs.

However, of the 13.0 cents per gallon Federal tax on gasohol, only 10.4 cents are sent to the Highway Trust Fund, .1 cent goes to the Leaking Underground Storage Tank Fund, while the remaining 2.5 cents are deposited into the General Fund of the Treasury. Although 2.5 cents does not sound like a lot of money, it actually adds up to hundreds of millions of dollars per year that are not being used for the purpose of improving our Nation's roadways, the reason they were collected in the first place.

The bill we are introducing today, the Highway Trust Fund Recovery Act, would ensure that the remaining 2.5 cent tax paid by highway users on ethanol-blended fuels is deposited into the Highway Trust Fund. Under the bill, annual deposits to the Highway Account would increase by some $400 million per year based on current gasohol sales.

Ohio has the Nation's 10th largest highway network, the 5th highest volume of traffic, the 4th largest interstate highway network, and the 2nd largest inventory of bridges in the country. While Ohio's traffic and congestion have risen, its Federal receipts have not risen commensurately because of the different tax treatment of ethanol-blended fuels.

The reason for this disproportion is because Ohio's uses of gasohol is among the highest in the Nation, 40 percent of the state's gasoline consumption in 2000 compared to a national average of around 10 percent. Since Ohio's Federal appropriation under the Transportation Equity Act for the 21st Century, TEA–21, is determined by its contribution to the Highway Trust Fund, and gasohol is taxed differently than conventional gasoline, gasohol consumption has significantly decreased the amount of revenue credited to Ohio in the Highway Trust Fund.

It's simple: less money in means less money out.

According to the Ohio Department of Transportation, ODOT, Ohio is losing more than $160 million per year due to gasohol consumption. To put that number in perspective, it equals 17 percent of Ohio's total obligation ceiling; over one half of the State's major new construction program budget; and it nearly equals the amount the State budgets for routine bridge repair and replacement for an entire year. Of that $160 million figure, the state is losing more than $50 million simply because 2.5 cents of the Federal tax on gasohol

are deposited into the General Fund. This amount is 5 percent of the Ohio's total obligation ceiling; one-sixth of Ohio's major new construction program; and equal to the amount ODOT budgets for safety improvement projects for a two-year period.

The 11 States that make up the Mississippi Valley Conference of the American Association of State Highway and Transportation Officials, AASHTO, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin, account for 70 percent of the Nation's ethanol consumption. The Federal fuel tax rate for ethanol impacts this region more than any other region of the country. If the legislation we are introducing were enacted today, this region alone would receive over $225 million more in additional highway funding.

My State of Ohio has made the environmentally sound decision to utilize ethanol in order to keep the air clean; we should not be penalized with fewer highway dollars for doing the right thing.

Our legislation would not affect the highway formulas or distribution of funds under TEA–21, and it does not take effect until fiscal year 2004, after the expiration of TEA–21. It is important that Congress know what estimated Highway Trust Fund revenues will be prior to the next highway authorization process.

The current tax treatment of gasohol is a disincentive to use ethanol, a clean, renewable fuel source. The bill we are introducing today is good environmental policy, good agricultural policy, good energy policy, and good transportation policy. States should not be penalized for using ethanol. It does not make sense for taxes paid on ethanol-blended fuels to be deposited in the General Fund when we need more than $50 billion per year over the next 20 years just to maintain the current physical condition of our Nation's highways.

Taxes on ethanol are paid by motorists whose vehicles are causing the same wear and tear on our roads and bridges that non-ethanol-fueled vehicles cause. While we may have policy reasons for taxing ethanol at a lower rate or establishing a market for ethanol-blended fuels, surely we ought to insist that the taxes paid by ethanol users are deposited into the Highway Trust Fund where they can be used to make our highways safer and less congested.

This bill would help ensure that we have reliable alternative sources of energy, while we meet our clean air goals, but not at the expense of States' highway funding. I urge my colleagues to join me in cosponsoring this legislation, and I urge its speedy consideration by the Senate.

By Mr. DOMENICI:

S. 1309. a bill to amend the Water Desalination Act of 1996 to reauthorize that Act and to authorize the construction of a desalination research and development facility at the Tularosa Basin, New Mexico, and for other purposes; to the Committee on Environment and Public Works.

Mr. DOMENICI. Madam President, I rise today to introduce ''The Water Supply Security Act of 2001.'' Access to fresh water is an increasingly critical national and international issue. As the world's population grows and stores of fresh water are depleted, finding additional sources of fresh water is key to ensuring world peace and security.

In the Middle East, a major component of almost every peace agreement is water. President Khatami of Iran said last month that peace in the region will be largely determined by mechanisms to solve the problem of water. Shortly after being elected, Israeli Prime Minister Sharon stated that one of the first things he was going to do was to build two water desalting plants in Israel to meet that country's water needs.

Providing fresh water to the people of Africa is a key component in fighting the AIDS epidemic plaguing that continent. AIDS researchers have determined that a principal reason that mothers with AIDS and HIV are spreading the virus to their children is because there is not enough clean water to mix infant formula.

Here in the United States, arid states such as New Mexico are facing serious water shortages. City planners in my home town of Albuquerque have speculated that the city will not be able to grow much more because the aquifer located beneath the city is quickly drying up. Nevada, Arizona, Texas, California and Florida are facing similar problems. A study by the Hudson Institute found that by the year 2025, 45 percent of the U.S. population growth will occur in California, Texas, and Florida, States already facing severe water shortages. This population explosion will undoubtedly result in a scarcity of fresh water.

Although all these States have diminishing stores of fresh water, they all have large deposits of brackish and sea water. Because brackish and sea water account for over 97 percent of the water on earth, being able to cheaply convert this water into fresh water is important to ensuring an adequate supply of fresh water.

President Kennedy, a strong proponent of the government funding for desalting technology, stated ''if we could ever competitively, at a cheap rate, get fresh water from salt water . . . (this) would be in the long-range interests of humanity which would really dwarf any other scientific accomplishments.''

The R&D funded by the federal government between 1952 and the early 1980s resulted in the two desalting technologies that are most widely used today. The development of these widely used technologies would not have been possible had it not been for federally sponsored research and development. Just as these endeavors resulted in significant technological breakthroughs, I believe that a renewed investment by the federal government would lead to further advancements in the technology.

Although desalting technology has become significantly cheaper in recent years, the cost of desalting brackish and seawater is still substantially more expensive than treatment and delivery of other municipal water supplies. In 1996, Congress passed the Water Desalination Act of 1996. This created a small desalting R & D and demonstration program within the Bureau of Reclamation that was tasked with determining the most technologically efficient and cost-effective means by which useable water can be produced from saline water.

This program has been very successful despite receiving limited funding. However, their authorization is set to expire in 2002. The legislation I introduce today would re-authorize the desalting R & D and demonstration program run by the Bureau of Reclamation for an additional six years so that they can continue their work on ensuring that we are able to produce fresh water at a reduced cost.

In addition to renewing this program, the federal government needs to pursue next-generation technologies that would significantly drive down the cost of converting large volumes of readily available saline and brackish waters. Although desalting technology cost and performance have been significantly improved over the past thirty years, overall cost needs to be reduced by a factor of 5 to 10 to make desalted water affordable. While the currently available technologies may be meeting the needs of certain coastal communities with adequate resources to finance such technology, there is a real need for technologies that can tackle a broader range of applications and reduce costs significantly. Such revolutionary desalting technologies would provide significant relief to communities throughout the world, be they rich or poor, coastal or inland.

Our national laboratories have long been known for being at the forefront of science. The laboratories have extensive expertise in virtually all of the key science and technology areas necessary for developing next-generation desalting technology. Furthermore, the labs are already engaged in research and development in several non-traditional desalination technologies. As such, I believe our national laboratories should play a significant role in the development of this vital technology. Drawing from the technological expertise that the labs can provide should ensure that this endeavor will be a successful one.

The bill that I introduce today would direct a collaboration between the Bureau of Reclamation and the Department of Energy in evaluating current technology, advising on how to proceed

with additional research, authorizing the building of a facility where these advances in technology could be tested, and confirming project and operation costs in a real-world application. This bill would also employ the extensive knowledge in desalination technology that the Bureau of Reclamation has accumulated over the past 30 years by allowing that agency to conduct internal research.

I have no doubt that this legislation would help to push the state of the art forward to ensure that the world has access to this life sustaining resource for years to come.

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. 1309

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 Supply Security Act of 2001''.

SEC. 2. AUTHORIZATION OF RESEARCH AND STUDIES.

Section 4 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended by adding at the end the following:

''(c) TULAROSA BASIN DESALINATION FACILITY.—

''(1) IN GENERAL.—

''(A) TECHNOLOGY PROGRESS PLAN.—

''(i) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, Sandia National Laboratories, in collaboration with the Secretary of Energy and in consultation with the Secretary, and using as models the roles of desalination facilities operated by the Federal Government and other research institutions as of the date of enactment of this subsection, shall develop a desalination technology progress plan that includes—

''(I) an overview of available short-term and long-term desalination technology development;

''(II) recommendations for the location, siting, and configuration of the facility under subparagraph (B);

''(III) an assessment of the contributions that the facility could make to the field of desalination; and

''(IV) recommendations concerning the most effective and efficient manner of carrying out subparagraph (B).

''(ii) COST-SHARING REQUIREMENTS.—The cost-sharing requirements described in sections 1604 and 1605 of the Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–2, 390h–3) shall not apply to—

''(I) the funding of the technology progress plan described in clause (i);

''(II) the facility authorized to be constructed under subparagraph (B); or

''(III) any research carried out by Sandia National Laboratories under this Act.

''(B) TESTING AND EVALUATION FACILITY.—

''(i) CONSTRUCTION.—Not later than 3 years after the date of completion of the technology progress plan under subparagraph (A), the Secretary of Energy, in collaboration with the Secretary and in accordance with the memorandum of understanding described in subparagraph (C) and the technology progress plan developed under subparagraph (A)(i), shall construct a desalination test and evaluation facility at the Tularosa Basin, located in Otero County in the State of New Mexico (referred to in this subsection as the 'facility').

''(ii) REPORT.—Not later than 1 year after the date on which the facility begins operation, the Secretary of Energy shall submit to Congress a report that describes project plans of, and any technological advancements developed by, the facility.

''(iii) CONTRACTORS.—The Secretary of Energy may enter into such contracts as are necessary (including contracts with other Federal agencies, State agencies, educational institutions, and private entities and organizations) to carry out this subparagraph.

''(C) MEMORANDUM OF UNDERSTANDING.—In carrying out this paragraph, the Secretary of Energy and the Secretary of the Interior shall enter into a memorandum of understanding under which the Secretary of Energy shall seek from the Secretary of the Interior, and the Secretary of the Interior shall provide to the Secretary of Energy, technical assistance and expertise in the development and construction of the facility.

''(2) PURPOSES.—The facility—

''(A) shall be used—

''(i) to carry out research on, and to test, demonstrate, and evaluate, new desalination technologies (including long-term, alternative technologies that have the potential for significant desalination cost reductions beyond the time frame of the focus of current research);

''(ii) to fully evaluate the performance of new technologies, including performance in—

''(I) energy consumption;

''(II) byproduct disposal; and

''(III) operational maintenance costs; and

''(iii) to determine the most technologically-efficient and cost-efficient means by which potable water may be produced from salinated water or other water that is unsuitable for use; and

''(B) should be capable of processing at least 100,000 gallons of water per day.

''(3) COLLABORATION; FACILITY DISCRETION.—

''(A) COLLABORATION.—All research at the facility shall be carried out by the Secretary of Energy, in collaboration with the Secretary.

''(B) FACILITY DISCRETION.—Research described in paragraph (2)(A)(i) may be carried out at the facility or at any other laboratory facility determined to be suitable by Sandia National Laboratories.

''(4) PROVISION OF WATER.—

''(A) IN GENERAL.—Subject to subparagraph (B), all desalinated water produced by the facility shall be provided to 1 or more communities located in Otero County, New Mexico, at no cost to the communities, as jointly determined by the Secretary of Energy and the Secretary.

''(B) TIMING; SUPPLEMENTARY ASPECT.—The water provided under subparagraph (A) shall be—

''(i) provided only after technology testing demonstrates that the water is of a consistent, reliable quality, as determined by Sandia National Laboratories, in coordination with the Secretary of Energy; and

''(ii) supplementary to water provided by public water systems or wells in the communities.

''(5) TECHNICAL ADVISORY COMMITTEE.—

''(A) IN GENERAL.—The Secretary and the Secretary of Energy shall jointly establish a technical advisory committee to provide, under such procedures as the Secretary and the Secretary of Energy shall jointly develop, program guidance and technical assistance in carrying out this subsection.

''(B) COMPOSITION.—

''(i) IN GENERAL.—The technical advisory committee shall be composed of—

''(I) representatives from the Department of the Interior and the Department of Energy, to be appointed by the Secretary and the Secretary of Energy, respectively; and

''(II) such additional representatives from academic institutions, the private sector, other Federal agencies, and educational institutions, as the Secretary and the Secretary of Energy, respectively, determine to be appropriate.

''(ii) CHAIRPERSONS.—A representative of the Department of the Interior selected by the Secretary and a representative of the Department of Energy selected by the Secretary of Energy shall serve as cochairpersons of the technical advisory committee.

''(6) COST SHARING.—Section 7 shall not apply to this subsection.''.

SEC. 3. CONSULTATION; AUTHORIZATION OF APPROPRIATIONS.

The Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended—

(1) by striking section 8;

(2) by redesignating section 9 as section 8;

(3) in section 8 (as redesignated by paragraph (2)), in the first sentence, by striking ''Army,'' and inserting ''Army and the Secretary of Energy,''; and

(4) by adding at the end the following:

''SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

''(a) RESEARCH AND STUDIES.—

''(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out section 3 and section 4(c)(1)(A) $6,000,000 for each of fiscal years 2002 through 2008.

''(2) RESEARCH PROGRAMS.—Of the amounts made available under paragraph (1)—

''(A) not to exceed $1,000,000 for each fiscal year may be awarded, without any cost-sharing requirement, to institutions of higher education (including United States-Mexico binational research foundations and interuniversity research programs established by the 2 countries) for research grants; and

''(B) not less than $1,000,000 of the amount made available for fiscal year 2002 shall be used to carry out section 4(c)(1)(A).

''(3) INTERNAL RESEARCH.—

''(A) IN GENERAL.—Of the amounts made available under paragraph (1) to carry out section 3 for each of fiscal years 2002 through 2008, the Secretary may use not more than 25 percent for research carried out by the Department of the Interior.

''(B) COST SHARING.—Research described in subparagraph (A) shall not be subject to any cost-sharing requirement.

''(b) DESALINATION DEMONSTRATION AND DEVELOPMENT.—

''(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out section 4 (other than section 4(c)) $30,000,000 for the period of fiscal years 2002 through 2008.

''(2) DESALINATION RESEARCH AND DEVELOPMENT FACILITY.—There is authorized to be appropriated to the Secretary of Energy for transfer to Sandia National Laboratories, to carry out section 4(c) (other than section 4(c)(1)(A)) $6,000,000 for each of fiscal years 2003 through 2008.''.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AUTHORIZATION OF RESEARCH AND STUDIES.—Section 3 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as subparagraphs (A), (B), (C), (D), (E), (F), and (G), respectively, and indenting appropriately;

(B) by striking ''In order to'' and inserting the following:

''(1) IN GENERAL.—To'';

(C) in the first sentence—

(i) by striking ''is authorized to award grants and to enter into contracts,'' and inserting ''may award grants and enter into cooperative agreements, interagency agreements, and contracts,''; and

(ii) by inserting ''and'' after ''financing of research''; and

(D) by striking ''Awards'' and all that follows through ''include—'' and inserting the following:

''(2) LOCATIONS.—If the Secretary determines that it is in the national interest, the Secretary may carry out a program described in paragraph (1), in accordance with all applicable law, at a location outside the United States.

''(3) BASIS FOR GRANTS, AGREEMENTS, AND CONTRACTS.—All awards of grants and all cooperative agreements, interagency agreements, and contracts entered into under paragraph (1), shall be made on the basis of a competitive, merit-reviewed process.

''(4) TOPICS.—Research and study topics authorized by this section include—''; and

(2) in subsection (c), by striking ''other facilities and educational institutions suitable'' and inserting the following: ''educational institutions, international organizations, international foundations, and international educational institutions, and other facilities suitable''.

(b) DESALINATION DEMONSTRATION AND DEVELOPMENT.—Section 4 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following:

''(b) LOCATION.—If the Secretary determines that it is in the national interest, the Secretary may carry out the program described in subsection (a), in accordance with all applicable law, at a location outside the United States.''; and

(3) in subsection (c) (as redesignated by paragraph (1)), by striking ''conducted through'' and all that follows through ''to develop'' and inserting the following: ''conducted through the provision of grants to, and the entering into cooperative agreements and contracts (including cost-sharing agreements) with, non-Federal public utilities, State and local governmental agencies, educational institutions, international organizations, international foundations, international educational institutions, and other entities, as appropriate, to develop''.

(c) COST SHARING.—Section 7 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended—

(1) by striking the first sentence and inserting the following:

''(a) IN GENERAL.—

''(1) ALL PROJECTS.—Notwithstanding any other provision of law, the Federal share of the cost of a research, study, or demonstration project or a desalination development project or activity carried out under this Act—

''(A) except as provided in paragraph (2) and in section 9(a)(3)(B), shall not exceed 100 percent of the total cost of the project or activity; and

''(B) may be paid out of—

''(i) funds made available to the Secretary, in an amount not to exceed 50 percent of the total cost of the project or activity;

''(ii) funds made available to 1 or more other heads of Federal agencies; or

''(iii) a combination of funds described in clauses (i) and (ii).

''(2) INTERIOR PROJECTS.—The Federal share of the cost of a project or activity described in paragraph (1) that is carried out by the Secretary shall not exceed 50 percent.'';

(2) by striking ''A Federal contribution'' and inserting the following:

''(b) DETERMINATION OF INFEASIBILITY.—A contribution by the Secretary described in subsection (a)(2) that is'';

(3) by striking ''The Secretary shall prescribe'' and inserting the following:

''(c) PROCEDURES.—The Secretary shall prescribe''; and

(4) by striking ''Costs of operation,'' and inserting the following:

''(d) NON-FEDERAL RESPONSIBILITIES.—Costs of operation,''.

(d) CONSULTATION.—Section 8 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) (as redesignated by section 3(2)) is amended to read as follows:

''SEC. 8. CONSULTATION.

''(a) IN GENERAL.—In carrying out this Act, the Secretary shall consult with the heads of other Federal agencies (including the Secretary of the Army) that have experience in conducting desalination research or operating desalination facilities.

''(b) INTERNATIONAL CONSULTATION.—In a case in which the Secretary intends to conduct an activity under this Act in accordance with section 3(a)(2) or 4(b), the Secretary shall consult with the Secretary of State before beginning the conduct of the activity.

''(c) OTHER PROGRAMS.—Nothing in this Act prohibits any other agency from carrying out a program for desalination research or operation that is authorized under any other provision of law.''.

By Mr. REID:

S. 1310. A bill to provide for the sale of certain real property in the Newlands Project, Nevada, to the city of Fallon, Nevada; to the Committee on Energy and Natural Resources.

Mr. REID. Madam President, I rise today to introduce legislation to provide the City of Fallon, NV, the exclusive right to purchase approximately 6.3 acres of public land located in the downtown area of the City. My bill, the Fallon Rail Freight Loading Facility Transfer Act, will enable the City of Fallon to make the necessary long-term investments to ensure the future viability of this important municipal asset.

Fallon is a rural agricultural community of 8700 residents located in northern Nevada approximately 70 miles east of Reno. Since 1984 the City has leased approximately 6.3 acres of property from the U.S. Bureau of Reclamation that it utilizes as a rail freight yard and loading facility. The City, the State of Nevada, the U.S. Department of Transportation and the Southern Pacific Railroad have collectively invested a significant amount of money in this facility that is directly responsible for over 400 jobs in the community.

On January 1, 2000, the long-term lease agreement between the City of Fallon and the Bureau of Reclamation expired. As negotiations began for a new long-term lease the City and the Bureau came to the conclusion that it would be in both party's best interests to have ownership of this property transferred to the City.

The City would be able to make long term investments in a facility that it owned without having to worry about renegotiating new leases and the possibility of losing access to the property which is critical to the economic well being of the community. The Bureau of Reclamation would be able to divest itself from an asset that no longer serves a purpose to its core mission allowing more of its scarce resources to be focused on the traditional roles of the Bureau. Of course this transfer will be contingent on the satisfactory conclusion of all necessary environmental reviews and will be purchased by the City at fair market value.

The Fallon Rail Freight Loading Facility Transfer Act is a win-win situation for all affected parties. I look forward to prompt consideration of this important piece of legislation.

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

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

S. 1310

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 ''Fallon Rail Freight Loading Facility Transfer Act''.

SEC. 2. CONVEYANCE TO THE CITY OF FALLON, NEVADA.

(a) CONVEYANCE.—

(1) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of the Interior shall convey to the city of Fallon, Nevada, all right, title, and interest of the United States in and to approximately 6.3 acres of real property in the Newlands Reclamation Project, Nevada, generally known as ''380 North Taylor Street, Fallon, Nevada'', and identified for disposition on the map entitled ''Fallon Rail Freight Loading Facility''.

(2) MAP.—The map referred to in paragraph (1) shall be on file and available for public inspection in—

(A) the office of the Commissioner of Reclamation; and

(B) the office of the Area Manager of the Bureau of Reclamation, Carson City, Nevada.

(b) CONSIDERATION.—

(1) IN GENERAL.—The Secretary shall require that, as consideration for the conveyance under subsection (a), the city of Fallon, Nevada, shall pay to the United States an amount equal to the fair market value of the real property, as determined—

(A) by an appraisal of the real property conducted not later than 60 days after the date of enactment of this Act by an independent appraiser approved by the Commissioner of Reclamation; and

(B) without taking into consideration the value of any structure or other improvement on the property.

(2) CREDIT OF PROCEEDS.—The amount paid to the United States under paragraph (1) shall be credited, in accordance with section 204(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(c)), to the appropriate fund in the Treasury relating to the Newlands Reclamation Project, Nevada.

(c) LIABILITY.—The conveyance under subsection (a) shall not occur until such date as the Commissioner of Reclamation certifies that all liability issues relating to the property (including issues of environmental liability) have been resolved.

By Mr. LEAHY (for himself, Mr. BROWNBACK, Mr. KENNEDY, Ms.

COLLINS, Mr. DURBIN, Mr. JEFFORDS, and Mr. GRAHAM):

S. 1311. A bill to amend the Immigration and Nationality Act to reaffirm the United States historic commitment to protecting refugees who are fleeing persecution or torture; to the Committee on the Judiciary.

Mr. LEAHY. Madam President, I am proud to introduce the Refugee Protection Act, a bipartisan bill that would sharply reduce the use of expedited removal at our borders while also reducing the number of asylum seekers whom we detain. This is a bipartisan bill, I am joined today by Senators BROWNBACK, KENNEDY, COLLINS, DURBIN, JEFFORDS, and GRAHAM. I am grateful for the support of the Chairman and Ranking Member of the immigration subcommittee.

In 1996, I introduced an amendment to the Illegal Immigration Reform and Immigrant Responsibility Act, ''IIRIRA'', that would have authorized the use of expedited removal only at times of immigration emergencies. The bill we introduce today is modeled on that proposal. That amendment passed the Senate with bipartisan support, but was omitted from the bill that was reported out of a partisan, closed conference. As a result, expedited removal took effect on April 1, 1997. America's historic reputation as a beacon for refugees has suffered as a consequence, and it is long past time to restore it.

Expedited removal allows INS inspections officers summarily to remove aliens who arrive in the United States without travel documents, or even with facially valid travel documents that the officers merely suspect are fraudulent, unless the aliens utter the magic words 'political asylum' upon their first meeting with American immigration authorities. This policy is fundamentally unwise and unfair, both in theory and in practice, and its efficacy and fairness has come under increasing criticism.

First, expedited removal ignores the fact that many deserving asylum applicants are forced to travel without papers. For example, victims of repressive governments often find themselves forced to flee their homelands at a moment's notice, without time or means to acquire proper documentation. Or a government may systematically strip refugees of their documentation, as the Serbian government did in Kosovo in 1999.

Second, expedited removal places an undue burden on refugees, and places too much authority in the hands of low-level INS officers. Refugees typically arrive at our borders ragged and tired from their ordeals, and often with little or no knowledge of English. Our policy forces them to undergo a secondary inspection interview with an INS officer without expertise in asylum and with the power to deport them on the spot, subject only to a supervisor's approval. By law, anyone who indicates a fear of persecution or requests asylum during this interview is to be referred for an interview with an asylum officer. But no safeguards exist to guarantee that this happens, and the secondary inspection interviews generally take place behind closed doors with no witnesses. Indeed, this interview often becomes unduly confrontational and intimidating. As the Lawyers Committee for Human Rights has documented, refugees are detained for as long as 36 hours, are deprived of food and water, and are often shackled. If they are lucky, they will be provided with a competent interpreter. If they are unlucky, they will receive no interpreter at all, an interpreter with extraordinarily limited knowledge of their language, or even an interpreter who works for the airline owned by the government that they claim is persecuting them. Such a system is a betrayal of our ideals, and we need to reform it.

I was heartened to hear James Ziglar, the President's choice to head the INS, criticize expedited removal at his confirmation hearing. He said: ''I definitely think we need to change the process where asylum-seekers come here, to make sure that we know who these people are and what their claims are and whether they're legitimate before we turn around and put them on a plane back to an uncertain future.'' I could not agree more with Mr. Ziglar, and I look forward to working with him on this issue.

I was also moved by the recent words of Theodore McCarrick, the new Archbishop of Washington, in a July 22 oped in the Washington Post. Archbishop McCarrick described how expedited removal forces potential asylum seekers arriving on our shores ''to immediately articulate their fear of return'' or be ''subject to immediate deportation without any recourse to the legal system.'' He wrote: ''Those who come to our shores and request asylum should be given a chance to make their case before a qualified asylum officer and immigration judge. The Refugee Protection Act to be considered by Congress would reform the U.S. asylum system appropriately and should be enacted.''

The Archbishop described the case of Ditron, an ethnic Albanian from Kosovo who fled from the Milosevic government in early 1998 and made it all the way to Newark International Airport, where he tried to gain asylum. But the language barrier prevented him from communicating his fear of returning to Kosovo to the INS inspector, and he was put on a plane and deported under expedited removal. We only know about his story because he was somehow able to make it back to the United States a second time, and his application for asylum is now pending. But such a 50 percent success ratio is simply unacceptable for this Nation.

I became aware of another very disturbing case last summer. A domestic violence victim from the Dominican Republic fled to the United States. The INS believed that she had been a victim and that her life would be endangered if she were returned to her native country. Nonetheless, she was ordered deported under expedited removal because the INS officers who interviewed her took it upon themselves to make a legal determination that victims of domestic violence were ineligible for asylum on that ground. It is bad enough that these officers decided their responsibilities in implementing expedited removal went so far as interpreting U.S. asylum law. Even worse, they got the law wrong. Although a recent Board of Immigration Appeals decision had indicated that domestic violence victims could not gain asylum here, that decision was under review at the time and was later vacated by then-Attorney General Janet Reno. Luckily, a number of Members of Congress intervened in the case and the INS did not deport this woman, who has since been granted asylum. But had her case not been brought to our attention by the Lawyers' Committee for Human Rights, she would likely have become a silent victim of the expedited removal process.

Another expedited removal horror story came to our attention just last week. Libardo Yepes Holguin fled Colombia last November after his life was threatened by the paramilitary forces involved in the civil war there. When he arrived at Miami International Airport, he told the INS inspectors that he feared being returned to Colombia and that he wanted to seek asylum. He was nonetheless put on a plane back to Colombia, where his life was again threatened. He managed to escape again, and this time entered the United States by crossing a river from Mexico. He was seized by INS officers and has been detained in Texas since May. The INS is currently attempting to remove Mr. Yepes Holguin based on the prior removal order entered against him in Miami last fall, despite his sworn testimony that his repeated requests to apply for asylum were ignored.

Finally, and most shockingly, expedited removal has even been used against U.S. citizens. Sharon McKnight, a 35-year old U.S. citizen with the mental capacity of a 5-year old, returned to the United States last June from a trip to visit her grandfather in Jamaica. INS inspectors did not believe she was a citizen, wrongly questioning the authenticity of her U.S. passport and dismissing as fake the birth certificate presented by her waiting relatives that showed she was born on Long Island. She was held overnight in a room at the airport, handcuffed and with her legs shackled to a chair. During the entire time she was at the airport she was given nothing to eat and was not allowed to use the restroom. Ms. McKnight was put on a plane back to Jamaica, denied entrance to her own country because of expedited removal. Although immigration officials realized their mistake eventually and allowed her to return, any system that permits such ''mistakes'' is sorely in need of reform. For

her part, Ms. McKnight has said: ''They treated me like an animal—I will have nightmares all my life.''

These stories, just four of the many stories demonstrating the human cost of expedited removal, go a long way toward showing the inhumanity of the new immigration regime that Congress imposed in 1996. But refugees and U.S. citizens are not the only people affected by expedited removal. Human rights groups have also documented numerous cases where people traveling to the United States on business, with proper travel documents, have been removed based on the so-called ''sixth sense'' of a low-level INS officer who suspected that their facially valid documents were fraudulent. In other words, the damage done by expedited removal also threatens the increasingly international American economy, if businesspeople from around the world are treated disrespectfully at our ports of entry, they are likely to take their business elsewhere.

But perhaps the most distressing part of expedited removal is that there is no way for us to know how many deserving refugees have been excluded. Because secondary inspection interviews are conducted in secret, we typically only learn about mistakes when refugees manage to make it back to the U.S. a second time, like Ditron, or when they are deported to a third country they passed through on their way to the U.S., like Mr. Thevakumar. This uncertainty should lead us to be especially wary of continuing this failed experiment.

As I said, my bill would limit the use of expedited removal to times of immigration emergencies, defined as the arrival or imminent arrival of aliens that would substantially exceed the INS' ability to control our borders. The bill gives the Attorney General the discretion to declare an emergency migration situation, and the declaration is good for 90 days. During those 90 days, the INS would be authorized to use expedited removal against people coming from a nation whose crisis has given rise to the emergency migration situation. The Attorney General can extend the declaration for further periods of 90 days, in consultation with the House and Senate Judiciary Committees.

This framework allows the government to take extraordinary steps when a true immigration emergency threatens our ability to patrol our borders. At the same time, it recognizes that expedited removal is an extraordinary step, and is not an appropriate measure under ordinary circumstances.

This bill also provides safeguards that will guarantee refugees some due process rights, even during immigration emergencies. First, aliens would be given the right to have an immigration judge review a removal order, and would have the opportunity both to speak before the immigration judge on their own behalf and to be represented at the hearing at their own expense. To make these rights meaningful, immigration officers would be required to inform aliens of their rights before they are removed or withdraw their application to enter the country. This provision takes away from INS inspectors the unilateral, and prior to 1997, unprecedented, power to remove an alien from the United States.

Second, this bill reforms the procedures used to determine whether an applicant who seeks asylum has a credible fear of persecution. If an asylum officer determines that an applicant does not have a credible fear of persecution, the applicant will now have a right to a prompt review by an immigration judge. The applicant will have the right to appear at that review hearing and to be represented, at the applicant's expense.

Even those asylum seekers who are found to have a credible fear of persecution and thus escape expedited removal move on to another troubled system. Under current law and practice, they are often detained in INS detention facilities or in local jails where the INS rents space. In other words, these men and women who have fled persecution in their native lands are all too often treated like common criminals. We need to do something to solve this problem as well, and the Refugee Protection Act attempts to do so.

As a young girl in Zaire, now the Democratic Republic of Congo, Adolphine Mwanza lived in a convent and was studying to be a nun. Her family was known to be opposed to the corruption of the ruling Mobutu regime. Her brother was killed, and she was kidnapped, tortured, and raped. She escaped from the country and fled to the United States in November 1999 on a Zambian passport. She was sent to an INS detention facility in Elizabeth, New Jersey, where she was found to have a credible fear of persecution. But despite the fact that she had volunteer attorneys from the New York University Law School clinic, and a Roman Catholic convent had agreed to house and support her, her request for parole from detention was denied by the INS. She was held in a detention facility for eight months, until she was granted aslyum.

This is senseless. We should not detain people whom our own government has found to be likely candidates for asylum as if they were awaiting a criminal trial. Moreover, the cost to the government to detain someone like Adolphine Mwanza for eight months cannot be justified. And she is not alone. Many asylum seekers are detained for more than a year even though there are family members or nongovernmental organizations that are willing to house them and ensure that they appear for their asylum hearing.

The Refugee Protection Act would clarify that the Attorney General has the option to parole asylum seekers, and would add language to existing law to say that it is the policy of the United States not to detain asylum seekers who have been found to have a credible fear of persecution. It also instructs the Attorney General to promulgate regulations to authorize and promote the use of alternatives to the detention of asylum seekers, such as paroling them to private nonprofit voluntary agencies. For those who would still be detained, the bill would guarantee access to legal and religious services. It would also ensure that they are only detained in INS facilities or in contract facilities that contain only immigration detainees asylum seekers would no longer be housed alongside criminals in county jails. In addition, asylum seekers would have the right to have an asylum officer make a determination about whether they should be paroled from detention, and to have an immigration judge review that determination.

These changes will reduce the use of detention against asylum seekers, offer them fundamental due process rights, and improve the conditions of their confinement in those cases where detention is appropriate. These are crucial steps, and we should act on them as quickly as possible.

Finally, this bill includes three additional provisions. First, it would eliminate the one-year deadline for asylum applicants that was imposed in 1996. By definition, worthy asylum applicants have arrived in the United States following traumatic experiences abroad. They often must spend their first months here learning the language and adjusting to a culture that in many cases is extraordinarily different from the one they know. Therefore, although I can understand the desire to have asylum seekers submit timely applications, the existing one-year rule does not make sense.

Second, the bill would eliminate the existing annual limit on the number of people who have been granted asylum who can become legal permanent residents. Once we have decided that someone is worthy of asylum, we should not delay their adjustment into American society. These are people who have chosen the United States because of its ideals and its freedoms, in other words, they are exactly the sort of people we would want to become citizens. We need to eliminate the backlogs that prevent them from starting that process by getting their green cards. This bill will do that.

Third, the bill eliminates the annual limit on the number of refugees who may be admitted or granted asylum because they are subject to persecution for resistance to coercive population control methods. Under current law, only 1000 people can be accepted to the United States in any year for that reason. Americans are united in their opposition to forced sterilization and abortion, and we should not place an artificial limit on the number of people fleeing from such policies that we will accept.

This bill has received the support of a wide variety of civil rights and religious groups, with a coalition of over

50 groups, from the Lawyers' Committee for Human Rights to the Hebrew Immigrant Aid Society to the Lutheran Immigration and Refugee Service, endorsing it. And even before it has been introduced it has been the subject of favorable editorials or op-eds in the Washington Post, Pittsburgh Post-Gazette, San Francisco Chronicle, San Diego Union-Tribune, Newark, Star-Ledger, Arizona Republic, Baltimore Sun, Minneapolis Star-Tribune, San Antonio Express-News, South Florida Sun-Sentinel, Oakland Tribune, Buffalo News, Bangor, ME., Daily News, and Harrisburg, PA., Patriot-News. Meanwhile, the immigration subcommittee of the Judiciary Committee has already heard testimony this year about the inherent unfairness of our current expedited removal and detention policies from people who went through those systems before being granted asylum. I hope that the momentum this bill already has will lead to prompt consideration by the Senate.

Even in 1996, a year in which immigration was as unpopular in this Capitol as I can remember, this body agreed that expedited removal was inappropriate for a country of our ideals and our historic commitment to human rights. And that agreement cut across party lines, as many of my Republican colleagues voted to implement expedited removal only in times of immigration emergencies. I urge them, as well as my fellow Democrats, to support this legislation and to work for its prompt passage.

Mr. BROWNBACK. Madam President, I am pleased to join my distinguished colleagues, Senators LEAHY, COLLINS, and KENNEDY, among others to introduce the Refugee Protection Act of 2001. The Refugee Protection Act will restore fairness to our treatment of refugees who arrive at our shores seeking freedom from persecution and oppression. It will reduce the number of asylum seekers placed in prison-like detention facilities.

On July 10, standing on Ellis Island, President Bush said, ''America at its best is a welcoming society.'' From our very beginnings almost 400 years ago when the refugee Pilgrims landed on Plymouth Rock seeking religious freedom, our Nation has welcomed refugees. When we give refuge to desperate people fleeing extraordinary persecution, we are a better Nation. Moreover, asylees, by definition, represent the best of American values. Often they are people who have stood alone, at great personal cost, against hostile governments for principles that are fundamental to us such as political and religious liberty. Therefore, as Americans with a noble legacy, we must continue to examine our asylum policies with an eagle-eyed vigilance for fairness and justice.

On May 3, I chaired an Immigration Subcommittee hearing on asylum policy. We heard testimony that genuine refugees are, from time to time, mistakenly deported by INS inspectors, treated abusively during airport inspections, and that many asylum seekers are detained in prison-like conditions well beyond the time needed to determine their identity and establish that they have a credible fear of persecution.

First of all, it must be stated that the men and women who serve the INS are dedicated public servants, with a difficult job and in no fashion do I want to indict them. They often work under extremely demanding conditions, sometimes with insufficient resources, yet they complete their difficult tasks with fairness and good judgment. However, we must examine various incidents of abuse which have come to our attention regarding the treatment of asylee applicants while their claim is pending. Clearly, these incidents are not official INS policy and most officers would abhor such mistreatment, yet they do occur, nonetheless, and therefore must be addressed.

At that hearing, former asylum seekers presented moving testimony about such mistreatment. For example, Mekabou Fofana, a Liberian teenager, testified that he arrived at JFK airport nine days before his 16th birthday. Despite his request, he was not provided with a Mandingo interpreter. When INS officials twisted his arm and attempted to forcibly fingerprint him, Mekabou fell to the floor, hitting his head and bleeding so profusely that he had to be taken to the hospital. After a year and a half in detention in adult facilities, Mekabou was granted asylum and is now attending high school in New York City.

An Albanian asylum seeker who arrived at O'Hare International Airport in Chicago last year also submitted testimony to the subcommittee. This testifier who wishes to remain anonymous was dragged by his clothing after he explained that he wished to apply for asylum. Despite his requests, he was not provided with an Albanian interpreter whom he could understand, and officers yelled at him when he refused to sign documents written in English that he could not comprehend.

Faheem Danishmandi, a refugee from Afghanistan, arrived in America at age nineteen, traumatized by the recent killing of his father and separation from his mother. When he told an INS officer that he did not have a passport, the officer roughly searched him, apparently looking for documents then he was chained to a bench for 25 hours. After five months in detention, he was granted asylum.

Amin Al-Torfi, a torture survivor from Iraq, fled to America after he and his family were persecuted by Saddam Hussein's regime because of their political opinions and religious beliefs. At the airport, he was told that he would have to wait three days to get an Arabic interpreter. He was shackled by the leg to a bench for eight hours, strip-searched, and led handcuffed with another asylum seeker through the airport in front of other passengers. After five months of detention, Amin was granted asylum.

A change in our law is desperately needed. I believe in the enforcement of our nation's immigration laws. I also believe that people who find themselves under INSA jurisdiction deserve humane treatment. We are a *Nation* of immigrants, of refugees, of the courageous who resisted governmental persecution and fled to America in search of freedom. Given this proud tradition, we have a higher responsibility to asylum seekers. We have a responsibility to afford them a fair opportunity to present their asylum claims, a responsibility to not unnecessarily detain them for extended periods, and a responsibility not to turn them away to suffer further persecution.

At the May 3 hearing, Leonard Glickman, President of the Hebrew Immigrant Aid Society testified on behalf of his own agency and five other Jewish organizations. Mr. Glickman discussed the tragic history of 900 Jews on the ship, the *St. Louis*, who, in 1939, were fleeing Nazi persecution. American immigration officials turned them away from the Port of Miami and they were forced to return to Europe where most perished. He concluded that, ''The Jewish community is greatly concerned about the major changes that were instituted in the U.S. asylum system in 1996, changes that we believe threaten to undermine refugee protection and US global leadership in this area.''

Dr. Don Hammond, a Senior Vice President for World Relief also testified. World Relief is the relief, development, and refugee assistance arm of the National Association of Evangelicals which has called for passage of the Refugee Protection Act. Dr. Hammond stated that there has been a significant increase in religious persecution in a number of countries around the world. A University of California study of expedited removal listed the 101 countries with the highest number of people being turned away from the United States and sent back to their countries of origin. According to Dr. Hammond, of those 101 countries, almost 40 percent are listed on the Open Doors World Watch list of countries that severely restrict religious freedom. ''In other words,'' Dr. Hammond concluded, ''over a third of those who were subjected to expedited removal from the U.S. were being sent back to countries which are known to persecute Christians'' and other religious minorities.

I believe that the future of American immigration policy towards asylees is promising. In his July 18 confirmation hearing to serve as INS Commissioner, James Ziglar committed to changing INS policy regarding asylum seekers. He said, ''I definitely think that we need to change the process where asylum-seekers come here, to make sure that we know who these people are and what their claims are and whether they're legitimate before we turn around and put them on a plan back to

an uncertain future.'' Mr. Ziglar continued that, ''I am not one who particularly likes the idea in general of people being detained, unless they have been convicted of a crime, or unless they create some kind of danger to the community. So, my inclination in general is not to detain people unless there is some kind of valid reason, subject to all the due process requirements.'' Passage of the Refugee Protection Act, combined with fair and humane enforcement by an INS committed to the protection of refugees, will ensure that our *Nation* once again fully lives up to the dreams of the immigrants who built this great nation as a refuge of freedom and justice.

Mr. KENNEDY. Madam President, I am honored to join Senator LEAHY, Senator BROWNBACK, and other colleagues, in introducing the ''Refugee Protection Act of 2001.'' Our goal is to protect courageous persons who arrive on our shores seeking asylum, provide alternatives to detention for asylum seekers, and improve detention conditions for all persons detained by the INS. The bill also eliminates the arbitrary one-year deadline on filing for asylum, and eliminates the cap on the number of persons granted asylum who can adjust their status to lawful permanent resident.

Every day people are forced to leave their native lands in desperation, fearing for their lives and for the lives of their loved ones. Many of them arrive in the United States seeking asylum, and we have a responsibility to ensure they are able to request it in a fair and efficient manner.

In 1996, Congress enacted harsh immigration laws that included an expedited removal process granting INS inspection officers broad authority to summarily remove potential asylum seekers if they arrive without proper papers. This process also requires persons seeking asylum to specifically state their fear of persecution or their intent to apply for asylum immediately upon arriving in the U.S. But asylum seekers are often traumatized, and are unable to speak to a stranger about their harrowing experience. This is particularly true when they first arrive in the U.S., often after a long and difficult journey.

Many asylum seekers are unable to articulate their fears, especially to government officials whom they may view with distrust because of past experience in their home countries. Many of them speak very little, if any, English, and adequate translators are often not available to assist them in making their asylum claims.

Legal representation is not permitted at the initial and most critical phase of the expedited removal process, thereby increasing the likelihood that individuals actually eligible for asylum will be turned away and sent back to their native lands to face additional persecution. The law contains no opportunity for judicial appeal of decisions on summary removal. Instead, low-level INS employees have broad, unchecked authority to issue final and binding deportation orders.

Some argue that the expedited removal process is appropriate. Their view is based on the false assumption that the process, in practice, follows the procedures in the regulations. In particular, the regulations require a careful interview and the taking of a systematic sworn statement, a process that should take several hours. The officer conducting the interview must begin by reading a set of specific advisories, including an express notice that persons who fear persecution in their native lands may claim asylum in the U.S.

The interviewing officer must also ask specific questions about whether the person has ''any fear or concern'' about return to their homeland. And if the person faces charges, the charges must be explained orally, in a language the individual understands. The regulations also require review of the file and approval of any removal or deportation order by a high-level supervisor before an expedited removal order is considered final.

It is clear that these regulations are not adequately followed in practice. Members of my staff have observed first-hand the unfair process. During a visit to JFK International Airport, my staff toured the area where inspection interviews were held and spoke with INS employees. The interviews were conducted side-by-side in a large, open room, affording no privacy to persons who had to share very personal and painful information with government officials.

My staff met with an inspector, who was informed that he would be meeting with congressional staff. The inspector told the staff about the ''cockamamie stories people make up'' and the phony documents they present. Upon hearing these stories, he said that he puts people back on a plane and sends them ''out of here.''

The inspector admitted that he did not read anyone any advisories to determine whether they were fearful. The inspector said that anyone who wants to apply for asylum would tell him about that immediately, and those were the only people he referred to asylum officers for interviews. He made this statement in spite of the fact that many asylum seekers do not ask for asylum. Our staff members, including the staff from other members' offices, were appalled by these remarks and behavior.

When a supervisor was asked whether the inspectors received training in asylum and interviewing techniques, the supervisor dismissed training as ''warm fuzzy stuff,'' even though many asylum seekers have fled persecution by people in uniforms and are reluctant to speak to uniformed INS officers.

Many immigration groups representing asylum seekers have shared similarly shocking stories. The expedited removal process has caused great hardships for many vulnerable individuals.

Recently, the Immigration Subcommittee held a hearing on asylum policy. At the hearing, a young man from the Democratic Republic of Congo recounted the tragic circumstances that led to his escape. He described being severely beaten and tortured by security forces, and then witnessing his father's death at the hands of these forces. His mother and sisters fled the family home and he has not seen them since.

Upon his arrival in the U.S., he was placed in chains and taken to a detention facility. Neither an interpreter nor a lawyer was present to assist him. Yet, the INS officer decided he did not have a credible fear of persecution and ordered his deportation. An immigration judge reviewed the case, but again the young man did not have an interpreter or lawyer to help him. When he was taken to the airport for deportation, he pleaded with INS officials not to deport him. His pleas were ignored and three detention guards carried him onto the plane. The airline employees subsequently asked the guards to take him off the plane and he was returned to the detention facility. Finally, the INS reversed its decision and decided his fear was credible, but only after this young man begged not to be sent home for fear he would be killed. His case vividly demonstrates the failure of some INS officials to follow the procedures set forth in the regulations.

Congress must act to end these abuses. Our bill is intended to accomplish this goal. It limits expedited removal to immigration emergencies. It offers protection to persons arriving without proper documents, who will now be referred to an immigration judge to have their case reviewed, rather than have their fate determined by a low-level INS employee who has not been trained in asylum issues.

If an individual indicates an intention to apply for asylum or a credible fear of persecution, the immigration officer must refer the individual to an asylum officer for an interview. The bill limits the existing broad authority of immigration officers and permits persons to seek review of their case by an asylum officer who is trained in determining whether a person's expression of fear is credible. The individual must be given written information, in a language the individual understands, about the consequences of his decisions, the availability of review of his case and his ability to have counsel. After the interview with the asylum officer, the individual may have the case reviewed by an immigration judge. During this review, the individual will have the opportunity to be heard and represented by counsel, at no expense to the government.

Currently, asylum seekers who request asylum are often subject to mandatory detention. They are held in INS detention centers or state and county jails, often with criminal inmates, and

often for weeks, months or even years. They have little access to legal representation, health care, or contact with family, friends or clergy who can assist them. Such conditions are extremely traumatizing for those who have already suffered so much.

Under our proposal, the general policy will be to parole asylum seekers who establish a credible fear of persecution, not place them in mandatory detention. Asylum seekers could be released to family, friends or community groups who are ready to assist them. These alternatives to detention have been tested at various sites, and they are cost-effective and have been successful in achieving the goal of providing a safe, compassionate residence, offering services, and increasing compliance with INS procedures and court proceedings.

In addition, those persons who remain in INS detention must be kept safe and treated humanely. I commend the INS for issuing detention standards to accomplish this goal, but the guidelines are not binding. Our proposal would codify the most important guidelines to ensure that all persons in detention are safe and treated with dignity. The bill requires that persons in detention have access to legal services, visits by persons who are able to lend assistance in the preparation of their cases, and access to legal resources, telephones and religious services. Other protections would be guaranteed by the legislation as well.

Our bill also authorizes the establishment of group legal orientation programs, to identify persons with meritorious claims for relief and refer them to counsel at no cost to the government. These programs save the government money by improving the efficiency of the judicial process and by reducing the need for prolonged detention. They educate persons about their rights, options and likelihood of success. The bill also creates a national center to provide training for nonprofit agencies that offer such programs, to consult with nonprofit groups on program development and substantive legal issues, and to develop standards for such programs.

Finally, our proposal deals with two other important concerns. In 1996, Congress enacted a law requiring, for the first time, that persons seeking asylum must apply within a year of their arrival in the U.S. Since the enactment of this deadline, more than 10,000 asylum seekers have had their claims rejected by the INS. Many of these individuals did not file their claims, because they were unfamiliar with our legal system and did not know they are required to file a timely application.

Asylum seekers should be able to apply for protection, regardless of when they file their claims. Our bill will eliminate the one-year deadline, thereby preserving the ability of persons seeking refuge to be granted safe haven without regard to the timing of their application. This provision will offer much-needed protection to persons who have fled their home countries out of fear and terror.

Immigration law also currently places a cap of 10,000 on the number of persons granted asylum whose status can be adjusted to lawful permanent resident each fiscal year, regardless of the number of persons granted asylum in that year. Because the number of persons granted asylum each year exceeds 10,000, the cap has created a large backlog. The INS estimates that a backlog of 57,000 asylees is awaiting adjustment. This delay causes significant hardship to deserving individuals and their families. Our bill will eliminate the arbitrary cap of 10,000 and permit eligible persons to adjust their status without waiting up to six years, as may occur under current law.

Clearly, we need to improve the treatment of those who arrive on our shores seeking asylum and awaiting adjudication of their claims and adjustment of their status. I urge my colleagues to support the Refugee Protection Act of 2001. It is a vital piece of legislation that is long overdue.

By Mr. NELSON of Florida:

S. 1312. A bill to authorize the Secretary of the Interior to conduct a special resource study of Virginia Key Beach, Florida, for possible inclusion in the National Park System; to the Committee on Energy and Natural Resources.

Mr. NELSON of Florida. Madam President, I am proud to introduce the Virginia Key Beach Resource Study Bill. Congresswoman Carrie Meek has introduced the companion to this legislation in the House of Representatives. This bill authorizes the Secretary of Interior to conduct a special resource study of Virginia Key Beach, FL, for inclusion in the National Park System.

Based solely on its natural attributes, Virginia Key is worthy of inclusion. Situated just off the mainland of the City of Miami, between Key Biscayne to the south and Fisher Island to the north, Virginia Key is a 1,000-acre barrier island, characterized by a unique and sensitive natural environment. The island is non-residential and includes ponds and waterways, a tropical hardwood hammock and a large wildlife conservation area.

Virginia Key Beach deserves national distinction for another reason. Its unique history teaches us about our Nation's progress toward achieving racial justice. For decades in South Florida, beaches were segregated by race. As the only beach in Miami that permitted blacks from the 1940s to the 1960s, Virginia Key was a source of seaside recreation for countless African-American families. Virginia Key also was the site for many baptisms and religious services. Thus, Virginia Key's value to our Nation, and to Florida, should be recognized both for its natural beauty and its role in the Nation's ongoing struggle for equality and social justice.

By Mr. KENNEDY (for himself, Mr. DODD, and Mr. WELLSTONE):

S. 1313. A bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, and for other purposes; to the Committee on the Judiciary.

Mr. KENNEDY. Madam President, it is a privilege to join my colleagues in introducing the ''H–2A Reform and Agricultural Worker Adjustment Act of 2001.''

The Nation needs and deserves an agricultural policy that protects farm workers, provides hard-working foreign-born workers with the opportunity to become legal permanent residents, and provides the growers of fruits, vegetables and other commodities with an adequate and legal labor supply. Our bill works toward achieving this goal. It establishes a legalization program for foreign-born farm workers, guarantees certain labor protections for all farm workers, and improves wages and working conditions.

We cannot continue to ignore the fact that large numbers of the persons employed in agriculture today are undocumented. Illegal workers are at the mercy of unscrupulous employers, who can get away with paying them very low wages, exposing them to dangerous working conditions, lowering the wages for all farm workers.

Agricultural workers are indispensable members of the workforce. We need an agricultural policy that recognizes their contributions and rewards their work. Under our bill, 500,000 farm workers currently working in the United States, without employment authorization, would be able to adjust their status to legal permanent resident. Persons who work in agriculture for at least 90 days would be able to obtain temporary residency status and would be able to adjust their status to legal permanent residency after working 90 days in three out of the next four years in agriculture. Because agricultural work is seasonal and varies throughout the United States, workers would be permitted to change employers and accept non-agricultural work to supplement their incomes during this period.

These changes will benefit both workers and growers. It will benefit all farm workers by improving wages and working conditions. It will provide a means for foreign-born workers to become permanent residents. By obtaining legal status, workers will no longer be forced to endure substandard wages and working conditions for fear of being deported.

Agriculture is a time-sensitive industry. Growers must have an immediate, reliable and legal workforce at harvest time. Everyone is harmed when crops rot in the field for lack of a labor force. By these changes, growers will have access to dependable, hard-working employees and a workforce that will not be suddenly reduced by INS raids.

Our bill also keeps families together. Immediate family members would be granted legal status at the beginning, and they would be eligible for adjustment to permanent resident status after the worker completes the work requirement. This change will keep hard-working persons and their families together.

Our proposal also offers labor protections to agricultural workers that are long overdue. For example, farm workers could not be fired from agricultural employment except for just cause, and they would receive credit for any day lost because of on-the-job injuries.

Agriculture is a thriving industry, generating billions of dollars in revenue each year. Yet farm workers are among the lowest-paid members of the workforce. Three-quarters of all farm workers earn less than $10,000 a year. Over three-fifths of farm worker households live in poverty. Only half of farm workers own a car, and even fewer own a home or even a trailer. To improve the wages and working conditions of all agricultural workers, we must give them the basic labor rights available to other U.S. workers.

Central to our bill is the belief that collective bargaining provides the best way to improve wages and working conditions, and stabilize the agricultural labor market. The bill creates a Federal right for farm workers to organize, provides incentives for H–2A employers to accept collective bargaining, establishes a streamlined application process for employers with collective bargaining agreements, and exempts H–2A employers with such agreements from increased H–2A user fees. The bill also prohibits the use of H–2A workers as strikebreakers. These procedures will secure improved wages and working conditions for all agricultural workers, and protect workers from unfair wages by maintaining wage standards.

The bill ends discrimination against H–2A workers by giving them, for the first time, the same labor protections as U.S. workers. It gives guest workers the same labor rights as U.S. workers, by ending the unfair exclusion of H–2A workers from coverage under the Migrant and Seasonal Agricultural Worker Protection Act. Coverage under that Act means that H–2A workers will have the right to bring a private action to enforce working arrangements with their employers, rather than depend on the Department of Labor to protect their rights.

The bill also protects U.S. workers by removing the incentive to discriminate against them by requiring the employers of H–2A workers to pay the equivalent FICA and FUTA taxes to a new fund. The money from the fund will be used to improve labor management practices to enhance the productivity of the existing labor force and to support demonstration projects to improve farm labor management, including projects on recruitment, workplace literacy and training, health and safety, and the development of labor-saving technology.

Last year, bipartisan negotiations between the House and Senate resulted in an agreement on migrant agricultural workers that both the agricultural employers and the farm workers supported. The compromise created an earned adjustment program for undocumented farm workers and a reformed H–2A temporary worker program. This compromise represented a positive step toward much needed reform. Unfortunately, efforts to enact this agreement failed but I hope we will succeed in this Congress.

I urge my colleagues to support the H–2A Reform and Agricultural Worker Adjustment Act of 2001. These reforms are long overdue, and will improve the lives and working conditions of dedicated, hard-working farm workers.

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

S. 1315. A bill to make improvements in title 18, United States Code, and safeguard the integrity of the criminal justice system; to the Committee on the Judiciary.

Mr. LEAHY. Madam President, I am pleased to introduce today, with my good friend from Utah, Senator HATCH, the Judicial Improvement and Integrity Act of 2001. I would like to thank Senator HATCH for his co-sponsorship of this measure. This effort builds on other legislation that Senator HATCH and I have worked on together to improve the criminal justice system, including, in this Congress alone, the Drug Abuse Education, Prevention and Treatment Act, S. 304, and the Children's Confinement Conditions Improvement Act, S. 1174.

This bill would improve the criminal code and safeguard the integrity of the judicial system. It would protect witnesses who come forward to provide information on criminal activity to law enforcement officials; eliminate a loophole in the criminal contempt statute that allows some defendants to avoid serving prison sentences imposed by the Court; eliminate a loophole in the statute of limitations that makes some defendants immune from further prosecution if they get their plea agreements vacated; grant the government the clear right to appeal the dismissal of a part of a count of an indictment, such as a predicate act in a RICO count; insure that courts may impose appropriate terms of supervised release in drug cases; give the District Courts greater flexibility in fashioning appropriate conditions of release for certain elderly prisoners; and clarify the District Court's authority to revoke or modify a term of supervised release when the defendant willfully violates the obligation to pay restitution to the victims of the defendant's crime.

Section two of the bill would amend title 18, United States Code, Section 1512, which prohibits attempts to tamper with witnesses, victims and informants. The statute currently provides that, if the offense involves murder or attempted murder, the maximum sentence is 20 years. If the defendant uses intimidation, physical force, threats or corrupt persuasion, the maximum is 10 years. The bill would increase the statutory maximum sentence for offenses involving the use or attempted use of physical force to 20 years. This change recognizes that the use or attempted use of physical force to tamper with a witness is closely related to attempted murder and that this fact should be reflected in the applicable penalty. For example, if the defendant severely beats the witness, causing serious bodily injury, the offense is arguably as serious as attempted murder, even if the government cannot prove that the defendant intended to kill the witness. It is therefore appropriate that the defendant face a potential 20-year sentence. The bill would also add a conspiracy provision that would make the maximum penalty for conspiring to tamper with a witness in violation of section 1512 or to retaliate against a witness in violation of title 18, United States Code, Section 1513 the same as that for the underlying substantive offense that was the object of the conspiracy. A similar provision was part of the Hatch-Leahy Juvenile Justice legislation, S. 254, which passed the Senate in 1999 but did not emerge from Conference.

The third section of the bill would close a loophole in title 18, United States Code, section 401, which contains penalties for criminal contempt of court. This statute provides that a court may punish contempt by a fine ''or'' imprisonment. Courts have held that this language permits the imposition of either a fine or a term of imprisonment, but not both. This limitation on sentencing is highly unusual, since virtually all criminal statutes permit both a fine and imprisonment. More importantly, it creates the potential for an enormous, unjust windfall for defendants in cases where the court fails to notice the peculiar language of the statute and mistakenly imposes both a fine and imprisonment. In such cases, the defendant can simply pay the fine and then appeal the prison sentence as illegal. Surprisingly, courts have held that, once the fine is paid, the case can no longer be remanded to the district court to have the sentence corrected because the defendant has served the sentence. Thus, the only option is to vacate the prison term and set defendant free. See In re Bradley, 318 U.S. 50 (1943). Courts have continued to follow this rule even after the passage of title 18, United States Code, section 3551(b) as part of the Sentencing Reform Act, which generally permits a court to impose a fine in addition to any other sentence. See United States v. Versaglio, 85 F.3d 943, 946–47 (2d Cir. 1996); United States v. Holloway, 991 F.2d 370, 373 (7th Cir. 1993).

It is time for Congress to correct this recurring problem. It is unjust to permit a defendant to go free without any

serving time in prison simply because the judge made an obvious and easily-correctable mistake in imposing sentence. Moreover, there is no good reason to limit courts to only one sentencing option in criminal contempt cases. Allowing the imposition of both a fine and imprisonment should not result in harsher sentences; if anything, defendants may benefit because courts may choose to impose a fine and a shorter prison sentence instead of a longer prison sentence. The second section of our bill would therefore amend section 401 to allow the court to impose both a fine and imprisonment for criminal contempt. It would make similar changes on a handful of other statutes that contain language similar to section 401: sections 1705, 1916, 2234, and 2235, of title 18 and in section 636 of title 28 of the United States Code.

The fourth section of the bill would add a new provision extending the statute of limitations for counts that are dismissed pursuant to a plea bargain. This would also close a loophole that exists under current law, which is illustrated by United States v. Podde, 105 F.3d 813 (2d Cir. 1995). In that case, a defendant who was charged with fraud pled guilty to a lesser offense pursuant to a plea agreement, and the fraud charges were dismissed. Later, however, the defendant was able to get his guilty plea set aside based upon a new Supreme Court decision. The district court then granted the government's motion to reinstate the original fraud charges, and the defendant went to trial and was convicted. On appeal, however, the court of appeals vacated the defendant's conviction based upon the statute of limitations. The court ruled that the fraud indictment could not be reinstated because the statute of limitations for the fraud charges had expired before the defendant's guilty plea was vacated. The Third Circuit reached the same result on similar facts in United States v. Midgley, 142 F.3d 174, 178–80 (3d Cir. 1998). Under these decisions, the defendants could no longer be prosecuted for any offense, even though the government had brought the case within the limitations period and pursued it diligently. Our provision would prevent such unjust results in the future by allowing the government 60 days to move to reinstate the dismissed counts after the order vacating the defendant's guilty plea becomes final. This approach is similar to that of 18 U.S.C. § 3288, which gives the government a grace period to obtain a new indictment where counts are dismissed after the statute of limitations has expired.

The fifth section of the bill would amend title 18, United States Code, section 3731, which permits the United States to appeal certain orders of the District Court to the appropriate Court of Appeals. It would clarify that the government is allowed to appeal the dismissal of a part of a count, such as an overt act in a conspiracy count or a predicate act in a RICO count. This approach is consistent with the Supreme Court's observation that section 3731 permits ''an appeal from an order dismissing only a portion of a count.'' Sanabria v. United States, 437 U.S. 54, 69 n.23 (1978). The majority of Federal circuits already interpret section 3731 to permit this where the portion of the count that is dismissed could itself constitute a ''discrete basis of liability.'' See United States v. Mobley, 193 F.3d 492, 495, 7th Cir. 1999; United States v. Levasseur, 846 F.2d 786, 1st Cir. 1988. However, one federal circuit has held that section 3731 does not permit any government appeal from the dismissal of only part of a count. See United States v. Louisiana Pacific Corporation, 106 F.3d 345, 10th Cir. 1997. In other cases, appellate review of orders dismissing predicate acts or overt acts has been denied where the dismissed acts could not themselves have been charged in separate counts. See United States v. Terry, 5 F.3d 874, 5th Cir. 1993; United States v. Tom, 787 F.2d 65, 2d Cir. 1986. It is time to resolve these conflicting results definitively. The reach of section 3731 should clearly be extended to orders dismissing portions of counts. In some cases, the dismissal of an overt act or a predicate act may significantly impair the government's ability to prove its case. Defendants, of course, may get appellate review of the denial of a motion to dismiss part of a count after the trial if they are convicted. The government should also be able to appeal when such motions are granted, and it has no way of doing so other than through section 3731.

Section six of the bill would resolve a conflict in the circuits as to the permissible length of supervised release in controlled substances cases. Under 18 U.S.C. 3583(b), ''[e]xcept as otherwise provided,'' the maximum authorized terms of supervised release are 5 years for Class A and B felonies, 3 years for Class C and D felonies, and 1 year for Class E felonies and certain misdemeanors. The drug trafficking offenses in 21 U.S.C. §§ 841 and 960 prescribe special supervised release terms, however, that are longer than those applicable generally under section 3583(b). Those longer terms, which may include lifetime supervised release, were enacted in 1986 in the same Act that inserted the introductory phrase ''Except as otherwise provided'' in section 3583(b). Because of this clear legislative history and intent, three courts of appeals have held that section 3583(b) does not limit the length of supervised release that may be imposed for a violation of 21 U.S.C. §§ 841 or 960 when a greater term is there provided. United States v. LeMay, 952 F.2d 995, 998 (8th Cir. 1991); United States v. Eng, 14 F.3d 165, 172–3 (2d Cir. 1994); United States v. Garcia, 112 F.3d 395 (9th Cir. 1997). Two courts of appeals, however, have reached the opposite result, holding that the length of a supervised release term that can be imposed for controlled substance cases is limited by 18 U.S.C. 3583(b). United States v. Gracia, 983 F.2d 625, 630 (5th Cir. 1993); United States v. Kelly, 974 F.2d 22, 24–5 (5th Cir. 1992); United States v. Good, 25 F.3d 218 (4th Cir. 1994). Although the issue has not arisen with frequency, the conflict is entrenched and should be dealt with definitively. Accordingly, the amendment would add the words ''Notwithstanding section 3583 of title 18'' to the title 21 controlled substance offenses in the parts of those statutes dealing with supervised release to make clear that the longer terms there prescribed control over the general provision in section 3583.

Section seven of the bill would confer express authority on District Courts under 18 U.S.C. § 3582(c)(1)(A), when exercising the power to reduce a term of imprisonment for extraordinary and compelling reasons, to impose a sentence of probation or supervised release with or without conditions. Such added flexibility is consistent with the purposes for which this statute was designed and will likely facilitate its use in appropriate cases. Under section 3582(c)(l)(A), a court is authorized, on motion of the Bureau of Prisons and consistent with the purposes of sentencing in 18 U.S.C. § 3553, to ''reduce the term of imprisonment'' upon a finding that ''extraordinary and compelling reasons'' warrant such a reduction. This limited authority has been generally utilized when a defendant sentenced to imprisonment becomes terminally ill or develops a permanently incapacitating illness not present at the time of sentencing. In such circumstances, the situation of a prisoner (e.g., one suffering from a contagious debilitating disease), may make a court reluctant simply to release the prisoner back into society unless another sentencing option such as home confinement as a condition of supervised release or probation can be imposed. Presently, however, it is doubtful whether a court can order such a sentence since section 3582(c)(1)(A) speaks only in terms of reducing ''the term of imprisonment,'' not imposing in its stead a lesser type of sentence. Compare Fed. R. Crim. P 35(b), which gives a court the power to ''reduce a sentence'' to reflect substantial assistance.

Finally, section eight would remedy a statutory ambiguity relating to restitution as a condition of supervised release. Under 18 U.S.C. § 3583(c) and (e), the court is authorized to consider various sentencing factors set forth in 18 U.S.C. § 3553 as a basis for imposing restitution as a condition of supervised release or for revoking or modifying the conditions of supervised release. Supervised release is among the purposes of sentencing enumerated in section 3553, in paragraph (a)(7), but is not among the factors enumerated in section 3583(c) and (e). However, 18 U.S.C. § 3583(c) also authorizes the court to impose any condition of supervised release that is an authorized condition of probation under 18 U.S.C. § 3563(b), and making restitution is among those conditions (see section 3564(b)(2)). Thus, it

appears clear that a court has authority to impose a restitution condition upon a term of supervised release. See, e.g., United States v. Payan, 992 F.2d 1387, 1395–96 (5th Cir. 1993). But the absence of a reference to section 3553(a)(7) in the revocation subsection of section 3583 raises a question whether, even though it is an authorized condition of supervised release, a court has authority to revoke or modify the term for the willful failure to make restitution. This amendment would provide a reference to section 3553(a)(7) in the supervised release statute and remove any ambiguity in this regard. Of course, even under the amended statute, a court could not revoke or modify the defendant's supervised release for failure to pay restitution unless the defendant had the resources to pay and willfully refused to do so. See Bearden v. Georgia, 461 U.S. 660 (1983); Payan, 992 F.2d at 1396–97.

For all of these reasons, I am pleased to introduce this legislation along with Senator HATCH, and I urge its swift enactment into law.

By Mr. MURKOWSKI:

S. 1318. A bill to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MURKOWSKI. Madam President, I rise today, to introduce the Conservation and Reinvestment Act of 2001. The bill is identical to a bill I introduced at the start of the 106th Congress. This important legislation remedies a tremendous inequity in the distribution of revenues generated by offshore oil and gas production. It allocates a portion of those moneys to the coastal States and communities who shoulder the responsibility for energy development activity off their coastlines. It also provides a secure funding source for state recreation and wildlife conservation programs.

By reinvesting revenues from offshore oil and gas production into a variety of important conservation, recreation and environmental programs, this bill will rededicate the Federal Government to a partnership with state and local governments to meet the demands of all Americans for outdoor experiences. In addition, it reaffirms the original promise of the Land Water Conservation Fund that a portion of the revenues obtained by the Federal Government from the development of our natural resources would be reinvested into the outdoor recreation and natural resource estate of the Nation.

Like last Congress, this bill is the start of a process. As many of us in this chamber remember, consideration of OCS revenue sharing legislation during the 106th Congress resulted in an outcome none of us could have anticipated, the creation of a 6 year budget category that dedicates appropriated funds for a variety of conservation programs. Enactment of the Conservation Spending Category was one of the great bipartisan achievements of the 106th Congress and was an important step in providing annual funding for a number of programs that protect our nation's natural and cultural legacy.

However, coastal impact assistance was not included. While the coastal States that support offshore oil and gas activities received some funding last year, they were specifically excluded from the Conservation Spending Category and no money has been appropriated this Congress.

This bill directs that 27 percent of the revenues generated from oil and natural gas production on the Outer Continental Shelf, or OCS, be returned to coastal States and communities. Offshore oil and gas production generates over $4 billion in revenues annually for the U.S. Treasury. Yet, unlike mineral receipts from onshore Federal lands, OCS oil and gas revenues are not directly returned to the States in which production occurs and which bear the burdens of such activity.

This legislation remedies this disparity. States and communities that bear the responsibilities for and costs associated with offshore oil and gas production will finally receive some assistance from the revenues generated by this federal activity. This legislation would share revenues generated by OCS oil and gas activities with counties, parishes and boroughs, the local government entities most directly affected, and State governments.

The bill also acknowledges that all coastal States, including those States bordering the Great Lakes, have unique needs. It directs that a portion of OCS revenues be shared with these States, even if no OCS production occurs off their coasts. Coastal States and communities can use OCS Impact Assistance funds on everything from environmental programs, to coastal and marine conservation efforts, to new infrastructure requirements.

This is a true investment in the future. This money will be used, day-in and day-out, to improve the quality of life of coastal State residents.

Let me also remind everyone that OCS production only occurs off the coasts of 6 States, yet the bill shares OCS revenues with 34 States. There are 28 coastal States that will get a share of OCS revenues which have no OCS production. In fact, in all areas except the Gulf of Mexico and Alaska there is a moratorium prohibiting any new OCS production.

The OCS accounts for 24 percent of this Nation's natural gas production and 14 percent of its oil production. We need to ensure that the OCS continues to meet our future domestic energy needs. I firmly believe that the Federal Government needs to do all it can to pursue and encourage further technological advances in OCS exploration and production. These technological achievements will continue to result in new OCS production having an unparalleled record of excellence on environmental and safety issues. Additional technological advances will further improve resource recovery and will increase revenues to the Treasury for the benefit of all Americans who enjoy programs funded by OCS money.

I will do all I can to ensure a healthy OCS program, including new OCS development in the Arctic. A number of challenges face new developments in this area, I am confident that we can work through them all. History has shown us that in the Arctic, and in other OCS areas, development and the environmental protection are compatible.

This bill also takes a portion of the revenues received by the Federal Government from OCS development and invests it in conservation and wildlife programs. Thus, Titles II and III of the bill share OCS revenues will ALL States for these purposes. Title II of this bill provides a secure source of funding for the Land and Water Conservation Fund, LWCF. The LWCF was established over three decades ago to provide Federal money for State and Federal land acquisition and help meet recreation needs. Title III of this bill provides funding for State fish and wildlife conservation programs. The money would be distributed through the Pittman-Robertson program administered by the United States Fish and Wildlife Service. This money could be used for both game and non-game wildlife. With the inclusion of OCS revenues, the amount of money available for state fish and game programs would nearly double. States will be able to use these moneys to increase fish and wildlife populations and improve fish and wildlife habitat.

This bill is not perfect but it is a step to ensuring not only that Coastal States have money to address the effects of OCS-activities but that all States have funds necessary to provide outdoor recreation and conservation resources for all of us to enjoy.

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

S. 1319. A bill to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Madam President, I am pleased to introduce the 21st Century Department of Justice Appropriations Authorization Act. I thank Senator HATCH, the Ranking Republican Member of the Judiciary Committee, for his hard work and support of this legislation.

The last time Congress properly authorized spending for the entire Department of Justice, ''DOJ'' or the

''Department'', was in 1979. Congress extended that authorization in 1980 and 1981. Since then, Congress has not passed nor has the President signed an authorization bill for the Department. In fact, there are a number of years where Congress failed to consider any Department authorization bill. This 21-year failure to properly reauthorize the Department has forced the appropriations committees in both houses to reauthorize and appropriate money.

We have ceded the authorization power to the appropriators for too long. Our bipartisan legislation is an attempt to reaffirm the authorizing authority and responsibility of the House and Senate Judiciary Committees. I commend Chairman SENSENBRENNER and Ranking Member CONYERS of the House Judiciary Committee for working in a bipartisan manner to pass similar legislation in the House of Representatives.

The ''21st Century Department of Justice Appropriations Authorization Act,'' is a comprehensive authorization of the Department based on H.R. 2215 as passed by the House of Representatives on July 23, 2001. Our bipartisan legislation contains four titles which authorize appropriations for the Department for fiscal year 2002, provide permanent enabling authorities which will allow the Department to efficiently carry out its mission, clarify and harmonize existing statutory authority, and repeal obsolete statutory authorities. The bill establishes certain reporting requirements and other mechanisms, such as DOJ Inspector General authority to investigate allegations of misconduct by employees of the Federal Bureau of Investigation (FBI), intended to better enable the Congress and the Department to oversee the operations of the Department. Finally, the bill creates a separate Violence Against Women Office to combat domestic violence.

Title I authorizes appropriations for the major components of the Department for fiscal year 2002. The authorization mirrors the President's request regarding the Department except in two areas. First, the bill increased the President's request for the DOJ Inspector General by $10 million. This is necessary because the Committee is concerned about the severe downsizing of that office and the need for oversight, particularly of the FBI, at the Department. Second, the bill authorizes at least $10 million for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft, NET, Act, Public Law 105–147. The American copyright industry is the largest exporter of goods from the United States, employing more than 7 million Americans, and these additional funds are needed to strengthen the resources available to DOJ and the FBI to investigate and prosecute cyberpiracy.

The bill does not contain an authorization for appropriations for several unauthorized grant programs. Senator HATCH and I have decided to review each of these expired programs and authorize them as needed.

In addition, Title I authorizes $9 million in FY 2002 to add an additional Assistant United States Attorney in each of the 94 U.S. Attorney Offices to implement part of the Administration's Project Safe Neighborhoods proposal to reduce school gun violence across the nation. These prosecutors will assist in targeting juveniles who obtain weapons and commit violent crimes, as well as the adults who place firearms in the hands of juveniles.

Title II permanently establishes a clear set of authorities that the Department may rely on to use appropriated funds, including establishing permitted uses of appropriated funds by the Attorney General for Fees and Expenses of Witnesses, the FBI, the Immigration and Naturalization Service, the Federal Prison System, and the Detention Trustee. Title II also establishes new reporting requirements which are intended to enhance Congressional oversight of the Department, including new reporting requirements for information about the enforcement of existing laws, for information regarding the Office of Justice Programs, OJP, and the submission of other reports, required by existing law, to the House and Senate Judiciary Committees. Section 206(e) expands an existing reporting requirement regarding copyright infringement cases. Title II also establishes a counterterrorism fund and provides the Attorney General with additional authority to strengthen law enforcement operations.

Title III repeals outdated and open-ended statutes, requires the submission of an annual authorization bill to the House and Senate Judiciary Committees, and provides states with flexibility to use existing Truth-In-Sentencing and Violent Offender Incarceration Grants to account for juveniles being housed in adult prison facilities. Title III requires the Department to submit to Congress studies on untested rape examination kits, and the allocation of funds, personnel, and workloads for each office of U.S. Attorney and each division of the Department.

Section 305 requires the Attorney General and Director of the FBI to provide the House and Senate Judiciary Committees with a detailed report on the use of DCS 1000, also known as Carnivore, and other similar Internet surveillance systems. Many have raised legitimate privacy concerns with Carnivore. Congress needs to know the facts about Carnivore to find a way to balance the needs of law enforcement investigators with the privacy interests of all Americans.

In addition, Title III provides new oversight and reporting requirements for the FBI and other activities conducted by the Justice Department. Specifically, section 308 codifies the Attorney General's order of July 11, 2001, which revised Department of Justice's regulations concerning the Inspector General. The section insures that the Inspector General for the Department of Justice has the authority to decide whether a particular allegation of misconduct by Department of Justice personnel, including employees of the Federal Bureau of Investigation and the Drug Enforcement Administration, should be investigated by the Inspector General or by the internal affairs unit of the appropriate component of the Department of Justice.

Section 309 requires the Attorney General to submit a report and recommendation to the House and Senate Committees on the Judiciary not later than 90 days after enactment of this Act on whether there should be established an office of Inspector General for the FBI or an office of Deputy Inspector General for the FBI that would be responsible for supervising independent oversight of programs and operations of the FBI.

Title IV establishes a Violence Against Women Office (VAWO) within the Justice Department. The VAWO is headed by a Director, who is appointed by the President and confirmed by the Senate. In addition, Title IV enumerates duties and responsibilities of the Director, requires the Attorney General to ensure VAWO is adequately staffed and authorizes appropriations for the VAWO.

I look forward to working with Senator HATCH, Congressman SENSENBRENNER and Congressman CONYERS to bring the important business of re-authorizing the Department back before the Senate and House Judiciary Committees. Clearly, regular reauthorization of the Department should be part and parcel of the Committees' traditional role in overseeing the Department's activities. Swift passage into law of the ''21st Century Department of Justice Appropriations Authorization Act'' will be a significant step toward restoring our oversight role.

I ask unanimous consent that the text of the bill and a section-by-section analysis of the bill be printed in the RECORD.

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

S. 1319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''21st Century Department of Justice Appropriations Authorization Act''.

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

Sec. 1. Short title; table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2002

Sec. 101. Specific sums authorized to be appropriated.

Sec. 102. Appointment of additional Assistant United States Attorneys; reduction of certain litigation positions.

Sec. 103. Authorization for additional Assistant United States Attorneys for project safe neighborhoods.

TITLE II—PERMANENT ENABLING PROVISIONS

Sec. 201. Permanent authority.
Sec. 202. Permanent authority relating to enforcement of laws.
Sec. 203. Notifications and reports to be provided simultaneously to committees.
Sec. 204. Miscellaneous uses of funds; technical amendments.
Sec. 205. Technical and miscellaneous amendments to Department of Justice authorities; authority to transfer property of marginal value; recordkeeping; protection of the Attorney General.
Sec. 206. Oversight; waste, fraud, and abuse of appropriations.
Sec. 207. Enforcement of Federal criminal laws by Attorney General.
Sec. 208. Counterterrorism fund.
Sec. 209. Strengthening law enforcement in United States territories, commonwealths, and possessions.
Sec. 210. Additional authorities of the Attorney General.

TITLE III—MISCELLANEOUS

Sec. 301. Repealers.
Sec. 302. Technical amendments to title 18 of the United States Code.
Sec. 303. Required submission of proposed authorization of appropriations for the Department of Justice for fiscal year 2003.
Sec. 304. Study of untested rape examination kits.
Sec. 305. Report on DCS 1000 (''carnivore'').
Sec. 306. Study of allocation of litigating attorneys.
Sec. 307. Use of truth-in-sentencing and violent offender incarceration grants.
Sec. 308. Authority of the Department of Justice Inspector General.
Sec. 309. Report on Inspector General and Deputy Inspector General for Federal Bureau of Investigation.

TITLE IV—VIOLENCE AGAINST WOMEN

Sec. 401. Short title.
Sec. 402. Establishment of Violence Against Women Office.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2002

SEC. 101. SPECIFIC SUMS AUTHORIZED TO BE APPROPRIATED.

There are authorized to be appropriated for fiscal year 2002, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $93,433,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $178,499,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $55,000,000, which shall include for each such fiscal year, not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $566,822,000, which shall include for each such fiscal year—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not less than $10,000,000 for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147); and

(C) not to exceed $20,000 to meet unforeseen emergencies of a confidential character.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $140,973,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,346,289,000.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $3,507,109,000, which shall include for each such fiscal year—

(A) not to exceed $1,250,000 for construction, to remain available until expended; and

(B) not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $626,439,000, which shall include for each such fiscal year not to exceed $6,621,000 for construction, to remain available until expended.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $4,662,710,000.

(10) FEDERAL PRISONER DETENTION.—For the support of United States prisoners in non-Federal institutions, as authorized by section 4013(a) of title 18 of the United States Code: $724,682,000, to remain available until expended.

(11) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,480,929,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(12) IMMIGRATION AND NATURALIZATION SERVICE.—For the Immigration and Naturalization Service: $3,516,411,000, which shall include—

(A) not to exceed $2,737,341,000 for salaries and expenses of enforcement and border affairs (i.e., the Border Patrol, deportation, intelligence, investigations, and inspection programs, and the detention program);

(B) not to exceed $650,660,000 for salaries and expenses of citizenship and benefits (i.e., programs not included under subparagraph (A));

(C) for each such fiscal year, not to exceed $128,410,000 for construction, to remain available until expended; and

(D) not to exceed $50,000 to meet unforeseen emergencies of a confidential character.

(13) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $156,145,000 to remain available until expended, which shall include for each such fiscal year not to exceed $6,000,000 for construction of protected witness safesites.

(14) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $338,106,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(15) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,130,000.

(16) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $9,269,000.

(17) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,949,000 for expenses authorized by section 524 of title 28, United States Code.

(18) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $10,862,000.

(19) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,718,000.

(20) JOINT AUTOMATED BOOKING SYSTEM.—For expenses necessary for the operation of the Joint Automated Booking System: $15,957,000.

(21) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $104,606,000.

(22) RADIATION EXPOSURE COMPENSATION.—For administrative expenses in accordance with the Radiation Exposure Compensation Act: $1,996,000.

(23) COUNTERTERRORISM FUND.—For the Counterterrorism Fund for necessary expenses, as determined by the Attorney General: $4,989,000.

(24) OFFICE OF JUSTICE PROGRAMS.—For administrative expenses not otherwise provided for, of the Office of Justice Programs: $116,369,000.

SEC. 102. APPOINTMENT OF ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS; REDUCTION OF CERTAIN LITIGATION POSITIONS.

(a) APPOINTMENTS.—Not later than September 30, 2003, the Attorney General may exercise authority under section 542 of title 28, United States Code, to appoint 200 assistant United States attorneys in addition to the number of assistant United States attorneys serving on the date of the enactment of this Act.

(b) SELECTION OF APPOINTEES.—Individuals first appointed under subsection (a) may be appointed from among attorneys who are incumbents of 200 full-time litigation positions in divisions of the Department of Justice and whose official duty station is at the seat of Government.

(c) TERMINATION OF POSITIONS.—Each of the 200 litigation positions that become vacant by reason of an appointment made in accordance with subsections (a) and (b) shall be terminated at the time the vacancy arises.

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

SEC. 103. AUTHORIZATION FOR ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS FOR PROJECT SAFE NEIGHBORHOODS.

(a) IN GENERAL.—The Attorney General shall establish a program for each United States Attorney to provide for coordination with State and local law enforcement officials in the identification and prosecution of violations of Federal firearms laws including school gun violence and juvenile gun offenses.

(b) AUTHORIZATION FOR HIRING 94 ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS.—There are authorized to be appropriated to carry out this section $9,000,000 for fiscal year 2002 to hire an additional Assistant United States Attorney in each United States Attorney Office.

TITLE II—PERMANENT ENABLING PROVISIONS

SEC. 201. PERMANENT AUTHORITY.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code, is amended by adding at the end the following:

''§ 530C. Authority to use available funds

''(a) IN GENERAL.—Except to the extent provided otherwise by law, the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof) may, in the reasonable discretion of the Attorney General, be carried out through any means, including—

''(1) through the Department's own personnel, acting within, from, or through the Department itself;

''(2) by sending or receiving details of personnel to other branches or agencies of the Federal Government, on a reimbursable, partially-reimbursable, or nonreimbursable basis;

''(3) through reimbursable agreements with other Federal agencies for work, materials, or equipment;

''(4) through contracts, grants, or cooperative agreements with non-Federal parties; and

''(5) as provided in subsection (b), in section 524, and in any other provision of law consistent herewith, including, without limitation, section 102(b) of Public Law 102–395 (106 Stat. 1838), as incorporated by section 815(d) of Public Law 104–132 (110 Stat. 1315).

''(b) PERMITTED USES.—

''(1) GENERAL PERMITTED USES.—Funds available to the Attorney General (i.e., all funds available to carry out the activities described in subsection (a)) may be used, without limitation, for the following:

''(A) The purchase, lease, maintenance, and operation of passenger motor vehicles, or police-type motor vehicles for law enforcement purposes, without regard to general purchase price limitation for the then-current fiscal year.

''(B) The purchase of insurance for motor vehicles, boats, and aircraft operated in official Government business in foreign countries.

''(C) Services of experts and consultants, including private counsel, as authorized by section 3109 of title 5, and at rates of pay for individuals not to exceed the maximum daily rate payable from time to time under section 5332 of title 5.

''(D) Official reception and representation expenses (i.e., official expenses of a social nature intended in whole or in predominant part to promote goodwill toward the Department or its missions, but excluding expenses of public tours of facilities of the Department of Justice), in accordance with distributions and procedures established, and rules issued, by the Attorney General, and expenses of public tours of facilities of the Department of Justice.

''(E) Unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General.

''(F) Miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration.

''(G) In accordance with procedures established and rules issued by the Attorney General—

''(i) attendance at meetings and seminars;

''(ii) conferences and training; and

''(iii) advances of public moneys under section 3324 of title 31: *Provided,* That travel advances of such moneys to law enforcement personnel engaged in undercover activity shall be considered to be public money for purposes of section 3527 of title 31.

''(H) Contracting with individuals for personal services abroad, except that such individuals shall not be regarded as employees of the United States for the purpose of any law administered by the Office of Personnel Management.

''(I) Payment of interpreters and translators who are not citizens of the United States, in accordance with procedures established and rules issued by the Attorney General.

''(J) Expenses or allowances for uniforms as authorized by section 5901 of title 5, but without regard to the general purchase price limitation for the then-current fiscal year.

''(K) Expenses of—

''(i) primary and secondary schooling for dependents of personnel stationed outside the continental United States at cost not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents; and

''(ii) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

''(2) SPECIFIC PERMITTED USES.—

''(A) AIRCRAFT AND BOATS.—Funds available to the Attorney General for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, and for the Immigration and Naturalization Service may be used for the purchase, lease, maintenance, and operation of aircraft and boats, for law enforcement purposes.

''(B) PURCHASE OF AMMUNITION AND FIREARMS; FIREARMS COMPETITIONS.—Funds available to the Attorney General for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, for the Federal Prison System, for the Office of the Inspector General, and for the Immigration and Naturalization Service may be used for—

''(i) the purchase of ammunition and firearms; and

''(ii) participation in firearms competitions.

''(C) CONSTRUCTION.—Funds available to the Attorney General for construction may be used for expenses of planning, designing, acquiring, building, constructing, activating, renovating, converting, expanding, extending, remodeling, equipping, repairing, or maintaining buildings or facilities, including the expenses of acquisition of sites therefor, and all necessary expenses incident or related thereto; but the foregoing shall not be construed to mean that funds generally available for salaries and expenses are not also available for certain incidental or minor construction, activation, remodeling, maintenance, and other related construction costs.

''(3) FEES AND EXPENSES OF WITNESSES.—Funds available to the Attorney General for fees and expenses of witnesses may be used for—

''(A) expenses, mileage, compensation, protection, and per diem in lieu of subsistence, of witnesses (including advances of public money) and as authorized by section 1821 or other law, except that no witness may be paid more than 1 attendance fee for any 1 calendar day;

''(B) fees and expenses of neutrals in alternative dispute resolution proceedings, where the Department of Justice is a party; and

''(C) construction of protected witness safesites.

''(4) FEDERAL BUREAU OF INVESTIGATION.—Funds available to the Attorney General for the Federal Bureau of Investigation for the detection, investigation, and prosecution of crimes against the United States may be used for the conduct of all its authorized activities.

''(5) IMMIGRATION AND NATURALIZATION SERVICE.—Funds available to the Attorney General for the Immigration and Naturalization Service may be used for—

''(A) acquisition of land as sites for enforcement fences, and construction incident to such fences;

''(B) cash advances to aliens for meals and lodging en route;

''(C) refunds of maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; and

''(D) expenses and allowances incurred in tracking lost persons, as required by public exigencies, in aid of State or local law enforcement agencies.

''(6) FEDERAL PRISON SYSTEM.—Funds available to the Attorney General for the Federal Prison System may be used for—

''(A) inmate medical services and inmate legal services, within the Federal prison system;

''(B) the purchase and exchange of farm products and livestock;

''(C) the acquisition of land as provided in section 4010 of title 18; and

''(D) the construction of buildings and facilities for penal and correctional institutions (including prison camps), by contract or force account, including the payment of United States prisoners for their work performed in any such construction;

except that no funds may be used to distribute or make available to a prisoner any commercially published information or material that is sexually explicit or features nudity.

''(7) DETENTION TRUSTEE.—Funds available to the Attorney General for the Detention Trustee may be used for all the activities of such Trustee in the exercise of all power and functions authorized by law relating to the detention of Federal prisoners in non-Federal institutions or otherwise in the custody of the United States Marshals Service and to the detention of aliens in the custody of the Immigration and Naturalization Service, including the overseeing of construction of detention facilities or for housing related to such detention, the management of funds appropriated to the Department for the exercise of detention functions, and the direction of the United States Marshals Service and Immigration Service with respect to the exercise of detention policy setting and operations for the Department of Justice.

''(c) RELATED PROVISIONS.—

''(1) LIMITATION OF COMPENSATION OF INDIVIDUALS EMPLOYED AS ATTORNEYS.—No funds available to the Attorney General may be used to pay compensation for services provided by an individual employed as an attorney (other than an individual employed to provide services as a foreign attorney in special cases) unless such individual is duly licensed and authorized to practice as an attorney under the law of a State, a territory of the United States, or the District of Columbia.

''(2) REIMBURSEMENTS PAID TO GOVERNMENTAL ENTITIES.—Funds available to the Attorney General that are paid as reimbursement to a governmental unit of the Department of Justice, to another Federal entity, or to a unit of State or local government, may be used under authorities available to the unit or entity receiving such reimbursement.''.

(b) CONFORMING AMENDMENT.—The table of sections of chapter 31 of title 28, United States Code, is amended by adding at the end the following:

''530C. Authority to use available funds.''.

SEC. 202. PERMANENT AUTHORITY RELATING TO ENFORCEMENT OF LAWS.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code (as amended by section 201), is amended by adding at the end the following:

''§ 530D. Report on enforcement of laws

''(a) REPORT.—

''(1) IN GENERAL.—The Attorney General shall submit to the Congress a report of any instance in which the Attorney General or any officer of the Department of Justice—

''(A) establishes or implements a formal or informal policy to refrain—

''(i) from enforcing, applying, or administering any provision of any Federal statute, rule, regulation, program, policy, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer on the grounds that such provision is unconstitutional; or

''(ii) within any judicial jurisdiction of or within the United States, from adhering to, enforcing, applying, or complying with, any standing rule of decision (binding upon courts of, or inferior to those of, that jurisdiction) established by a final decision of any court of, or superior to those of, that jurisdiction, respecting the interpretation, construction, or application of the Constitution or of any statute, rule, regulation, program, policy, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer;

''(B) determines—

''(i) to contest affirmatively, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law; or

''(ii) to refrain from defending or asserting, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law, or not to appeal or request review of any judicial, administrative, or other determination adversely affecting the constitutionality of any such provision; or

''(C) approves (other than in circumstances in which a report is submitted to the Joint Committee on Taxation, pursuant to section 6405 of the Internal Revenue Code of 1986) the settlement or compromise (other than in bankruptcy) of any claim, suit, or other action—

''(i) against the United States (including any agency or instrumentality thereof) for a sum that exceeds, or is likely to exceed, $2,000,000; or

''(ii) by the United States (including any agency or instrumentality thereof) pursuant to an agreement, consent decree, or order (or pursuant to any modification of an agreement, consent decree, or order) that provides injunctive or other nonmonetary relief that exceeds, or is likely to exceed, 3 years in duration.

''(2) SUBMISSION OF REPORT TO THE CONGRESS.—For the purposes of paragraph (1), a report shall be considered to be submitted to the Congress if the report is submitted to—

''(A) the majority leader and minority leader of the Senate;

''(B) the Speaker, majority leader, and minority leader of the House of Representatives;

''(C) the chairman and ranking minority member of the Committee on the Judiciary of the House of Representatives and the chairman and ranking minority member of the Committee on the Judiciary of the Senate; and

''(D) the Senate Legal Counsel and the General Counsel of the House of Representatives.

''(b) DEADLINE.—A report shall be submitted—

''(1) under subsection (a)(1)(A), not later than 30 days after the establishment or implementation of each policy;

''(2) under subsection (a)(1)(B), within such time as will reasonably enable the House of Representatives and the Senate to take action, separately or jointly, to intervene in timely fashion in the proceeding, but in no event later than 30 days after the making of each determination; and

''(3) under subsection (a)(1)(C), not later than 30 days after the conclusion of each fiscal-year quarter, with respect to all approvals occurring in such quarter.

''(c) CONTENTS.—A report required by subsection (a) shall—

''(1) specify the date of the establishment or implementation of the policy described in subsection (a)(1)(A), of the making of the determination described in subsection (a)(1)(B), or of each approval described in subsection (a)(1)(C);

''(2) include a complete and detailed statement of the relevant issues and background (including a complete and detailed statement of the reasons for the policy or determination, and the identity of the officer responsible for establishing or implementing such policy, making such determination, or approving such settlement or compromise), except that—

''(A) such details may be omitted as may be absolutely necessary to prevent improper disclosure of national-security- or classified information, or of any information subject to the deliberative-process-, executive-, attorney-work-product-, or attorney-client privileges, if the fact of each such omission (and the precise ground or grounds therefor) is clearly noted in the statement: Provided, That this subparagraph shall not be construed to deny to the Congress (including any House, Committee, or agency thereof) any such omitted details (or related information) that it lawfully may seek, subsequent to the submission of the report; and

''(B) the requirements of this paragraph shall be deemed satisfied—

''(i) in the case of an approval described in subsection (a)(1)(C)(i), if an unredacted copy of the entire settlement agreement and consent decree or order (if any) is provided, along with a statement indicating the legal and factual basis or bases for the settlement or compromise (if not apparent on the face of documents provided); and

''(ii) in the case of an approval described in subsection (a)(1)(C)(ii), if an unredacted copy of the entire settlement agreement and consent decree or order (if any) is provided, along with a statement indicating the injunctive or other nonmonetary relief (if not apparent on the face of documents provided); and

''(3) in the case of a determination described in subsection (a)(1)(B) or an approval described in subsection (a)(1)(C), indicate the nature, tribunal, identifying information, and status of the proceeding, suit, or action.

''(d) DECLARATION.—In the case of a determination described in subsection (a)(1)(B), the representative of the United States participating in the proceeding shall make a clear declaration in the proceeding that any position expressed as to the constitutionality of the provision involved is the position of the executive branch of the Federal Government (or, as applicable, of the President or of any executive agency or military department).

''(e) APPLICABILITY TO THE PRESIDENT AND TO EXECUTIVE AGENCIES AND MILITARY DEPARTMENTS.—The reporting, declaration, and other provisions of this section relating to the Attorney General and other officers of the Department of Justice shall apply to the President, to the head of each executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) that establishes or implements a policy described in subsection (a)(1)(A) or is authorized to conduct litigation, and to the officers of such executive agency.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 31 of title 28, United States Code (as amended by section 201), is amended by adding at the end the following:

''530D. Report on enforcement of laws.''.

(2) Section 712 of Public Law 95–521 (92 Stat. 1883) is amended by striking subsection (b).

(3) Not later than 30 days after the date of the enactment of this Act, the President shall advise the head of each executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) of the enactment of this section.

(4)(A) Not later than 90 days after the date of the enactment of this Act, the Attorney General (and, as applicable, the President, and the head of any executive agency or military department described in subsection (e) of section 530D of title 28, United States Code, as added by subsection (a)) shall submit to Congress a report (in accordance with subsections (a), (c), and (e) of such section) on—

(i) all policies of which the Attorney General and applicable official are aware described in subsection (a)(1)(A) of such section that were established or implemented before the date of the enactment of this Act and were in effect on such date; and

(ii) all determinations of which the Attorney General and applicable official are aware described in subsection (a)(1)(B) of such section that were made before the date of the enactment of this Act and were in effect on such date.

(B) If a determination described in subparagraph (A)(ii) relates to any judicial, administrative, or other proceeding that is pending in the 90-day period beginning on the date of the enactment of this Act, with respect to any such determination, then the report required by this paragraph shall be submitted within such time as will reasonably enable the House of Representatives and the Senate to take action, separately or jointly, to intervene in timely fashion in the proceeding, but not later than 30 days after the date of the enactment of this Act.

SEC. 203. NOTIFICATIONS AND REPORTS TO BE PROVIDED SIMULTANEOUSLY TO COMMITTEES.

If the Attorney General or any officer of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof) is required by any Act (which shall be understood to include any request or direction contained in any report of a committee of the Congress relating to an appropriations Act or in any statement of managers accompanying any conference report agreed to by the Congress) to provide a notice or report to any committee or subcommittee of the Congress (other than both the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate), then such Act shall be deemed to require that a copy of such notice or report be provided simultaneously to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.

SEC. 204. MISCELLANEOUS USES OF FUNDS; TECHNICAL AMENDMENTS.

(a) BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) in section 504(a) by striking ''502'' and inserting ''501(b)'';

(2) in section 506(a)(1) by striking ''participating'';

(3) in section 510(a)(3) by striking ''502'' and inserting ''501(b)'';

(4) in section 510 by adding at the end the following:

''(d) No grants or contracts under subsection (b) may be made, entered into, or used, directly or indirectly, to provide any security enhancements or any equipment to

any non-governmental entity that is not engaged in law enforcement or law enforcement support, criminal or juvenile justice, or delinquency prevention.''; and

(5) in section 511 by striking ''503'' and inserting ''501(b)''.

(b) ATTORNEYS SPECIALLY RETAINED BY THE ATTORNEY GENERAL.—The 3d sentence of section 515(b) of title 28, United States Code, is amended by striking ''at not more than $12,000''.

SEC. 205. TECHNICAL AND MISCELLANEOUS AMENDMENTS TO DEPARTMENT OF JUSTICE AUTHORITIES; AUTHORITY TO TRANSFER PROPERTY OF MARGINAL VALUE; RECORDKEEPING; PROTECTION OF THE ATTORNEY GENERAL.

(a) Section 524 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting ''to the Attorney General'' after ''available'';

(2) in paragraph (c)(1)—

(A) by striking the semicolon at the end of the 1st subparagraph (I) and inserting a period;

(B) by striking the 2d subparagraph (I); and

(C) by striking ''fund'' in the 3d sentence following the 2d subparagraph (I) and inserting ''Fund'';

(3) in paragraph (c)(2)—

(A) by striking ''for information'' each place it appears; and

(B) by striking ''$250,000'' the 2d and 3d places it appears and inserting ''$500,000'';

(4) in paragraph (c)(3) by striking ''(F)'' and inserting ''(G)'';

(5) in paragraph (c)(5) by striking ''Fund which'' and inserting ''Fund, that''; and

(6) in subsection (c)(9)(B)—

(A) by striking ''year 1997'' and inserting ''years 2002 and 2003''; and

(B) by striking ''Such transfer shall not'' and inserting ''Each such transfer shall be subject to satisfaction by the recipient involved of any outstanding lien against the property transferred, but no such transfer shall''.

(b) Section 522 of title 28, United States Code, is amended by inserting ''(a)'' before ''The'', and by inserting at the end the following:

''(b) With respect to any data, records, or other information acquired, collected, classified, preserved, or published by the Attorney General for any statistical, research, or other aggregate reporting purpose beginning not later than 1 year after the date of enactment of 21st Century Department of Justice Appropriations Authorization Act and continuing thereafter, and notwithstanding any other provision of law, the same criteria shall be used (and shall be required to be used, as applicable) to classify or categorize offenders and victims (in the criminal context), and to classify or categorize actors and acted upon (in the noncriminal context).''.

(c) Section 534(a)(3) of title 28, United States Code, is amended by adding ''and'' after the semicolon.

(d) Section 509(3) of title 28, United States Code, is amended by striking the 2d period.

(e) Section 533 of title 28, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by adding after paragraph (2) a new paragraph as follows:

''(3) to assist in the protection of the person of the Attorney General.''.

(f) Hereafter, no compensation or reimbursement paid pursuant to section 501(a) of Public Law 99–603 (100 Stat. 3443) or section 241(i) of the Act of June 27, 1952 (ch. 477) shall be subject to section 6503(d) of title 31, United States Code, and no funds available to the Attorney General may be used to pay any assessment made pursuant to such section 6503 with respect to any such compensation or reimbursement.

(g) Section 108 of Public Law 103–121 (107 Stat. 1164) is amended by replacing ''three'' with ''six'', by replacing ''only'' with '', first,'', and by replacing ''litigation.'' with ''litigation, and, thereafter, for financial systems, and other personnel, administrative, and litigation expenses of debt collection activities.''.

SEC. 206. OVERSIGHT; WASTE, FRAUD, AND ABUSE OF APPROPRIATIONS.

(a) Section 529 of title 28, United States Code, is amended by inserting ''(a)'' before ''Beginning'', and by adding at the end the following:

''(b) Notwithstanding any provision of law limiting the amount of management or administrative expenses, the Attorney General shall, not later than May 2, 2003, and of every year thereafter, prepare and provide to the Committees on the Judiciary and Appropriations of each House of the Congress using funds available for the underlying programs—

''(1) a report identifying and describing every grant, cooperative agreement, or programmatic services contract that was made, entered into, awarded, or extended, in the immediately preceding fiscal year, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services), and including, without limitation, for each such grant, cooperative agreement, or contract: the term, the dollar amount or value, a complete and detailed description of its specific purpose or purposes, the names of all parties, the names of each unsuccessful applicant or bidder (and a complete and detailed description of the specific purpose or purposes proposed of the application or bid), except that such description may be summary with respect to each application or bid having a total value of less than $350,000; and

''(2) a report identifying and reviewing every grant, cooperative agreement, or programmatic services contract made, entered into, awarded, or extended after October 1, 2002, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services) that was closed out or that otherwise ended in the immediately preceding fiscal year (or even if not yet closed out, was terminated or otherwise ended in the fiscal year that ended 2 years before the end of such immediately preceding fiscal year), and including, without limitation, for each such grant, cooperative agreement, or contract: a complete and detailed description of how the appropriated funds involved actually were spent, complete and detailed statistics relating to its performance, its specific purpose or purposes, and its effectiveness, and a written declaration by each non-Federal grantee and each non-Federal party to such agreement or to such contract, that—

''(A) the appropriated funds were spent for such purpose or purposes, and only such purpose or purposes;

''(B) the terms of the grant, cooperative agreement, or contract were complied with; and

''(C) all documentation necessary for conducting a full and proper audit under generally accepted accounting principles, and any (additional) documentation that may have been required under the grant, cooperative agreement, or contract, have been kept in orderly fashion and will be preserved for not less than 3 years from the date of such close out, termination, or end;

except that the requirement of this paragraph shall be deemed satisfied with respect to any such description, statistics, or declaration if such non-Federal grantee or such non-Federal party shall have failed to provide the same to the Attorney General, and the Attorney General notes the fact of such failure and the name of such grantee or such party in the report.''.

(b) Section 1913 of title 18, United States Code, is amended by striking ''to favor'' and inserting ''a jurisdiction, or an official of any government, to favor, adopt,'', by inserting '', law, ratification, policy,'' after ''legislation'' every place it appears, by striking ''by Congress'' the 2d place it appears, by inserting ''or such official'' before '', through the proper'', by inserting '', measure,'' before ''or resolution'', by striking ''Members of Congress on the request of any Member'' and inserting ''any such Member or official, at his request,'', by striking ''for legislation'' and inserting ''for any legislation''.

(c) Section 1516(a) of title 18, United States Code, is amended by inserting '', entity, or program'' after ''person'', and by inserting ''grant, or cooperative agreement,'' after ''subcontract,''.

(d) Section 112 of title I of section 101(b) of division A of Public Law 105–277 (112 Stat. 2681–67) is amended by striking ''fiscal year'' and all that follows through ''Justice—'', and inserting ''any fiscal year the Attorney General—''.

(e) Section 2320(f) of title 18, United States Code, is amended—

(1) by striking ''title 18'' each place it appears and inserting ''this title''; and

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(3) by inserting ''(1)'' after ''(f)''; and

(4) by adding at the end the following:

''(2) The report under paragraph (1), with respect to criminal infringement of copyright, shall include the following:

''(A) The number of infringement cases involving specific types of works, such as audiovisual works, sound recordings, business software, video games, books, and other types of works.

''(B) The number of infringement cases involving an online element.

''(C) The number and dollar amounts of fines assessed in specific categories of dollar amounts, such as up to $500, from $500 to $1,000, from $1,000 to $5,000, from $5,000 to $10,000, and categories above $10,000.

''(D) The amount of restitution awarded.

''(E) Whether the sentences imposed were served.''.

SEC. 207. ENFORCEMENT OF FEDERAL CRIMINAL LAWS BY ATTORNEY GENERAL.

Section 535 of title 28, United States Code, is amended in subsections (a) and (b), by replacing ''title 18'' with ''Federal criminal law'', and in subsection (b), by replacing ''or complaint'' with ''matter, or complaint witnessed, discovered, or'', and by inserting ''or the witness, discoverer, or recipient, as appropriate,'' after ''agency,''.

SEC. 208. COUNTERTERRORISM FUND.

(a) ESTABLISHMENT; AVAILABILITY.—There is hereby established in the Treasury of the United States a separate fund to be known as the ''Counterterrorism Fund'', amounts in which shall remain available without fiscal year limitation—

(1) to reimburse any Department of Justice component for any costs incurred in connection with—

(A) reestablishing the operational capability of an office or facility that has been damaged or destroyed as the result of any domestic or international terrorism incident;

(B) providing support to counter, investigate, or prosecute domestic or international terrorism, including, without limitation, paying rewards in connection with these activities; and

(C) conducting terrorism threat assessments of Federal agencies and their facilities; and

(2) to reimburse any department or agency of the Federal Government for any costs incurred in connection with detaining in foreign countries individuals accused of acts of terrorism that violate the laws of the United States.

(b) NO EFFECT ON PRIOR APPROPRIATIONS.—The amendment made by subsection (a) shall not affect the amount or availability of any appropriation to the Counterterrorism Fund made before the date of enactment of this Act.

SEC. 209. STRENGTHENING LAW ENFORCEMENT IN UNITED STATES TERRITORIES, COMMONWEALTHS, AND POSSESSIONS.

(a) EXTENDED ASSIGNMENT INCENTIVE.—Chapter 57 of title 5, United States Code, is amended—

(1) in subchapter IV, by inserting at the end the following:

"§ 5757. Extended assignment incentive

''(a) The head of an Executive agency may pay an extended assignment incentive to an employee if—

''(1) the employee has completed at least 2 years of continuous service in 1 or more civil service positions located in a territory or possession of the United States, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands;

''(2) the agency determines that replacing the employee with another employee possessing the required qualifications and experience would be difficult; and

''(3) the agency determines it is in the best interest of the Government to encourage the employee to complete a specified additional period of employment with the agency in the territory or possession, the Commonwealth of Puerto Rico or Commonwealth of the Northern Mariana Islands, except that the total amount of service performed in a particular territory, commonwealth, or possession under 1 or more agreements established under this section may not exceed 5 years.

''(b) The sum of extended assignment incentive payments for a service period may not exceed the greater of—

''(1) an amount equal to 25 percent of the annual rate of basic pay of the employee at the beginning of the service period, times the number of years in the service period; or

''(2) $15,000 per year in the service period.

''(c)(1) Payment of an extended assignment incentive shall be contingent upon the employee entering into a written agreement with the agency specifying the period of service and other terms and conditions under which the extended assignment incentive is payable.

''(2) The agreement shall set forth the method of payment, including any use of an initial lump-sum payment, installment payments, or a final lump-sum payment upon completion of the entire period of service.

''(3) The agreement shall describe the conditions under which the extended assignment incentive may be canceled prior to the completion of agreed-upon service period and the effect of the cancellation. The agreement shall require that if, at the time of cancellation of the incentive, the employee has received incentive payments which exceed the amount which bears the same relationship to the total amount to be paid under the agreement as the completed service period bears to the agreed-upon service period, the employee shall repay that excess amount, at a minimum, except that an employee who is involuntarily reassigned to a position stationed outside the territory, commonwealth, or possession or involuntarily separated (not for cause on charges of misconduct, delinquency, or inefficiency) may not be required to repay any excess amounts.

''(d) An agency may not put an extended assignment incentive into effect during a period in which the employee is fulfilling a recruitment or relocation bonus service agreement under section 5753 or for which an employee is receiving a retention allowance under section 5754.

''(e) Extended assignment incentive payments may not be considered part of the basic pay of an employee.

''(f) The Office of Personnel Management may prescribe regulations for the administration of this section, including regulations on an employee's entitlement to retain or receive incentive payments when an agreement is canceled. Neither this section nor implementing regulations may impair any agency's independent authority to administratively determine compensation for a class of its employees.''; and

(2) in the analysis by adding at the end the following:

''5757. Extended assignment incentive.''.

(b) CONFORMING AMENDMENT.—Section 5307(a)(2)(B) of title 5, United States Code, is amended by striking ''or 5755'' and inserting ''5755, or 5757''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after 6 months after the date of enactment of this Act.

(d) REPORT.—No later than 3 years after the effective date of this section, the Office of Personnel Management, after consultation with affected agencies, shall submit a report to Congress assessing the effectiveness of the extended assignment incentive authority as a human resources management tool and making recommendations for any changes necessary to improve the effectiveness of the incentive authority. Each agency shall maintain such records and report such information, including the number and size of incentive offers made and accepted or declined by geographic location and occupation, in such format and at such times as the Office of Personnel Management may prescribe, for use in preparing the report.

SEC. 210. ADDITIONAL AUTHORITIES OF THE ATTORNEY GENERAL.

(a) FBI DANGER PAY.—Section 151 of the Foreign Relations Act, fiscal years 1990 and 1991 (5 U.S.C. 5928 note) is amended by inserting ''or Federal Bureau of Investigation'' after ''Drug Enforcement Administration''.

(b) FOREIGN REIMBURSEMENTS.—For fiscal year 2002 and thereafter, whenever the Federal Bureau of Investigation participates in a cooperative project to improve law enforcement or national security operations or services with a friendly foreign country on a cost-sharing basis, any reimbursements or contributions received from that foreign country to meet its share of the project may be credited to appropriate current appropriations accounts of the Federal Bureau of Investigation. The amount of a reimbursement or contribution credited shall be available only for payment of the share of the project expenses allocated to the participating foreign country.

(c) RAILROAD POLICE TRAINING FEES.—For fiscal year 2002 and thereafter, the Attorney General is authorized to establish and collect a fee to defray the costs of railroad police officers participating in a Federal Bureau of Investigation law enforcement training program authorized by Public Law 106–110, and to credit such fees to the appropriation account ''Federal Bureau of Investigation, Salaries and Expenses'', to be available until expended for salaries and expenses incurred in providing such services.

(d) WARRANTY WORK.—In instances where the Attorney General determines that law enforcement-, security-, or mission-related considerations mitigate against obtaining maintenance or repair services from private sector entities for equipment under warranty, the Attorney General is authorized to seek reimbursement from such entities for warranty work performed at Department of Justice facilities, and to credit any payment made for such work to any appropriation charged therefor.

TITLE III—MISCELLANEOUS

SEC. 301. REPEALERS.

(a) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL INSTITUTE OF CORRECTIONS.—Chapter 319 of title 18, United States Code, is amended by striking section 4353.

(b) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES MARSHALS SERVICE.—Section 561 of title 28, United States Code, is amended by striking subsection (i).

SEC. 302. TECHNICAL AMENDMENTS TO TITLE 18 OF THE UNITED STATES CODE.

Title 18 of the United States Code is amended—

(1) in section 4041 by striking ''at a salary of $10,000 a year'';

(2) in section 4013—

(A) in subsection (a)—

(i) by replacing ''the support of United States prisoners'' with ''Federal prisoner detention'';

(ii) in paragraph (2) by adding ''and'' after ''hire;'';

(iii) in paragraph (3) by replacing ''entities; and'' with ''entities.''; and

(iv) in paragraph (4) by inserting ''The Attorney General, in support of Federal prisoner detainees in non-Federal institutions, is authorized to make payments, from funds appropriated for State and local law enforcement assistance, for'' before ''entering''; and

(B) by redesignating—

(i) subsections (b) and (c) as subsections (c) and (d); and

(ii) paragraph (a)(4) as subsection (b), and subparagraphs (A), (B), and (C), of such paragraph (a)(4) as paragraphs (1), (2), and (3) of such subsection (b); and

(3) in section 209(a)—

(A) by striking ''or makes'' and inserting ''makes''; and

(B) by striking ''supplements the salary of, any'' and inserting ''supplements, the salary of any''.

SEC. 303. REQUIRED SUBMISSION OF PROPOSED AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF JUSTICE FOR FISCAL YEAR 2003.

When the President submits to the Congress the budget of the United States Government for fiscal year 2003, the President shall simultaneously submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate such proposed legislation authorizing appropriations for the Department of Justice for fiscal year 2003 as the President may judge necessary and expedient.

SEC. 304. STUDY OF UNTESTED RAPE EXAMINATION KITS.

The Attorney General shall conduct a study to assess and report to Congress the number of untested rape examination kits that currently exist nationwide and shall submit to the Congress a report containing a summary of the results of such study. For the purpose of carrying out such study, the Attorney General shall attempt to collect information from all law enforcement jurisdictions in the United States.

SEC. 305. REPORT ON DCS 1000 ("CARNIVORE").

Not later than 30 days after the end of fiscal years 2001 and 2002, the Attorney General and the Director of the Federal Bureau of Investigation shall provide to the Committees

on the Judiciary of the House of Representatives and the Senate a report detailing—

(1) the number of orders or extensions applied for to authorize the use of DCS 1000 (or any similar system or device);

(2) the fact that the order or extension was granted as applied for, was modified, or was denied;

(3) the kind of order applied for and the specific statutory authority relied on to use DCS 1000 (or any similar system or device);

(4) the court that authorized each use of DCS 1000 (or any similar system or device);

(5) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

(6) the offense specified in the order or application, or extension of an order;

(7) the Department of Justice official or officials who approved each use of DCS 1000 (or any similar system or device);

(8) the criteria used by the Department of Justice officials to review requests to use DCS 1000 (or any similar system or device);

(9) a complete description of the process used to submit, review, and approve requests to use DCS 1000 (or any similar system or device); and

(10) any information intercepted that was not authorized by the court to be intercepted.

SEC. 306. STUDY OF ALLOCATION OF LITIGATING ATTORNEYS.

Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit a report to the chairman and ranking minority member of the Committees on the Judiciary of the House of Representatives and Committee on the Judiciary of the Senate, detailing the distribution or allocation of appropriated funds, attorneys and other personnel, per-attorney workloads, and number of cases opened and closed, for each Office of United States Attorney and each division of the Department of Justice except the Justice Management Division.

SEC. 307. USE OF TRUTH-IN-SENTENCING AND VIOLENT OFFENDER INCARCERATION GRANTS.

Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(b)) is amended to read as follows:

''(b) USE OF TRUTH-IN-SENTENCING AND VIOLENT OFFENDER INCARCERATION GRANTS.—Funds provided under section 20103 or 20104 may be applied to the cost of—

''(1) altering existing correctional facilities to provide separate facilities for juveniles under the jurisdiction of an adult criminal court who are detained or are serving sentences in adult prisons or jails;

''(2) providing correctional staff who are responsible for supervising juveniles who are detained or serving sentences under the jurisdiction of an adult criminal court with orientation and ongoing training regarding the unique needs of such offenders; and

''(3) providing ombudsmen to monitor the treatment of juveniles who are detained or serving sentences under the jurisdiction of an adult criminal court in adult facilities, consistent with guidelines issued by the Assistant Attorney General.

SEC. 308. AUTHORITY OF THE DEPARTMENT OF JUSTICE INSPECTOR GENERAL.

Section 8E of the Inspector General Act of 1978 (5 U.S.C. App) is amended—

(1) in subsection (b), by striking paragraphs (2) and (3) and inserting the following:

''(2) except as specified in subsection (a) and paragraph (3), may investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, or may, in the Inspector General's discretion, refer such allegations to the Office of Professional Responsibility or the internal affairs office of the appropriate component of the Department of Justice; and

''(3) shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice, allegations of misconduct involving Department attorneys, investigators or law enforcement personnel, where the allegations relate to the exercise of an attorney's authority to investigate, litigate, or provide legal advice, except that no such referral shall be made if the attorney is employed in the Office of Professional Responsibility.''; and

(2) by inserting at the end the following:

''(d) The Attorney General shall insure by regulation that any component of the Department of Justice receiving a nonfrivolous allegation of criminal wrongdoing or administrative misconduct by an employee of the Department shall report such information to the Inspector General.''.

SEC. 309. REPORT ON INSPECTOR GENERAL AND DEPUTY INSPECTOR GENERAL FOR FEDERAL BUREAU OF INVESTIGATION.

Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report and recommendation to the chairman and ranking member of the Committee on the Judiciary of the Senate and the Committee of the Judiciary on the House of Representatives concerning—

(1) whether there should be established, within the Department of Justice, a separate Office of the Inspector General for the Federal Bureau of Investigation that shall be responsible for supervising independent oversight of programs and operations of the Federal Bureau of Investigation; and

(2) whether there should be established, within the Office of the Inspector General for the Department of Justice, an Office of Deputy Inspector General for the Federal Bureau of Investigation that shall be responsible for supervising independent oversight of programs and operations of the Federal Bureau of Investigation.

TITLE IV—VIOLENCE AGAINST WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the ''Violence Against Women Office Act''.

SEC. 402. ESTABLISHMENT OF VIOLENCE AGAINST WOMEN OFFICE.

Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended—

(1) in section 2002(d)(3)—

(A) by striking ''section 2005'' and inserting ''section 2009''; and

(B) by striking ''section 2006'' and inserting ''section 2010'';

(2) by redesignating sections 2002 through 2006 as sections 2006 through 2010, respectively; and

(3) by inserting after section 2001 the following:

''SEC. 2002. ESTABLISHMENT OF VIOLENCE AGAINST WOMEN OFFICE.

''(a) OFFICE.—There is hereby established within the Department of Justice, under the general authority of the Attorney General, a Violence Against Women Office (in this title referred to as the 'Office').

''(b) DIRECTOR.—The Office shall be headed by a Director (in this title referred to as the 'Director'), who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Attorney General through the Assistant Attorney General, and shall make reports to the Deputy Attorney General as the Director deems necessary to fulfill the mission of the Office. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Office. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other arrangement under this title.

''SEC. 2003. DUTIES AND FUNCTIONS OF DIRECTOR OF VIOLENCE AGAINST WOMEN OFFICE.

''(a) IN GENERAL.—The Director shall have the following duties:

''(1) Serving as special counsel to the Attorney General on the subject of violence against women.

''(2) Maintaining liaison with the judicial branches of the Federal and State Governments on matters relating to violence against women.

''(3) Providing information to the President, the Congress, the judiciary, State and local governments, and the general public on matters relating to violence against women.

''(4) Serving, at the request of the Attorney General or Assistant Attorney General, as the representative of the Department of Justice on domestic task forces, committees, or commissions addressing policy or issues relating to violence against women.

''(5) Serving, at the request of the President, acting through the Attorney General, as the representative of the United States Government on human rights and economic justice matters related to violence against women in international forums, including, but not limited to, the United Nations.

''(6) Carrying out the functions of the Department of Justice under the Violence Against Women Act of 1994 (title IV of Public Law 103–322) and the amendments made by that Act, and other functions of the Department of Justice on matters relating to violence against women, including with respect to those functions—

''(A) the development of policy, protocols, and guidelines;

''(B) the development and management of grant programs and other programs, and the provision of technical assistance under such programs; and

''(C) the award and termination of grants, cooperative agreements, and contracts.

''(7) Providing technical assistance, coordination, and support to—

''(A) other elements of the Department of Justice, in efforts to develop policy and to enforce Federal laws relating to violence against women, including the litigation of civil and criminal actions relating to enforcing such laws;

''(B) other Federal, State, and tribal agencies, in efforts to develop policy, provide technical assistance, and improve coordination among agencies carrying out efforts to eliminate violence against women, including Indian or indigenous women; and

''(C) grantees, in efforts to combat violence against women and to provide support and assistance to victims of such violence.

''(8) Exercising such other powers and functions as may be vested in the Director pursuant to this title or by delegation of the Attorney General or Assistant Attorney General.

''(9) Establishing such rules, regulations, guidelines, and procedures as are necessary to carry out any function of the Office.

''SEC. 2004. STAFF OF VIOLENCE AGAINST WOMEN OFFICE.

''The Attorney General shall ensure that the Director has adequate staff to support the Director in carrying out the Director's responsibilities under this title.

''SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

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

Section 1. Short title and table of contents

Section 1 provides that the short title of the Act shall be the ''21st Century Department of Justice Appropriations Authorization Act.'' It also contains a table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2002

Section 101. Specific sums authorized to be appropriated

Section 101 authorizes appropriations to carry out the work of the various components of the Department of Justice for fiscal year 2002. The structure of Title I mirrors the organization of the annual Commerce-Justice-State, CJS, appropriations bill and the President's budget request. The bill authorizes the appropriations of amounts requested by the President in most accounts. The accounts, and the activities and components that each would fund, are as follows:

General Administration—$93,433,000—For the leadership offices of the Department, including the offices of the Attorney General and Deputy Attorney General, and the Justice Management Division, Executive Support program, Intelligence Policy, Office of Professional Responsibility, and General Administration.

Administrative Review and Appeals—$178,499,000—For the Executive Office for Immigration Review and the Office of the Pardon Attorney.

Office of Inspector General—$55,000,000—For the investigation of allegations of violations of criminal and civil statutes, regulations, and ethical standards by Department employees, and for the new position of Deputy Inspector General to oversee the Federal Bureau of Investigation. This amount is $10 million above the President's Request. The IG's office has been severely downsized over the last several years from approximately 460 to 360 full-time equivalents. Oversight is a priority and this level of funding should get the IG back on the path of meeting the audit and oversight needs of the Department. The Committee expects that the OIG will substantially increase its oversight of the FBI, INS, and the Department's grant programs.

General Legal Activities—$566,822,000—For the conduct of the legal activities of the Department. This includes the office of Solicitor General, Tax Division, Criminal Division, Civil Division, Environment and Natural Resources Division, Civil Rights Division, Office of Legal Counsel, Interpol, Legal Activities Office Automation, and Office of Dispute Resolution. The authorization includes not less than $4,000,000 to augment the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals and not less than $10,000,000 to augment the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147).

Antitrust Division—$140,973,000—For decreasing anti-competitive behavior among U.S. businesses and increasing the competitiveness of the national and international business environment.

United States Attorneys—$1,346,289,000—For the 93 U.S. Attorneys and their offices and the Executive Office of U.S. Attorneys. The U.S. Attorneys represent the United States in the vast majority of criminal and civil cases handled by the Justice Department.

Federal Bureau of Investigation—$3,507,109,000—For the detection, investigation, and prosecution of crimes against the United States. The FBI also plays a primary role in the protection of the United States from foreign intelligence activities and investigating and preventing acts of terrorism against the United States.

United States Marshals Service—$626,439,000—To protect the Federal courts and its personnel and to ensure the effective operation of the federal judicial system, of which no more than $6,621,000 may be used for construction.

Federal Prison System—$4,662,710,000—For the administration, operation, and maintenance of federal penal and correctional institutions.

Federal Prison Detention—$724,682,000—For the support of United States prisoners in non-federal institutions, as authorized by 18 U.S.C. §4013(a).

Drug Enforcement Agency—$1,480,929,000—To enforce the controlled substance laws and regulations of the United States and to recommend and support non-enforcement programs aimed at reducing the availability of illicit controlled substances on the domestic and international markets.

Immigration and Naturalization Service—$3,516,411,000—For the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, of which no more than $2,737,341,000 for salaries and expenses and border affairs, no more than $650,660,000 for salaries and expenses of citizenship and benefits, and no more than $128,410,000 for construction.

Fees and Expenses of Witnesses—$156,145,000—For fees and expenses associated with providing witness testimony on behalf of the United States, expert witnesses, and private counsel for government employees who have been sued, charged, or subpoenaed for actions taken while performing their official duties.

Interagency Crime and Drug Enforcement—$338,106,000—For the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking.

Foreign Claims Settlement Commission—$1,130,000—To adjudicate claims of U.S. nationals against foreign governments under jurisdiction conferred by the International Claims Settlement Act of 1949, as amended, and other authorizing legislation;

Community Relations Service (CRS)—$9,269,000—To assist communities in preventing violence and resolving conflicts arising from racial and ethnic tensions and to develop the capacity of such communities to address these conflicts without external assistance. CRS activities are conducted in accordance with Title X of the Civil Rights Act of 1964.

Assets Forfeiture Fund—$22,949,000—To provide a stable source of resources to cover the costs of the asset seizure and forfeiture program, including the costs of seizing, evaluating, inventorying, maintaining, protecting, advertizing, forfeiting, and disposing of property.

United States Parole Commission—$10,862,000—For the activities of the U.S. Parole Commission. The Commission has jurisdiction over all Federal prisoners eligible for parole, wherever confined, and continuing jurisdiction over those who are released on parole or as if on parole.

Federal Detention Trustee—$1,718,000—For necessary expenses to exercise all power and functions authorized by law relating to the detention of Federal prisoners in non-federal institutions or otherwise in the custody of the United States Marshall Service; and the detention of aliens in the custody of the Immigration and Naturalization Service.

Joint Automated Booking System—$15,957,000—For expenses necessary for the nationwide deployment of a Joint Automated Booking System including automated capability to transmit fingerprint and image data.

Narrowband Communications—$104,606,000—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems.

Radiation Exposure Compensation—$1,996,000—For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act.

Counterterrorism Fund—$4,989,000—For the reimbursement of: 1. the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of any domestic or international terrorist incident and 2. the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities.

Office of Justice Programs—$116,369,000—For necessary administrative expenses of the Office of Justice Programs.

Section 102. Appointment of additional Assistant United States Attorneys and reduction of certain litigation positions

This section authorizes the Attorney General to transfer 200 additional Assistant U.S. Attorneys from among the six litigating divisions at the Justice Department's headquarters, Main Justice, in Washington, D.C. to the various U.S. Attorneys offices around the country. Vacant positions resulting from transfers pursuant to this section will be terminated. This section is intended to raise the productivity of Washington-based lawyers, who litigate criminal and civil cases across the Nation for the Justice Department, by moving them to the field. Litigating attorneys for the government are most effective in the Federal judicial district where their cases are pending. The transfer authorization is discretionary to prevent ongoing litigation from being adversely effected.

Section 103. Authorization of additional Assistant United States Attorneys for Project Safe Neighborhoods

This section authorizes an additional Assistant United States Attorney in each of the 94 U.S. Attorney Offices to implement part of the Administration's Project Safe Neighborhoods proposal to reduce school gun violence across the nation. These prosecutors will assist in targeting juveniles who obtain weapons and commit violent crimes, as well as the adults who place firearms in the hands of juveniles.

TITLE II—PERMANENT ENABLING PROVISIONS

Section 201. Permanent authority

Section 201 amends Chapter 31 of Title 28, United States Code, by creating a new section, ''530C''. This section details permitted uses of available funds by the Attorney General to carry out the activities of the Justice Department. General permitted uses of available funds include: payment for motor vehicles, boats, and aircraft; payment for service of experts and consultants, and payment for private counsel; payment for official reception and representation expenses and public tours; payment of unforeseen emergencies of a confidential character; payment of miscellaneous and emergency expenses; payment of certain travel and attendance expenses; payment of contracts for personal services abroad; payment of interpreters and translators; and payment for uniforms.

Specific permitted uses of available funds include: payment for aircraft and boats; payment for ammunition, firearms, and firearm competitions; and payment for construction of certain facilities.

The use of funds appropriated for Fees and Expenses of Witnesses is limited to certain expenses and the construction of witness safesites. The use of funds appropriated for the Federal Bureau of Investigation is limited to the detection, investigation, and

prosecution of crimes against the United States. The use of funds appropriated for the Immigration and Naturalization Service is limited to general Immigration and Naturalization Service activities. The use of appropriated funds for the Federal Prison System is limited to general function of the Federal Prison System. The use of appropriated funds for the Detention Trustee is limited to the functions authorized by law relating the detention of Federal prisoners in non-Federal institutions or otherwise in the custody of the United States Marshals Service and for the detention of aliens in the custody of the INS.

The Attorney General is prohibited from compensating employed attorneys who are not duly licensed and authorized to practice under the law of a State, U.S. territory, or the District of Columbia. And reimbursement payments to governmental units of the Department of Justice, other Federal entities, or State or local governments are limited to uses permitted by the authority permitting such reimbursement payment.

Section 202. Permanent authority relating to the enforcement of laws

Section 202 amends Chapter 31 of Title 28, United States Code, by creating a new section, ''530D'' relating to reporting on the enforcement of laws. This section directs the Attorney General to report to Congress in any case in which the Attorney General, the President, head of executive agency, or military department:

1. establishes a policy to refrain from enforcing any provision of a Federal statute, rule regulation, program, policy, or other law within the responsibility of the Attorney General;

2. refrains from adhering to, enforcing, applying, or complying with any other judicial determination or other statute, rule, regulation, program, or policy within the responsibility of the Attorney General;

3. decides to contest in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law;

4. refrains from defending or asserting, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law, or not to appeal or request review of any judicial, administrative, or other determination adversely affecting the constitutionality of any such provision; or

5. when the Attorney General approves the settlement or compromise of any claim, suit or other action against the United States for more than $2,000,000 or for injunctive relief against the government that is likely to exceed three years.

Each report, which is subject to certain time and content requirements, must be submitted to the Majority and Minority Leaders of the Senate, the Speaker of the House, House Majority Leader, House Minority Leader, and the Chairman and ranking minority member of the Senate and House Committees on the Judiciary, the Senate Legal Counsel and the General Counsel of the House of Representatives. Section 202 also includes a number of conforming amendments.

Section 203. Notifications and reports to be provided simultaneously to committees

Section 203 requires the Attorney General or other officer of the Department of Justice to simultaneously submit copies of any notice or report, which is required by law to be submitted to other Committees or Subcommittees of Congress, to the House and Senate Judiciary Committees.

Section 204. Miscellaneous uses of funds; technical amendments

Section 204 provides technical amendments to the Bureau of Justice Assistance grant programs in title I of the Omnibus Crime Control and Safe Streets Act of 1968. It also makes minor amendments to the amount available to compensate attorneys specially retained by the Attorney General.

Section 205. Technical amendment; authority to transfer property of marginal value.

Section 205 makes technical amendments to section 524(c) of title 28, United States Codes, clarifies the Attorney General's authority to transfer property of marginal value, and requires the use of standard criteria for the purpose of categorizing offenders, victims, actors, and those acted upon in any data, records, or other information acquired, collected, classified, preserved, or published by the Attorney General for any statistical, research, or other aggregate reporting purpose. This section also makes several clerical and technical amendments to title 28, United States Code. In addition, this section adds authority to ensure that no inference is created that the government is liable for interest on certain retroactive payments made by the Department of Justice and to improve financial systems and debt-collection activities.

Section 206. Oversight; waste, fraud, and abuse of appropriations

Section 206 amends Section 529 of Title 28, United States Code, to require the Attorney General to submit an annual report to the House and Senate Committees on the Judiciary detailing: every grant, cooperative agreement, or programmatic services contract that was made, entered into, awarded, or extended in the immediately preceding fiscal year by or on behalf of the Office of Justice Programs; and a report on every grant, cooperative agreement, or programmatic services contract made, entered into, awarded, or extended by or on behalf of the Office of Justice Programs that was terminated or that otherwise ended in the immediately preceding fiscal year.

In addition, Section 206 amends the Anti-Lobbying Act to expand its coverage to all legislative activity at the federal and state level and establishes a new reporting requirement on the enforcement and prosecution of copyright infringements, along with a number of conforming amendments.

Section 207. Enforcement of the federal criminal laws by Attorney General

Section 207 provides clarifying amendments to title 28, United States Code, relating to the enforcement of federal criminal law.

Section 208. Counterterrorism fund

Section 208 establishes a counterterrorism fund in the Treasury of the United States, without effecting prior appropriations, to reimburse Justice Department components for any costs incurred in connection with:

1. reestablishing the operational capability of an office or facility that has been damaged as the result of any domestic or international terrorism incident;

2. providing support to counter, investigate, or prosecute domestic or international terrorism, including paying rewards in connection with these activities;

3. conducting terrorism threat assessments of Federal agencies; and

4. for costs incurred in connection with detaining individuals in foreign countries who are accused of acts of terrorism in violation of United States law.

Section 209. Strengthening law enforcement in United States Territories, Commonwealths, and Possessions.

Section 209 allows the payment of a retention bonus and other extended assignment incentives to retain law enforcement personnel in U.S. Territories, Commonwealths and Possessions. This new authority is needed to continue the fight against drug and crime problems in these areas.

Section 210. Additional authorities of the Attorney General.

Section 210 provides special ''danger pay'' allowances for FBI agents in hazardous duty locations outside the United States, as is provided for agents of the Drug Enforcement Administration. The section also permits the FBI to enter into cooperative projects with foreign countries to improve law enforcement or intelligence operations and to charge a fee for training of railroad police officers. In addition, the section authorizes the Attorney General to seek reimbursement of warranty work performed at Department of Justice facilities. The Administration requested these provisions in its budget submission for FY 2002.

TITLE III—MISCELLANEOUS

Section 301. Repealers.

Section 301 repeals open-ended authorizations of appropriations for the National Institute of Corrections and the United States Marshals Service.

Section 302. Technical amendments to title 18 of the United States Code

Section 302 makes several minor clarifying amendments to title 18, United States Code. Section 302(3) moves a comma that became the focus of a statutory construction question in Crandon v. United States.

Section 303. Required submission of proposed authorization of appropriations for the Department of Justice for fiscal year 2003.

Section 303 requires the President to submit a Department of Justice authorization bill for FY 2003 to the House and Senate Committees on the Judiciary when the President submits his FY 2003 budget. This authorization bill should contain any recommended additions, changes or modifications to existing authorities that may be necessary to carry out the functions of the Department. Any such addition, change, or modification should be accompanied by a description of the change and the justification for the change.

Section 304. Study of untested rape examination kits.

Section 304 requires the Attorney General to conduct a study and assessment of untested rape examination kits that currently exist nationwide, including information from all law enforcement jurisdictions. The Attorney General is required to submit a report of this study and assessment to the Congress.

Section 305. Report on DCS 1000 (''Carnivore'')

Section 305 requires the Attorney General and Director of the Federal Bureau of Investigation to submit a timely report to the House and Senate Committees on the Judiciary detailing: 1. the number of orders or extensions applied for to authorize the use of DCS 1000 (or any similar system or device); 2. the fact that the order or extension was granted as applied for, was modified, or was denied; 3. the kind of order applied for and the specific statutory authority relied on to use DCS 1000 (or any similar system or device); 4. the court that authorized each use of DCS 1000 (or any similar system or device); 5. the period of interceptions authorized by the order, and the number and duration of any extensions of the order; 6. the offense specified in the order or application, or extension of an order; 7. the Department of Justice official or officials who approved each use of DCS 1000 (or any similar system or device); 8. the criteria used by the Department of Justice officials to review requests to use DCS

1000 (or any similar system or device); 9. a complete description of the process used to submit, review, and approve requests to use DCS 1000 (or any similar system or device); and 10. any information intercepted that was not authorized by the court to be intercepted.

Section 306. Study of allocation of litigating attorneys.

Section 306 requires the Attorney General to report to Congress within 180 days of enactment of this bill on the allocation of funds, attorneys, and other personnel, per-attorney workloads, and number of cases opened and closed for each office of U.S. Attorney and each division of the Department of Justice.

Section 307. Use of Truth-In-Sentencing and Violent Offender Incarceration Grants.

Section 307 provides states with flexibility to use existing Truth-In-Sentencing and Violent Offender Incarceration Grants to account for juveniles being housed in adult prison facilities.

Section 308. Authority of the Department of Justice Inspector General.

Section 308 codifies the Attorney General's order of July 11, 2001, which revised Department of Justice's regulations concerning the Inspector General. The section insures that the Inspector General for the Department of Justice has the authority to decide whether a particular allegation of misconduct by Department of Justice personnel, including employees of the Federal Bureau of Investigation and the Drug Enforcement Administration, should be investigated by the Inspector General or by the internal affairs unit of the appropriate component of the Department of Justice. Consistent with the Attorney General's order, the one exception is that allegations of misconduct that relate to the exercise of an attorney's authority to investigate, litigate, or provide legal advice should be referred to the Office of Professional Responsibility of the Department of Justice.

Section 309. Report on Inspector General and Deputy Inspector General for Federal Bureau of Investigation.

Section 309 requires the Attorney General to submit a report and recommendation to the House and Senate Committees on the Judiciary not later than 90 days after enactment of this Act on whether there should be established an office of Inspector General for the FBI or an office of Deputy Inspector General for the FBI that shall be responsible for supervising independent oversight of programs and operations of the FBI.

TITLE IV—VIOLENCE AGAINST WOMEN

Section 401. Short title.

Section 401 establishes the ''Violence Against Women Office Act'' as the short title.

Section 402. Establishment of Violence Against Women Office.

Section 402 establishes a Violence Against Women Office, VAWO, within the Department of Justice, headed by a presidentially appointed and Senate confirmed Director. The Director is vested with authority for all grants, cooperative agreements, and contracts awarded by the VAWO. In addition, the Director is prohibited from other employment during service as Director or affiliation with organizations the may create a conflict of interest.

This section enumerates the following duties of the Director: 1. serving as special counsel to the Attorney General on violence against women; 2. maintaining a liaison with the judicial branches of Federal and State Governments; 3. providing information to the President, the Congress, the judiciary, State and local government, and to the general public; 4. serving as a representative of the Justice Department on domestic task forces, committees, or commissions; 5. serving as a representative of the United States Government on human rights and economic justice matters at international forums; 6. carrying out the functions of the Justice Department under the Violence Against Women Act of 1994 and other matters relating to violence against women, including developing policy, the development and management of grant and other programs, and the award and termination of grants; 7. providing technical assistance, coordination, support to other elements of the Justice Department, other Federal, State, and Tribal agencies, and to grantees; exercising other powers delegated by the Attorney General or Assistant Attorney General; 8. and establishing rules, regulations, guidelines and necessary procedures to carry out the functions of VAWO.

This section requires the Attorney General to ensure that VAWO receives adequate staff to support the Director in carrying out the responsibilities of the VAWO Act.

This section also authorizes such sums as are necessary to carry out the VAWO Act.

Mr. HATCH. Madam President, I rise in support of the 21st Century Department of Justice Appropriations Authorization Act, which Senator LEAHY and I have introduced today. Senator LEAHY and I have been working for several years to pass a Department of Justice reauthorization bill, and I can say that it is once again a major priority of the Judiciary Committee this session. I want to emphasize to my colleagues how important it is that the Senate consider and pass this legislation to reauthorize the Department of Justice this year.

It is simply inexcusable that over two decades have lapsed since Congress has passed a general authorization bill for the Department of Justice. It is in my view a matter of significant concern when any major cabinet department goes for such a long period of time without congressional reauthorization. Absence of reauthorization encourages administrative drift and permits important policy decisions to be made ad hoc through the adoption of appropriations bills or special purpose legislation. Moreover, our failure to reauthorize has also placed the undue burden on the appropriations committees in both houses to act as both authorizers and appropriators. This legislation will end the piecemeal funding of important programs and responsibilities which affect the day-to-day lives of all Americans.

The Department of Justice's main duty is to provide justice to all Americans, certainly of central importance to our national life. It has the primary responsibility for the enforcement of our Nation's laws. Through its divisions and agencies including the FBI and DEA, it investigates and prosecutes violations of Federal criminal laws, protects the civil rights of our citizens, enforces the antitrust laws, and represents every department and agency of the United States government in litigation. Increasingly, its mission is international as well, protecting the interests of the United States and its people from growing threats of trans-national crime and international terrorism. Additionally, among the Department's key duties is providing much needed assistance and advice to State and local law enforcement.

The vast importance of the Department's role is demonstrated by the growth of its budget in the last two decades. In FY 1979, the Department of Justice's budget was just $2.538 billion. In contrast, the Department of Justice's budget now exceeds $24 billion and it employs more than 125,000 people. Such a vast department requires Congress' full attention. Yet, it is fair to say that Congress has been less than vigilant in its job of overseeing the Department of Justice. Let me be clear that I am not advocating that we micro-manage the Department of Justice. I have full confidence in Attorney General Ashcroft and the thousands of employees who competently manage the Department daily. However, we cannot continue to neglect our responsibility to oversee closely this Department that so profoundly affects the lives of all Americans.

The authorizations contained in the 1979 reauthorization act, the last Justice Department authorization bill that Congress passed, are hopelessly out of date and have been amended, patched, and tweaked by Congress every year since. The lack of a comprehensive authorization has needlessly increased the administrative burden on the Department of Justice by causing them to perform operations inefficiently or to delay implementation of programs until specific authorization is legislated. This bill authorizes and consolidates a host of appropriations authorities and makes them permanent. These authorities are essential to the administration of the Department of Justice and accomplishment of its mission.

I want to take a moment to highlight some of the more important provisions of this bill. Title I of the bill authorizes appropriations for the major components of the Department for FY 2002. Among these authorizations are funding for the Drug Enforcement Administration to combat the trafficking of illegal drugs, the Immigration and Nationalization Service to enforce our country's immigration laws, and the Federal Bureau of Investigation to protect against cybercrime and terrorism. The authorization levels reflect the President's budget in all but two areas. First, the bill increases the President's request for the Department's Inspector General by $10 million. This increase is warranted because the IG's office has been cut severely over the last several years and the need for effective oversight, particularly over the FBI, is essential. Second, the bill increases by $10 million the request for the Computer Crime and Intellectual Property Section within the Department. With the number and severity of computer

crimes growing dramatically each year, this increase will enhance the Department's ability to investigate and prosecute computer related crimes, such as software counterfeiting crimes and denial of service attacks.

Additionally, this bill codifies the Attorney General's recent order that extended the authority of the Inspector General's Office to oversee the programs and operations of the FBI and to investigate allegations of wrongdoing within the Bureau. The bill also directs the Attorney General to submit a report and recommendation to Congress to determine whether to establish an Office of Inspector General for the FBI or an office of Deputy Inspector General for the FBI, which would be responsible for supervising independent oversight of the programs and operations of the FBI. While I am confident that the FBI's new Director, Robert Mueller, has the knowledge and ability to correct some of the bureaucratic and managerial problems the FBI has experienced, I agree with the Attorney General that FBI should be subject to the oversight of the IG. I look forward to the Attorney General's report, and I am sure it will provide guidance as to whether additional measures are warranted to ensure the effective operation of the Bureau.

Finally, the bill establishes a Violence Against Women Office, VAWO, within the Justice Department, which will be headed by a presidentially appointed and Senate confirmed Director. The bill enumerates the duties and responsibilities of the Director and requires the Attorney General to ensure that the Office is staffed adequately. The Director, in part, will serve as a special counsel to the Attorney General on issues related to violence against women, provide information to the President, the Congress, State and local governments, and the general public, and maintain a liaison with the judicial branches of federal and State governments. Establishing this office bespeaks our commitment to reducing violent crimes against women.

This bill is a step in the right direction. It will undoubtedly revive Congress's role and interest in overseeing the Department of Justice. The Judiciary Committee has redoubled its efforts and plans to vote the Department of Justice reauthorization bill out of Committee soon after we return from the August recess. It is a highly important and overdue piece of legislation that deserves our immediate attention, and I am confident that it will receive the support of my colleagues and be enacted this year.

By Mr. KOHL (for himself and Mr. CORZINE):

S. 1320. a bill to change the date for regularly scheduled Federal elections and establish polling place hours; to the Committee on Rules and Administration.

Mr. KOHL. Madam President, today I am introducing the Weekend Voting Act of 2001. This legislation will change the day for congressional and presidential elections from the first Tuesday in November to the first weekend in November. This legislation is virtually identical to legislation that I first proposed in 1997 in the 105th Congress.

Earlier this week, the National Commission on Federal Election Reform presented its recommendations to the President on how to improve the administration of elections in our country. These recommendations, coming on the heels of the contested Presidential election of last year, lay out some strong ideas for how we can strengthen our election system at a time when Congress may very well take action in this area. As a cosponsor of election reform legislation, I am hopeful that we can pass real election reform this year.

One of the recommendations the National Commission made to the President is that we move Election Day to a national holiday, in particular Veterans Day. As might have been expected, this proposal has not been well received by veterans groups who rightly consider this a diminishment of their service and the day that historically has been designated to honor that service. While I agree with the Commission's goal of moving election day to a non-working day, I believe we can achieve all the benefits of holiday voting without offending our veterans by moving our elections to the weekend.

My proposal for weekend voting would call for the polls to be open the same hours across the continental United States, addressing the challenge of keeping results on one side of the country, or even a State, from influencing voting in places where polls are still open. Moving elections to the weekend will expand the pool of buildings available for poling stations and people available to work at the polls, addressing the critical shortage of poll workers. Weekend voting also has the potential to increase voter turnout by giving all voters ample opportunity to get to the polls without creating a national holiday.

Under this bill, polls would be open nationwide for a uniform period of time from Saturday, 6 p.m. eastern time to Sunday, 6 p.m. eastern time. Polls in other time zones would also open and close at this time. Election officials would be permitted to close polls during the overnight hours if they determine it would be inefficient to keep them open. Because the polls are open from Saturday to Sunday, they also would not interfere with religious observances.

Amidst all the discussion about election reform, there is growing support for uniform polling hours. The free-wheeling atmosphere surrounding election night last November, with the networks calling the outcome of elections in states when polling places were still open in many places, and in some cases even in the very states being called, cannot be repeated. While it is difficut to determine the impact this information has on voter turnout, there is no question that it contributes to the popular sentiment that voting doesn't matter. At the end of the day, as we assess how to make our elections better, we are not only seeking to make voting more equitable, we are also looking for ways to engage Americans in our democracy.

I come from the business world, where you had a perfect gauge of what the public thought of you and your products. If you turned a profit, you knew the public liked your product—if you didn't, you knew you needed to make changes. If customers weren't showing up when your store was open, you knew you had to change your store hours.

In essence, it's time for the American democracy to change its store hours. Since the mid-19th century, election day has been on the first Tuesday of November. Ironically, this date was selected because it was convenient for voters. Tuesdays were traditionally court day, and land-owning voters were often coming to town anyway.

Just as the original selection of our national voting day was done for voter convenience, we must adapt to the changes in our society to make voting easier for the regular family. Sixty percent of all households have two working adults. Since most polls in the United States are open only 12 hours, from 7 a.m. to 7 p.m., voters often have only one or two hours to vote. As we saw in this last election, even with our relatively low voter turnout, long lines in many polling places kept some waiting even longer than one or two hours. If voters have children, and are dropping them off at day care, or if they have a long work commute, there is just not enough time in a workday to vote.

We can do better by offering more flexible voting hours for all Americans, especially working families.

Since I introduced my weekend voting legislation in 1997, a number of States have been experimenting with novel ways to increase voter turnout and satisfaction. Oregon conducted the first presidential elections completely by mail, resulting in impressive increases in voter turnout. Texas has implemented an early voting plan which also resulted in increased turnout. And California has relaxed restrictions on absentee voting, and even had weekend voting in some localities. Although there are security concerns that need to be ironed out, Internet voting has tremendous potential to transform the way we vote. In Arizona's Democratic primary 46 percent of all votes came via the Internet. The Defense Department coordinated a pilot program with several U.S. counties and the Federal Voting Assistance Program to have overseas voters, primarily military voters, cast their votes via the Internet. It is becoming increasingly clear that these new models can increase

voter turnout, and voters are much more pleased with the additional convenience and ease with voting.

For decades we've seen a gradual decline in voter turnout. In 1952, about 63 percent of eligible voters came out to vote—that number dropped to 49 percent in the 1996 election. We saw a minor increase in this past election with voter turnout at 51 percent of eligible voters, however, not a significant increase given the closeness of the election. Non-Presidential year voter turnout is even more abysmal.

Analysts point to a variety of reasons for this drop off. Certainly, common sense suggests that the general decline in voter confidence in government institutions is one logical reason. However, I'd like to point out, one survey of voters and nonvoters suggested that both groups are equally disgruntled with government.

Thus, we must explore ways to make our electoral process more user friendly. We must adjust our institutions to the needs of the American public of the 21st century. Our democracy has always had the amazing capacity to adapt to the challenges thrown before it, and we must continue to do so if our country is to grow and thrive.

Of 44 democracies surveyed, 29 of them allow their citizens to vote on holidays or the weekends. And in nearly every one of these nations, voter turnout surpasses our country's poor performance. We can do better. That is why I am proposing that we consider weekend voting.

I recognize a change of this magnitude may take some time. But the many questions raised by our last election have given us a unique opportunity to reassess all aspects of voting in America. We finally have the momentum to accomplish real reform. How much lower should our citizens' confidence plummet before we adapt and create a more 'consumer-friendly' polling system? How much more should voting turnout decline before we realize we need a change?

The Weekend Voting Act will not solve all of this democracy's problems, but it is a commonsense approach for adapting this grand democratic experiment of the 18th century to the American family's lifestyle of the 21st century.

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

S. 1321. A bill to authorize the construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma; to the Committee on Indian Affairs.

Mr. INHOFE. Madam President, as many people may be aware, my state of Oklahoma has well over a quarter of a million American Indians. Even Oklahoma derives its name from the Choctaw words, ''okla'' meaning people and ''humma'' meaning red. Today, I am pleased to introduce, along with my colleague, Senator NICKLES, a bill that will provide a grant to help fund the construction and development of the Native American Cultural Center and Museum, which will be centrally located along the North Canadian River at the southeast corner of Interstate 35 and Interstate 40, in Oklahoma City. This project marks the culmination of years of dreaming and planning by many people, including state Senator Kelly Haney, who is recognized worldwide for his Indian art.

The Native American Cultural Center will provide people from all over the world with an extensive picture of American Indians from the earliest civilization in North America, to their current role in today's society. Through art, music and dance, visitors will be able to see the wide array of lifestyles, customs and language of American Indians come alive as they walk through the various displays. The Center will include a 300-seat theater, a museum store, a 40,000 square-foot amphitheater, a festival market place, and artist and dance exhibits. As an affiliate of the Smithsonian Institution, it will share and showcase artifacts from one of the world's most renowned museums. An internationally acclaimed team of architects, planners, engineers, and technical consultants, who have participated in projects from the National Holocaust Museum to films such as Jurassic Park, have come together to create a complex that features the distinct characteristics of all of Oklahoma's tribes.

By bringing economic development and cultural diversity to Oklahoma, the Native American Cultural Center and Museum will not only benefit the people of Oklahoma, but the nation as a whole. This important project will serve as a reminder of the rich heritage of the first Americans as well as a symbol of hope and progress for the future.

Mr. NICKLES. Madam President, today I am pleased to introduce legislation with Senator INHOFE that will bring a long-overdue Native American Cultural Center to Oklahoma.

For many years there has been a desire among Oklahomans to develop a facility to chronicle the history of the 39 tribes that currently reside in Oklahoma. Oklahoma is fortunate to have the second largest Native American population in the country.

Senator INHOFE and I are introducing legislation today that will do just that. The Cultural Center will celebrate the influential role that Native Americans played in our country's history. The Center will also provide a common ground to meet and discuss the issues and concerns that continue to plague our Indian communities. The Cultural Center is a partnership with the Oklahoma Historical Society to become a member of the Smithsonian Affiliations Program.

It is important to note that the Center will assist in communicating the history and culture of all Native Americans, not just Oklahomans.

This project is strongly supported in Oklahoma. In fact, two-thirds of the funds for the Center will come from the State of Oklahoma and private donations, a maximum of one-third coming from the Federal Government.

I look forward to the opening of a state-of-the-art Native American Cultural Center and Museum in Oklahoma.

I want to thank Senator INHOFE for his hard work and I ask the support of my colleagues for this important project.

By Mr. KERRY:

S. 1323. A bill entitled the ''SBIR and STTR Foreign Patent Protection Act of 2001''; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Madam President, today I am introducing a bill to establish a five-year pilot program at the Small Business Administration to help protect the intellectual property of companies that are trying to export promising technology they have developed through the Small Business Administration's Small Business Innovation Research, SBIR, and Small Business Technology Transfer, STTR, programs. This week is a particularly appropriate time to introduce this legislation because 211 years ago, in 1790, the very first U.S. patent was issued. It was issued to Mr. Samuel Hopkins of Pennsylvania and signed by President George Washington himself.

A lot has changed in the past two centuries, but the need to protect intellectual property remains as important as ever. Our forefathers had the wisdom to guarantee ''inventors the exclusive right to their respective . . . discoveries'' in the United States. Today, the need for foreign patent protection is equally critical for international sales.

These small businesses need help because protecting the intellectual property of the technology they export requires them to file for foreign patents, and the costs associated with filing such patents are often prohibitively expensive. We know this because it has been documented through outside research and testimony before the Senate Committee on Small Business and Entrepreneurship. For example, Mr. Clifford Hoyt, who is vice president and chief technology officer of Cambridge Research and Instrumentation, testified on June 21st, as part of the Committee's hearing on reauthorization of the STTR program, that ''patent protection in Europe is $20,000.'' Information from the American Intellectual Property Law Association's, AIPLA, spring meeting shows that the costs of foreign patents range from $7,200 in Canada to $27,200 in Japan. Those costs include fees for filing, examination, translation and attorneys.

Interestingly enough, foreign patent protection costs are not just an obstacle for small businesses; they also affect our universities. Let me quote Dr. Anthony Pirri, who is director of technology transfer for Northeastern University in Boston and also testified at the STTR hearing: ''For universities

like Northeastern with limited resources, the patent expense burden is large. It is especially large because many of our technologies have international significance and require us to patent, do foreign filings. Therefore, anything you can do to help in that world would be very desirable.''

This problem was first identified in 1996 through a research study financed by the SBA's Office of Advocacy entitled ''Foreign Patenting Behavior in Small and Large Firms.'' That study found that ''technology-based small businesses were filing fewer patents overseas than large businesses for similar innovative products primarily due to a lack of funds to obtain foreign patents.''

Foreign patent protection is important to eventual commercialization. However, if technologies of small businesses aren't protected, large foreign-owned firms can replicate the product and benefit directly from a U.S. Federally funded research effort.

I am obviously concerned about this. To help small innovative companies overcome such barriers, and to maximize our investment in the SBIR and STTR technologies, the Small Business Administration, SBA, should be authorized to provide grants to underwrite the costs of initial foreign patent applications filed by SBIR and STTR companies. Ultimately, the goal is for the grant fund to be self-sustaining, generating revenue from a percentage of the relevant technology's export sales and/or licensing fees.

Here's how the grants would work: The SBA would be authorized to award grants of up to $25,000 to companies seeking foreign patent protection for their technology or product developed under the SBIR and STTR programs. Each company would be limited to one grant and, in order to be eligible for the grant, it must have already filed for patent protection in the United States. Both of these provisions are designed to ensure, to the extent possible, that companies apply for their most promising technology and therefore return money to the grant fund. By giving the companies only one shot at a grant to protect and make money from their SBIR or STTR technologies, it forces them to select the one most likely to succeed and have sales. At the same time, requiring companies to have already filed for patent protection in the United States prior to seeking a foreign patent grant is a gauge of the company's confidence in the commercial potential of its technology. It also demonstrates the company's commitment to protecting that technology.

The bill establishes the program at $2.5 million in the first year and increases that amount gradually over four years to $10 million annually.

In FY2003, the bill authorizes $2.5 million, in order to fund 100 grants of $25,000.

In FY2004, the bill authorizes $5 million, in order to fund 200 grants of $25,000.

In FY2005, the bill authorizes $7.5 million, in order to fund 300 grants of $25,000.

In FY2006 and FY2007, the bill authorizes $10 million a year, in order to fund 400 grants of $25,000.

As I said earlier, ultimately the goal is for this to be a self-sustaining grant fund. To realize that money, in return for the grants, each recipient would be obligated to pay between three percent and five percent of its related export sales or licensing fees to the fund, to be known as the ''SBIR and STTR Foreign Patent Protection Grant Fund.'' To maintain a reasonable incentive for the small businesses, the total amount would be capped at four times the amount of the grant, which for a $25,000 grant would be $100,000.

I have talked about many of the needs and merits of this legislation, but in closing I would like to add that increased, successful exports by our innovative small businesses could mean a lot to the U.S. economy overall. We have seen the balance of trade deficits rise steadily for many years. According to the U.S. Census Bureau's Foreign Trade Division, in last year alone our country's trade balance deficit was $436 billion. The first four months of 2001 are slightly worse. We should be doing everything that we can to improve upon our exports, and small businesses can play an important role in that arena.

I hope that my colleagues will join me in sponsoring this bill. This pilot, if enacted and implemented properly, has the potential to greatly benefit small businesses, protect their innovations and promote their exports.

I thank the President and ask 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. 1323

SECTION 1. SHORT TITLE.

This Act may be cited as the ''SBIR and STTR Foreign Patent Protection Act of 2001''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) small business concerns represent approximately 96 percent of all exporters of goods;

(2) there has been dynamic growth in the number of small business concerns exporting goods, and the dollar value of their exports;

(3) despite such growth, small business concerns encounter problems in obtaining financing for exports;

(4) growth in United States exports will depend primarily on technology innovation, making the protection of intellectual property in the global market of special national interest;

(5) the costs of filing for initial patent protection in foreign markets can be prohibitive for small business concerns involved in the Small Business Innovation Research Program (referred to in this section as ''SBIR'') and the Small Business Technology Transfer Program (referred to in this section as ''STTR''), representing an insurmountable barrier to obtaining the protection needed to pursue the international markets;

(6) to overcome such barriers and to maximize the Federal investment in the SBIR and STTR programs, the Small Business Administration should be authorized to provide grants to be used to underwrite the costs of initial foreign patent applications by SBIR and STTR awardees; and

(7) a program established to provide such grants should, over time, become self funding.

SEC. 3. ESTABLISHMENT OF GRANT PILOT PROGRAM.

Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

''(w) FOREIGN PATENT PROTECTION GRANT PILOT PROGRAM.—

''(1) GRANTS AUTHORIZED.—The Administrator shall make grants from the Fund established under paragraph (6) for the purpose of assisting SBIR and STTR awardees in seeking foreign patent protection in accordance with this subsection.

''(2) NUMBER OF GRANTS.—The Administrator shall make grants under this subsection to not more than—

''(A) a total of 100 SBIR and STTR awardees in fiscal year 2003;

''(B) a total of 200 SBIR and STTR awardees in fiscal year 2004;

''(C) a total of 300 SBIR and STTR awardees in fiscal year 2005; and

''(D) a total of 400 SBIR and STTR awardees in each of fiscal years 2006 and 2007.

''(3) GRANT PURPOSES.—Grants made under this subsection shall be used by awardees to underwrite costs associated with initial foreign patent applications for technologies or products developed under the SBIR or STTR program, and for which an application for United States patent protection has already been filed.

''(4) CONSIDERATIONS.—In awarding grants under this subsection, the Administrator shall consider—

''(A) the size and financial need of the applicant;

''(B) the potential foreign market for the technology;

''(C) the time frames for filing foreign patent applications; and

''(D) such other factors as the Administrator deems relevant.

''(5) GRANT AMOUNTS.—The amount of a grant made to any SBIR or STTR awardee under this subsection may not exceed $25,000, and no awardee may receive more than 1 grant under this subsection.

''(6) ESTABLISHMENT OF REVOLVING FUND.—There is established in the Treasury of the United States a revolving fund, which shall be—

''(A) known as the 'SBIR and STTR Foreign Patent Protection Grant Fund' (referred to in this subsection as the 'Fund');

''(B) administered by the Office of Technology of the Administration; and

''(C) used solely to fund grants under this subsection and to pay the costs to the Administration of administering those grants.

''(7) ROYALTY FEES.—

''(A) IN GENERAL.—Each recipient of a grant under this subsection shall pay a fee to the Administration, to be deposited into the Fund, based on the export sales receipts or licensing fees, if any, from the product or technology that is the subject of the foreign patent petition.

''(B) ANNUAL INSTALLMENTS BASED ON RECEIPTS.—The fee required under subparagraph (A)—

''(i) shall be paid to the Administration in annual installments, based on the export sales receipts or licensing fees described in subparagraph (A) that are collected by the grant recipient in that calendar year;

''(ii) shall not be required to be paid in any calendar year in which no export sales receipts or licensing fees described in subparagraph (A) are collected by the grant recipient; and

''(iii) shall not exceed, in total, the lesser of—

''(I) an amount between 3 percent and 5 percent, as determined by the Administrator, of the total export sales receipts and licensing fees referred to in subparagraph (A); or

''(II) 4 times the amount of the grant received.

''(8) ADMINISTRATIVE PROVISIONS.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall—

''(A) issue such regulations as are necessary to carry out this subsection; and

''(B) establish appropriate application and other administrative procedures, as the Administrator deems necessary.

''(9) REPORT.—The Administrator shall, on January 31, 2006, submit a report to the Congress on the grants authorized by this subsection, which report shall include—

''(A) the number of grant recipients under this subsection since the date of enactment of this subsection;

''(B) the number of such grant recipients that have made foreign sales (or granted licenses to make foreign sales) of technologies or products developed under the SBIR or STTR program;

''(C) the total amount of fees paid into the Fund by recipients of grants under this subsection in accordance with paragraph (7);

''(D) recommendations for any adjustment in the percentages specified in paragraph (7)(B)(iii)(I) or the amount specified in paragraph (7)(B)(iii)(II) necessary to reduce to zero the cost to the Administration of making grants under this subsection; and

''(E) any recommendations of the Administrator regarding whether authorization for grants under this subsection should be extended, and any necessary legislation related to such an extension.

''(10) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund, to remain available until expended—

''(A) $2,500,000 for fiscal years 2003;

''(B) $5,000,000 for fiscal year 2004;

''(C) $7,500,000 for fiscal year 2005; and

''(D) $10,000,000 for each of fiscal years 2006 and 2007.''.

By Mr. LIEBERMAN:

S. 1324. A bill to provide relief from the alternative minimum tax with respect to incentive stock options exercised during 2000; to the Committee on Finance.

Mr. LIEBERMAN. Madam President, today I am introducing a second proposal with regard to the perverse impact of the Alternative Minimum Tax, AMT, on Incentive Stock Options, ISOs. I previously introduced a bill, S. 1142, addressing this issue going forward and today I am introducing a bill to provide relief to the victims of this perverse tax who filed returns and paid taxes this past April. As I will explain, they were hit by the tax equivalent of the perfect storm.

The argument for reform of the AMT as applied to ISOs is overwhelming. An employee who receives ISOs is taxed on the phantom paper gains the tax code deems to exist when he or she exercises an option, and is required to pay the AMT tax on these ''gains'' even if the ''gains'' do not, in fact, exist. This means the taxpayer may have no gains, no profits or assets, with which to pay the AMT and might even have to borrow funds to pay the tax, go into default on his or her AMT liability, or even declare bankruptcy.

This Kafkaesque situation is unfair. It is not fair to impose tax on ''income'' or ''gains'' unless the income or gains exist. With the AMT tax on ISOs, it is not relevant if the ''gains'' exist in a financial sense. That they exist on paper is sufficient to trigger the tax.

In terms of providing relief to taxpayers hit with the AMT on ISOs in their filing for 2000 taxes, let me make a series of points.

First, there have been victims of the AMT/ISO tax going back before 2000. But, there were an unprecedented number of victims this last year due to a convergence of events.

Over the last decade, more and more companies have adopted broad-based stock option plans where all or almost all employees are granted ISOs, rather than only senior management.

In addition, the internet and telecommunications boom spawned an unprecedented number of start-up companies over the last few years.

These start-ups overwhelmingly favor the use of ISOs as a means of attracting and motivating employees, and many of these companies grant options to most, if not all of their employees.

Then, as we all know, the stock market, especially the technology-driven NASDAQ, posted record highs in the spring of 2000, and then collapsed over the next 12 months, astounding even seasoned professionals. Many of the high-flying technology companies saw their stock value drop 80 percent to 90 percent during this period.

As a result, the relatively unknown AMT caught many employees by surprise. Other employees were aware of the AMT but thought they could claim a full credit for the AMT once they sold the stock acquired by exercise of ISOs. Some were unable to sell before year-end, in order to eliminate the AMT hit, by trading restrictions. Others were naive in thinking that the value of the shares they held would rebound in 2001, in time to sell the stock and pay their AMT liability for 2000.

In short, in tax year 2000 we saw the tax equivalent of the perfect storm.

Second, the imposition of AMT on individuals discourages the very behavior that Congress wanted to encourage with the creation of ISOs. In 1984, the Senate Finance Committee noted the goal of ISOs to ''encourage employee ownership of the stock on an employer's business'' by allowing for ''the deferral of tax until an employee disposes of the stock received through the exercise of an employee stock option''. To encourage individuals to hold shares with the promise of capital gains tax rates is the goal, but it is a goal that is defeated when the AMT is imposed at the time they exercise an option even if the ''gains'' are never realized. The taxpayers who held their shares and realized gain are the ones who deserve relief. They fell into a trap which the tax code created through its perverse and confusing structure.

Third, the trap was one that many of these employees did not understand. They rightly assumed that the AMT was directed at taxing the wealthy and could not possibly affect them. This is a case where the complexity of the tax and the contradictory incentives it provides for ISOs lured the victims into the trap.

Fourth, we are likely to see a major debate on AMT reform, but this is a broader debate about the fundamentals of the tax code, not a tax trap like we have with ISOs. An increasing number of taxpayers find themselves paying the AMT because they have large state tax deductions or large numbers of personal exemptions. The AMT is likely to snare 1.5 million taxpayers this year and nearly 36 million by 2010. The AMT they may pay may be infuriating, but it would normally not substantially increase their overall tax liability. The AMT paid because of ISOs can be hundreds of thousands or even millions of dollars and can be devastating. It can cause a tax liability that is many times the taxpayer's total income. This is a problem that needs to be addressed not, now when we finally take up broad-based AMT reform.

Let me be clear about the cost and budget implications of my bill. The Joint Tax Committee on Taxation has found that my proposal would reduce government tax revenues by $1.3 billion over ten years. This is substantially less expensive than the cost of my earlier bill, which was estimated to cost $12.412 billion over ten years. I will not propose to enact my bill unless this sum is financed and will have no impact on the Federal budget.

The budget situation we face will not make it easy to enact these reforms. The massive tax cut of $1.3 trillion was financed from the surpluses. We are now finding that it was, as I and others feared, way too large and leaves us no room to take up additional tax measures. In fact, just last week we saw reports of a memo leaked where Republicans predicting that the Congressional Budget Office deficit/budget updates in August would find that we have zero available surplus beyond the Social Security and Medicare trust funds in fiscal year 2002 and that Congress may have to dip into those trust funds by nearly $41 billion in fiscal year 2003. If this is true, it would leave no additional non-trust fund surplus dollars available for other uses, such as growth tax incentives, fixing the ISO/AMT problem, education, energy or defense, in fiscal year 2002. The fiscal year 2002 budget resolution bars Congress from spending any money in either the Social Security or Medicare Part A trust funds for any purpose other than Medicare or Social Security.

I recount this here because it means that we must find a revenue or spending offset to finance our ISO/AMT proposal, or any other growth tax incentive. We cannot use the surplus. This raises a substantial barrier to enactment of this proposal and it is a barrier that we could have easily avoided had we enacted a tax cut we could afford.

I am pleased that today Rep. RICHARD NEAL, TOM DAVIS, ZOE LOFGREN, and JERRY WELLER are introducing the same bill in the other body. Earlier, Representative LOFGREN introduced H.R. 1487, a bipartisan bill that has given a great deal of visibility to this issue. I look forward to working with my distinguished House colleagues to remedy this inequity in the tax code, both for victims in 2000 and going forward.

Finally, let me note that I have proposed in S. 1134 to provide a special capital gains tax rate, in fact to set a zero tax rate, for stock purchased by employees in stock option plans, by investors in Initial Public Offerings, and similar purchases of company treasury stock. This zero rate would be effective, however, only if the shares are held for at least three years, so the AMT gamble with ISOs would be even more dramatic. During the first year of that holding period, the AMT would have to be paid and during the remaining period the value of the stock could well dive from the exercise price creating an even more invidious trap.

We need to fix the ISO/AMT problem so that capital gains incentives for entrepreneurs will work as intended and provide the boost to economic growth.

We need also to focus on the victims of the 2000 perfect storm.

I ask that two documents be printed at this point in the RECORD, an explanation of my bill and a comparison of incentive and nonstatutory stock options. Both have been prepared by professionals with accounting firms.

INCENTIVE STOCK OPTIONS AND THE ALTERNATIVE MINIMUM TAX—AN EXPLANATION OF THE LIEBERMAN-NEAL-DAVIS-LOFGREN-WELLER PROPOSAL

Issue: The difference between the exercise price and the fair market value at the time of exercise, the ''spread'', of stock obtained with an incentive stock option, ''ISO'', is a tax preference for purposes of the individual alternative minimum tax, ''AMT''. If the ISO preference causes a taxpayer to pay the AMT for the year of exercise, there may be a tax credit carryforward that is available to offset regular tax in a future year. However, if the stock declines significantly in value between the date of exercise and the date of its sale, there may not be sufficient regular income in any future year to utilize the AMT credit. As a result, a taxpayer may pay significant permanent AMT for what was intended to be only a ''timing'' preference. This problem is particularly acute for individuals who exercised incentive stock options in 2000, prior to the significant decline in the stock values of many companies.

Example: In January, 2000, a sales manager for Silicon Valley Company exercises options for 15,000 shares of stock with an exercise price of $5 per share, the fair market of the stock when the options were granted in 1997. At the date of exercise, the stock is trading at $125 per share. The spread gives rise to an AMT tax preference of $1.8 million and generates a net AMT liability for 2000 of approximately $500,000.00, over and above the manager's tax liability on her $60,000 annual salary. Since ISO stock retained for at least a year from the date of exercise is eligible for capital gains treatment, manager does not immediately sell her ISO shares. In April 2001, the company and the stock market have setbacks and the stock again trades at $5 per share.

Under current law, the amount of AMT credit that the manager can use annually is limited to approximately $5,000, her expected regular tax over her AMT tax. As a result, it would take roughly 100 years for the AMT credits to be fully utilized.

Lieberman/Neal/Davis/Lofgren/Weller Proposal: Limits the amount of the AMT preference resulting from the exercise of an incentive stock option in 2000 to an amount based on the fair market value of the stock as of April 15, 2001, or, if such stock is sold or exchanged on or before that date, to the amount realized on such sale or exchange.

Example: Under the same facts as above, a sales manager who acquired stock through the exercise of an incentive stock option would use the $5 per share April 15, 2001 fair market value of the stock to calculate the AMT preference amount. If the manager has already filed her 2000 tax return, she would file an amended return for the 2000 tax year to reflect the revised AMT preference amount of $0.00, the revised April 15, 2001 fair market value of $5.00 per share equals the original $5.00 per share exercise price.

COMPARISON OF INCENTIVE AND NONSTATUTORY STOCK OPTIONS

The following is a broad overview of the basic tax concepts that apply to U.S. taxpayers who receive stock options granted by U.S. companies, for services rendered. It does not address the tax consequences for non-U.S. taxpayers or the company issuing the options. This outline assumes that the stock received upon exercise is not restricted within the meaning of IRC section 83. If there are restrictions on the stock received upon exercise, the tax consequences will differ significantly from that described in this outline.

TERMS

Grant Date—This is the date the stock options are granted to you by the company. This date generally is reset if the terms of the stock option are changed; e.g. exercise price is lowered.

Exercise Price—This is the price you have to pay to purchase a share of stock under the terms of the option agreement.

Vesting Date—This is the date that you earn the right to exercise your options. For example, your shares may vest over four years, starting after one year. In this case, on each anniversary of the grant date you earn the right to exercise one fourth of your options.

Exercise Date—This is the day you exercise your stock options by paying the exercise price to purchase the shares in which you are vested.

Fair Market Value—This is the true value of the stock at any given date, usually determined by the price at which the stock is trading for on an established exchange. For a private company, the fair market value should be determined by an independent third party appraisal. If the company does not have an outside appraisal performed, the Board should establish the value using appropriate methods and current information.

Spread on Exercise Date—This is the difference between the exercise price (what you pay for the stock) and the fair market value (what the stock is worth) at the time you exercise your stock options. This is often referred to as the bargain element.

Sale Date—This is the day you sell the shares of stock you had previously purchased on the exercise date.

Spread on Sale Date—This is the difference between the exercise price (what you paid for the stock) and the fair market value (what the stock is worth) on the day you sell your shares.

Incentive Stock Options (ISOs)—These are stock options that qualify for special tax treatment by meeting a number of special rules, the details of which are not included in this memo. One of the key requirements is that the exercise price is at least equal to the fair market value at the date of grant. ISOs are contrasted with Nonstatutory Stock Options in the following table.

Nonstatutory Stock Options (NSOs; also referred to as NQOs, as in nonqualified)—These are stock options that do not meet all the rules for ISOs. They are less tax favored, but generally more flexible.

COMPARISON OF TAX CONSEQUENCES—INCENTIVE STOCK OPTION VS. NONSTATUTORY STOCK OPTIONS

Event	Incentive stock options	Nonstatutory stock options
Grant Date: For example, you are granted the right to purchase 1,000 shares at $1.50 per share vesting over 4 years.	The grant of an incentive stock option is not a taxable event	The grant of a nonstatutory stock option is almost always not a taxable event. For this comparison, we'll assume it is not a taxable event.
Vesting Date: For example, after one year you have the right to purchase 250 shares.	Vesting is not a taxable event	Vesting is not a taxable event.
Exercise Date: For example, you pay $1,500 and purchase all 1,000 shares when they are worth $13.50 each, i.e. $13,500 for a spread of $12,000. (This discussion assumes the shares received upon exercise are not restricted under tax law).	ISOs: The exercise of ISOs is not a taxable event for regular tax. However, the spread or bargain element is a tax preference item for the alternative minimum tax (AMT), unless you exercise and sell your ISO stock within the same year, in which case AMT does not apply.	NSOs: The spread at exercise ($12 per share) is compensation income, reportable on your W–2 and subject to income and payroll tax withholding. You get tax basis in the stock equal to the Fair Market Value on the exercise date, i.e. $13.50 per share. AMT does not apply to NSOs.
Sale Date: For example, you hold the shares for a while and then sell them for $15.00 each; i.e. you sell the stock for $15,000 that had cost $1,500, for a gain of $13,500.	If you meet the holding rules below, the entire spread ($13,500) on the date of sale is taxed as a capital gain. Regardless of how long you hold the stock, you get a credit for any alternative minimum tax you may have paid upon exercise, but you may not be able to use it all in any given year.	The difference between the sale price, i.e. $15.00 and tax basis of $13.50 is a capital gain. (You already paid tax on the $12 per share spread at exercise.) For sales after 12/31/97, you must hold the shares for more than one year to get long term capital gain treatment. You could also have loss, if so, it would be a capital loss.
Special ISO Holding Rule	You must hold your ISO shares for more than one year from the date of exercise and two years from the grant date before you sell them; in order to have the entire spread taxed as a capital gain. Meeting these holding periods converts the spread (i.e. the bargain element on the date of exercise) from ordinary income to long term capital gains, taxed at a lower rate.	An earlier sale turns the tax treatment of an ISO into that of an NSO. The spread on exercise date (or the spread on sale, if less) is taxed as compensation, reportable on your W–2, but only in the year of sale. If the sale occurs in a year after the year of exercise, you still are subject to alternative minimum tax in the year of exercise (based on the spread at exercise).

By Mr. MURKOWSKI:

S. 1325. A bill to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MURKOWSKI. Madam President, I rise today to introduce legislation which will facilitate and promote the successful commercial reuse of the former Naval Air Facility on Adak Island, AK . At the same time, this legislation will allow the Aleut people of Alaska to reclaim the island and to make use of its modern infrastructure and important location.

The legislation I introduce today is very similar to a bill I introduced nearly four years ago in the 105th Congress. It ratifies an agreement between the Aleut Corporation, an Alaska Native Regional Corporation, the Department of the Interior and the Department of the Navy. In 1997, The Aleut Corporation, the U.S. Navy and the Interior Department were still in the process of negotiating and structuring the Agreement to provide for the fair and responsible transfer of the former military facility. I am pleased to tell you that ''The Agreement Concerning the Conveyance of Property at the Adak Naval Complex, Adak AK'' was signed last September. Thus, the time is now appropriate for Congress to consider the Agreement and ratify its provisions to allow for final transfer.

The bill and the Agreement also further the conservation of important wildlife habitat within the Aleutian Islands region of Alaska. A portion of Adak is within the Aleutian Islands subunit of the Alaska Maritime National Wildlife Refuge. The Agreement facilitates the Department of the Inferior's continued management and protection of the Refuge lands on Adak and even adds some of the Navy lands to the Refuge. More importantly, in exchange for the developed Navy lands, which are not suitable for the Refuge but are commercially useful, the Aleut Corporation will convey environmentally sensitive lands it holds elsewhere in the Refuge to the Department of the Interior. Thus, not only are the former military lands put to productive use, but the Refuge gains valuable new habitat.

For many years the Navy has played an important role in Alaska's Aleutian Chain. Its presence was first established during World War II with the selection and development of the island because of Adak's ability to support a major airfield and its natural and protected deep water port. The Navy's presence contributed greatly to the defense of our Pacific coast during World War II and throughout the Cold War. Through the Navy's presence, Adak became the largest development in the Aleutians as well as Alaska's sixth largest community. With the end of the Cold War our defense needs changed, however, and Adak was selected for closure during the last base closure round.

Those very same features that made Adak strategically important for defense purposes also make it important for commercial purposes. Adak is a natural stepping stone to Asia and is at the crossroads of air and sea trade between North America, Europe and Asia. With the ability to use Adak commercially, the Aleut people, through The Aleut Corporation, can establish it as an important intercontinental location with sufficient enterprise to provide year round jobs for the Aleut people. These goals are consistent with the promises and the Alaska Native Claims Settlement Act, the legislation that created the corporation.

This rebirth of Adak is already well underway. The local Aleut residents assumed responsibility for the operation of the Island from the Navy last October and there are a number of new commercial enterprises and endeavors. At the same time a new community has begun to take shape. Just last month the new City of Adak was established as a result of a public referendum and it is now in the process of taking over responsibility for the docks, utilities, roads and other public facilities.

The Agreement resolves a number of important issues related to the transfer of this former military base and the establishment of the new community on Adak, including responsibility for environmental remediation, institutional controls, indemnification, required public access and reservation of lands for government use. The environmental remediation work of the Navy is still ongoing and will continue to an extent for several more years. However, all the interested parties agree that a final transfer can occur within the next twelve months. Hence the need for this legislation.

This bill furthers our Nation's objective of conversion of closed defense facilities into successful commercial reuse, it benefits the Aleut people and restores them to their ancestral lands and it benefits the National Wildlife Refuge System. I believe everyone will agree that such legislation is important and worthy of our support.

By Mr. LUGAR:

S. 1326. a bill to extend and improve working lands and other conservation programs administered by the Secretary of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LUGAR. Madam President, I rise today to introduce the Working Lands Conservation Act. The bill is intended to achieve two major goals: first, to assist our farmers and ranchers in meeting short-term environmental challenges, such as water and air quality concerns and the regulation of animal feeding operations; and, secondly, to enhance the long-term quality of our environment and sustainability of our natural resources.

As some of my colleagues may recall, the Senate Agriculture Committee has a long history of bipartisan cooperation on conservation. From the Conservation Reserve, to the Wetlands Reserve, to the Environmental Quality Incentives Program, we have conscientiously sought to do what is best for our Nation's environment. We have laid aside partisan differences when it has come to conservation and our natural resources are better because of our joint efforts.

In that spirit, my bill joins those of several of my colleagues and represents a foundation for our work on the conservation title of the farm bill. Senator HARKIN has introduced the Conservation Security Act—an innovative idea that would reward good conservation farmers for their environmental efforts and thus foster conservation and environmental improvements.

Senators CRAIG, FEINSTEIN, and THOMAS have introduced a Grasslands Reserve Act that would protect and restore one million acres of our fragile grasslands while allowing the owners to maintain economic use of the land. Senators HUTCHINSON and LINCOLN have a bill that reauthorizes and expands the Wetlands Reserve Program.

Senator CRAPO has introduced a bill, of which I am a cosponsor, that covers many of the items in the conservation title of the current farm bill. I know he has put much thought into his bill and I look forward to working with him and my other colleagues as we fashion the conservation title of the new farm bill.

While there are many valid approaches on how we should foster improvements in our environment, this bill invests in our working lands—the land we use to grow our food, our fiber; the land we depend upon for sustenance. This working land cropland, pasture, rengeland, and private forests, makes up some 70 percent of the land areas of the contiguous 48 States. How this land is managed has profound effects on our economy and environment. The farm bill we are cross developing is one of the most important pieces of environmental and natural resource legislation this Congress will address. It is essential that the conservation title be a major component of the legislation we develop together.

Since 1985, the last time Congress made a major investment in conservation as part of a farm bill, we have spent most of our conservation dollars through programs that set aside productive cropland as a primary means of achieving our environmental goals. These efforts are certainly worthwhile and I support continuing them. Indeed the preeminent land-idling program we have, the Conservation Reserve, was introduced on my farm in Indiana and I continue to support it.

But we cannot land-idle our way to environment performance. The folly of this, solely from a resource conservation standpoint—is evident from the situation we now see after fifteen years

of extensive land idling through the Conservation Reserve. After having set aside up to 36.4 million acres at one point, State water quality reports today will name nonpoint source pollution as the Nation's biggest water quality challenge and agriculture as the biggest culprit, primarily due to sediment, nutrient loadings, and pathogens. While the Conservation Reserve has many benefits, particularly wildlife habitat in the Great Plains, it is obvious that large-scale land-idling schemes will not solve all of the problems associated with water and air quality. Yet these are the environmental challenges that confront most farmers today, and the ones most likely to result in costly new regulation for our farmers and ranchers. How we deal with these environmental challenges will affect the commercial viability of farming and ranching over the next decade.

A quick review of how we are spending our voluntary conservation dollars will show just how much ground we have to make up. In 1985, 97 cents of every financial assistance dollar from the U.S. Department of Agriculture went to working lands; three cents went to land retirement. Today, the situation is nearly reversed with some 85 cents going toward land retirement, primarily through the Conservation Reserve, and only 15 cents going toward working lands. This over-reliance on removing land from production comes at the expense of caring for working lands, and, given the contemporary environmental issues facing landowners, this imbalance must be addressed during our reauthorization of the farm bill.

For our working lands to continue to be productive, and to ensure that agriculture can tend to its environmental concerns, I believe that the overarching goal of the new conservation title should be to emphasize conservation on working agricultural lands. Much as President Theodore Roosevelt championed public land conservation early in the last century, today we must champion the care of our working lands.

Bringing conservation programs up to levels needed to address priority issues will require new funding. If you exclude the short-term emergency funding, the budget resolution provides an additional $66.15 billion for agriculture above the baseline. I believe that a significant portion of this new spending should be devoted to conservation. My bill increases mandatory conservation spending by approximately $2 billion per year. This amount would effectively double our investment in voluntary, incentive-based conservation programs. And, because of the funding provided by the budget resolution, we can enhance our working lands programs without cutting or diminishing our existing land retirement programs.

To focus on working lands, our first order of business is to strengthen the Environmental Quality Incentives Program. EQIP, as it is called, offers financial, technical and educational assistance to farmers and ranchers and is generally seen as the workhorse conservation program for working lands. Congress created EQIP in 1996 by merging four other conservation programs and provided $200 million a year in mandatory spending. Today, requests for EQIP assistance far outstrip available funds and analyses show there is a demonstrated need for an additional $1.2 billion per year to address the anticipated needs of the livestock industry alone. My bill established national priorities for EQIP, makes several needed reforms to the program such as shortening the length of the contract and removing discriminatory size restrictions, and provides $1.5 billion a year to be phased-in over a three year period.

In addition, my bill provides more flexibility and financial incentives within EQIP to create partnerships at the state and local level, partnerships that are essential to meeting the environmental challenges agriculture faces. My bill establishes a grants section within EQIP to leverage federal funds with funding from non-federal entities and encourages states to develop plans that bring together multiple Federal, State, and local programs to create coordinated conservation initiatives to address critical environmental challenges. There is already good experience on this score through the Conservation Reserve Enhancement Program and the continuous signup program for buffer practices.

My bill expands this concept by making private and other non-federal entities eligible for a special $100 million matching grant program within EQIP. The grant program would create cooperative federal/non-federal ventures that would spur conservation on private lands through market-based initiatives. Under my proposal, non-federal entities would bid to have their projects approved and then combine their funds with federal money to stimulate more use of market-based solutions in areas such as water quality or carbon credit trading. For example, drinking water suppliers facing the necessity, and cost, of building new treatment facilities might find it less expensive to pay upstream farmers and ranchers to voluntarily make reductions in pollutant discharges, thereby obviating the need for new treatment facilities. Taken together, these provisions will spark creative and innovative approaches to conservation that work better for farmers, ranchers, communities, and the environment.

Reforming, adequately funding, and focusing the Environmental Quality Incentives Program on national environmental issues will dramatically accelerate the amount of conservation on our landscape. But it will also require that we resolve one of the key problems we face today—the lack of qualified technical assistance to help our farmers and ranchers plan, design, install, and maintain conservation practices. Insufficient annual appropriations for USDA's Natural Resources Conservation Service over the past decade have caused a steady decline in real terms in the number of field staff available to give landowners technical advice. At the same time, demand for technical assistance has ballooned as producers grapple with conservation challenges.

My bill ensures that technical assistance will be available to implement conservation by reforming the so-called section 11 Cap in the Commodity Credit Corporation Charter Act. The Commodity Credit Corporation is allowed to reimburse agencies for work they do for the various programs under the Corporation, but the section 11 cap limits total reimbursements to no more than $36.2 million annually. The cap was put on by Congress to control computer purchases by the Department of Agriculture, but is has also had the unintended side effect of limiting technical assistance reimbursement for conservation programs. To resolve the problem, my bill exempts conservation technical assistance reimbursements from the cap.

Reforming the section 11 Cap will help solve part of the problem, but my bill also looks to the private and nonprofit sector to help fill the technical assistance gap. Crop advisors, farm managers, private agronomists and engineers, conservation district professionals, and other qualified individuals could help fill the technical assistance gap for many landowners who are willing to pay for their services. My bill creates a fee-based certification program within USDA to increase the number of technical assistance providers and provides for the use of incentive payments to help farmers and ranchers pay for qualified technical assistance for nutrient management plans. In all cases, work done by third parties would have to meet the technical standards of the Natural Resources Conservation Service.

Maintaining the confidentiality of producer information contained in USDA files is vital to voluntary private lands conservation. Farmers and ranchers must be confident that their private business information will not be compromised if they participate in a conservation program. Farmers and ranchers are increasingly concerned about this issue as both government agencies and non-governmental entities have attempted to secure USDA data for regulatory purposes. In order to maintain the trust that exists between producers and USDA, my bill includes provisions to protect the confidentiality of the information farmers and ranchers disclose when developing and implementing conservation plans without affecting current Freedom of Information Act procedures.

Strengthening EQIP and our technical assistance capabilities are the two most important priorities my bill

addresses. But there are other programs that add important features to a comprehensive conservation program that my bill reauthorizes and funds.

My bill reauthorizes and increase funding for the Wildlife Habitat Incentives program. Created in the 1996 farm bill, this program provides technical and financial assistance to landowners that agree to develop wildlife habitat. The program was originally funded at $50 million over the seven year life of the 1996 farm bill. My bill increases the funding level to $50 million per year, devoting an aggregate of one-half billion dollars to wildlife habitat over the life of the bill.

Similarly, my bill reauthorizes, amends, and increase funding for the Farmland Protection Program. This voluntary program, also created in the 1996 farm bill, assist state and local programs purchase development rights on farms and helps farmers on the urban-rural interface stay in farming. The program has been lauded for its assistance to communities wishing to preserve agriculture, open space, wildlife habitat and other environmental benefits. My bill expands participation in the program to non-profit organizations, allows grassland easements, and increases funding to $65 million per year.

My bill preserves the Conservation Reserve Program at its current level of 36.4 million acres. This leaves room for enrolling more than 2 million acres of additional land right now, as well as the acres that become available as existing contracts expire. The bill amends the program to create an incentive to increase the amount of hardwood trees entering the program and statutorily reserves 4 million acres for the continuous signup and for the Conservation Reserve Enhancement Program. Both the continuous signup and the Conservation Reserve Enhancement Program target high priority environmental concerns such as water quality.

My bill also makes a major new commitment to wetland restoration through the Wetlands Reserve Program by reauthorizing the program and adding 2.5 million acres to the enrollment authorization, more than doubling the rate of wetland restoration we have achieved since 1990. Of the new acreage, the bill targets 50,000 acres of wetland restoration a year to cooperative agreements with States for high priority environmental needs such as hypoxia, eutrophication, wildlife habitat, flooding, and groundwater recharge.

In the area of reform, within existing USDA conservation programs there are numerous overlaps and redundancies. My bill requires the Secretary of Agriculture to aggressively look at the entire range of USDA conservation programs to identify program overlaps, explore potential consolidations, develop ways to simplify and streamline program administration, and then report her recommendations to Congress.

As we continue the process of reauthorizing the farm bill, several fundamental choices lie before us and will require us to make decisions that will set the course of voluntary private lands conservation efforts for the next decade. The choices we make will determine the overall health of our environment. The Working Lands Conservation Act provides a solid basis for making those conservation decisions. The bill helps restore balance between working lands programs and landidling programs without cutting popular programs such as the Conservation Reserve. The focus of my conservation reforms is to assist farmers and ranchers to not only meet regulatory requirements, but to proactively resolve them before they enter a regulatory context. It increases the coherence of conservation policy, protects producer confidentiality, and assures that more technical assistance will be available to our farmers and ranchers.

As a Nation, we entrust the care of over 50 percent of our land to just two percent of our citizens—the farmers and ranchers who work the land and produce the food and fiber we demand. This bill recognizes that farmers and ranchers are much more than food and fiber producers. They are the most important natural resource managers in this Nation. My bill will give them the technical and financial tools they need to care for the land—and our environment, as they make a living from it. It recognizes that conservation is a shared responsibility; a partnership between farmers, ranchers, and the public. This bill strengthens those partnerships and ensures conservation will be a fundamental part of the mission of this Committee, Congress, and the Department of Agriculture.

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

S. 1326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Working Lands Conservation Act''.

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

Sec. 1. Short title; table of contents.

TITLE I—WORKING LANDS CONSERVATION PROGRAMS

Sec. 101. Environmental quality incentives program.
Sec. 102. Conservation reserve program.
Sec. 103. Wetlands reserve program.
Sec. 104. Farmland protection program.
Sec. 105. Wildlife Habitat Incentive Program.

TITLE II—MISCELLANEOUS REFORMS AND EXTENSIONS

Sec. 201. Privacy of personal information relating to natural resources conservation programs.
Sec. 202. Reform and consolidation of conservation programs.
Sec. 203. Certification of private providers of technical assistance.
Sec. 204. Extension of conservation authorities.
Sec. 205. Technical amendments.
Sec. 206. Effect of amendments.

TITLE I—WORKING LANDS CONSERVATION PROGRAMS

SEC. 101. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(a) IN GENERAL.—Chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) is amended to read as follows:

''CHAPTER 4—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

''SEC. 1240. PURPOSES.

''The purposes of the environmental quality incentives program established by this chapter are to promote agricultural production and environmental quality as compatible national goals, and to maximize environmental benefits per dollar expended, by—

''(1) assisting producers in complying with this title, the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and other Federal, State, and local environmental laws (including regulations);

''(2) avoiding, to the maximum extent practicable, the need for resource and regulatory programs by assisting producers in protecting soil, water, air, and related natural resources and meeting environmental quality criteria established by Federal, State, and local agencies;

''(3) providing flexible technical and financial assistance to producers to install and maintain conservation systems that enhance soil, water, related natural resources (including grazing land and wetland), and wildlife while sustaining production of food and fiber;

''(4) assisting producers to make beneficial, cost effective changes to cropping systems, grazing management, nutrient management associated with livestock, pest or irrigation management, or other practices on agricultural land;

''(5) facilitating partnerships and joint efforts among producers and governmental and nongovernmental organizations; and

''(6) consolidating and streamlining conservation planning and regulatory compliance processes to reduce administrative burdens on producers and the cost of achieving environmental goals.

''SEC. 1240A. DEFINITIONS.

''In this chapter:

''(1) COMPREHENSIVE NUTRIENT MANAGEMENT.—

''(A) IN GENERAL.—The term 'comprehensive nutrient management' means any combination of structural practices, land management practices, and management activities associated with crop or livestock production described in subparagraph (B) that collectively ensure that the goals of crop or livestock production and preservation of natural resources, especially the preservation and enhancement of water quality, are compatible.

''(B) ELEMENTS.—For the purpose of subparagraph (A), structural practices, land management practices, and management activities associated with livestock production are—

''(i) manure and wastewater handling and storage;

''(ii) land treatment practices;

''(iii) nutrient management;

''(iv) recordkeeping;

''(v) feed management; and

''(vi) other waste utilization options.

''(C) PRACTICE.—

''(i) PLANNING.—The development of a comprehensive nutrient management plan shall be a practice that is eligible for incentive payments and technical assistance under this chapter.

''(ii) IMPLEMENTATION.—The implementation of a comprehensive nutrient plan shall

be accomplished through structural and land management practices identified in the plan.

''(2) ELIGIBLE LAND.—The term 'eligible land' means agricultural land (including cropland, rangeland, pasture, and other land on which crops or livestock are produced), including agricultural land that the Secretary determines poses a serious threat to soil, water, or related resources by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards.

''(3) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means a site-specific nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, air quality management, or other land management practice carried out on eligible land that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation.

''(4) LIVESTOCK.—The term 'livestock' means dairy cattle, beef cattle, laying hens, broilers, turkeys, swine, sheep, and such other animals as determined by the Secretary.

''(5) MAXIMIZE ENVIRONMENTAL BENEFITS PER DOLLAR EXPENDED.—

''(A) IN GENERAL.—The term 'maximize environmental benefits per dollar expended' means to maximize environmental benefits to the extent the Secretary determines is practicable and appropriate, taking into account the amount of funding made available to carry out this chapter.

''(B) LIMITATION.—The term 'maximize environmental benefits per dollar expended' does not require the Secretary—

''(i) to provide the least cost practice or technical assistance; or

''(ii) to require the development of a plan under section 1240E as part of an application for payments or technical assistance.

''(6) PRACTICE.—The term 'practice' means 1 or more structural practices, land management practices, and comprehensive nutrient management planning practices.

''(7) PRODUCER.—The term 'producer' means a person that is engaged in livestock or agricultural production, as determined by the Secretary.

''(8) STRUCTURAL PRACTICE.—The term 'structural practice' means—

''(A) the establishment on eligible land of a site-specific animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, tailwater pit, permanent wildlife habitat, constructed wetland, or other structural practice that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation; and

''(B) the capping of abandoned wells on eligible land.

''SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—During each of the 2003 through 2011 fiscal years, the Secretary shall provide technical assistance, cost-share payments, and incentive payments to producers, that enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

''(2) ELIGIBLE PRACTICES.—

''(A) STRUCTURAL PRACTICES.—A producer that implements a structural practice shall be eligible for any combination of technical assistance, cost-share payments, and education.

''(B) LAND MANAGEMENT PRACTICES.—A producer that performs a land management practice shall be eligible for any combination of technical assistance, incentive payments, and education.

''(C) COMPREHENSIVE NUTRIENT MANAGEMENT PLANNING.—A producer that develops a comprehensive nutrient management plan shall be eligible for any combination of technical assistance, incentive payments, and education.

''(3) EDUCATION.—The Secretary may provide conservation education at national, State, and local levels consistent with the purposes of the environmental quality incentives program to—

''(A) any producer that is eligible for assistance under this chapter; or

''(B) any producer that is engaged in the production of an agricultural commodity.

''(b) APPLICATION AND TERM.—A contract between a producer and the Secretary under this chapter may—

''(1) apply to 1 or more structural practices, land management practices, and comprehensive nutrient management planning practices;

''(2) have a term of not less than 3, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract; and

''(3) in the case of a structural practice or comprehensive nutrient management planning practice, have a term of less than 3 years if the Secretary determines that a lesser term is consistent with the purposes of the program under this chapter.

''(c) APPLICATION AND EVALUATION.—

''(1) IN GENERAL.—The Secretary shall establish an application and evaluation process for awarding technical assistance, cost-share payments, and incentive payments to a producer in exchange for the performance of 1 or more practices that maximizes environmental benefits per dollar expended.

''(2) COMPARABLE ENVIRONMENTAL VALUE.—

''(A) IN GENERAL.—The Secretary shall establish a process for selecting applications for technical assistance, cost-share payments, and incentive payments when there are numerous applications for assistance for practices that would provide substantially the same level of environmental benefits.

''(B) CRITERIA.—The process under subparagraph (A) shall be based on—

''(i) a reasonable estimate of the projected cost of the proposals described in the applications; and

''(ii) the priorities established under this subtitle and other factors that maximize environmental benefits per dollar expended.

''(3) CONSENT OF OWNER.—If the producer making an offer to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the producer shall obtain the consent of the owner of the land with respect to the offer.

''(4) BIDDING DOWN.—If the Secretary determines that the environmental values of 2 or more applications for technical assistance, cost-share payments, or incentive payments are comparable, the Secretary shall not assign a higher priority to the application only because it would present the least cost to the program established under this chapter.

''(d) COST-SHARE PAYMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of cost-share payments to a producer proposing to implement 1 or more practices shall be not more than 75 percent of the projected cost of the practice, as determined by the Secretary.

''(2) EXCEPTIONS.—

''(A) LIMITED RESOURCE AND BEGINNING FARMERS; NATURAL DISASTERS.—The Secretary may increase the maximum Federal share under paragraph (1) to not more than 90 percent if the producer is a limited resource farmer or a beginning farmer or to address a natural disaster, as determined by the Secretary.

''(B) COST-SHARE ASSISTANCE FROM OTHER SOURCES.—Any cost-share payments received by a producer from a State or private organization or person for the implementation of 1 or more practices shall be in addition to the Federal share of cost-share payments provided to the producer under paragraph (1).

''(3) OTHER PAYMENTS.—A producer shall not be eligible for cost-share payments for practices on eligible land under this chapter if the producer receives cost-share payments or other benefits for the same practice on the same land under chapter 1 and this chapter.

''(e) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage a producer to perform 1 or more practices.

''(f) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year.

''(2) AMOUNT.—The allocated amount may vary according to—

''(A) the type of expertise required;

''(B) the quantity of time involved; and

''(C) other factors as determined appropriate by the Secretary.

''(3) LIMITATION.—Funding for technical assistance under this chapter shall not exceed the projected cost to the Secretary of the technical assistance provided for a fiscal year.

''(4) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the producer to receive technical assistance under other authorities of law available to the Secretary.

''(5) NON-FEDERAL ASSISTANCE.—

''(A) IN GENERAL.—The Secretary may request the services of, and enter into a cooperative agreement with, a State water quality agency, State fish and wildlife agency, State forestry agency, or any other governmental or nongovernmental organization or person considered appropriate to assist in providing the technical assistance necessary to develop and implement conservation plans under the program.

''(B) PRIVATE SOURCES.—

''(i) IN GENERAL.—The Secretary shall ensure that the processes of writing and developing proposals and plans for contracts under this chapter, and of assisting in the implementation of practices covered by the contracts, are open to private persons, including—

''(I) agricultural producers;

''(II) representatives from agricultural cooperatives;

''(III) agricultural input retail dealers;

''(IV) certified crop advisers;

''(V) persons providing technical consulting services; and

''(VI) other persons, as determined appropriate by the Secretary.

''(ii) OTHER CONSERVATION PROGRAMS.—The requirements of this subparagraph shall also apply to each other conservation program of the Department of Agriculture.

''(6) INCENTIVE PAYMENTS FOR TECHNICAL ASSISTANCE.—

''(A) IN GENERAL.—A producer that is eligible to receive technical assistance for a practice involving the development of a comprehensive nutrient management plan may obtain an incentive payment that can be used to obtain technical assistance associated with the development of any component of the comprehensive nutrient management plan.

''(B) PURPOSE.—The purpose of the payment shall be to provide a producer the option of obtaining technical assistance for developing any component of a comprehensive nutrient management plan from a private person earlier than the producer would otherwise receive the technical assistance from the Secretary.

''(C) PAYMENT.—The incentive payment shall be—

''(i) in addition to cost-share or incentive payments that a producer would otherwise receive for structural practices and land management practices;

''(ii) used only to procure technical assistance from a private person that is necessary to develop any component of a comprehensive nutrient management plan; and

''(iii) in an amount determined appropriate by the Secretary, taking into account—

''(I) the extent and complexity of the technical assistance provided;

''(II) the costs that the Secretary would have incurred in providing the technical assistance; and

''(III) the costs incurred by the private provider in providing the technical assistance.

''(D) ELIGIBLE PRACTICES.—The Secretary may determine, on a case by case basis, whether the development of a comprehensive nutrient management plan is eligible for an incentive payment under this paragraph.

''(E) CERTIFICATION BY SECRETARY.—

''(i) IN GENERAL.—Only private persons that have been certified by the Secretary under section 16 of the Soil Conservation and Domestic Allotment Act shall be eligible to provide technical assistance under this subsection.

''(ii) QUALITY ASSURANCE.—The Secretary shall ensure that certified private providers are capable of providing technical assistance regarding comprehensive nutrient management in a manner that meets the specifications and guidelines of the Secretary and that meets the needs of producers under the environmental quality incentives program.

''(F) ADVANCE PAYMENT.—On the determination of the Secretary that the proposed comprehensive nutrient management of a producer is eligible for an incentive payment, the producer may receive a partial advance of the incentive payment in order to procure the services of a certified private provider.

''(G) FINAL PAYMENT.—The final installment of the incentive payment shall be payable to a producer on presentation to the Secretary of documentation that is satisfactory to the Secretary and that demonstrates—

''(i) completion of the technical assistance; and

''(ii) the actual cost of the technical assistance.

''(g) PARTNERSHIPS AND COOPERATION.—

''(1) PURPOSES.—The Secretary may designate special projects, as recommended by the State Conservationist, with advice from the State technical committee, to enhance technical and financial assistance provided to several producers within a specific area to address environmental issues affected by agricultural production with respect to—

''(A) meeting the purposes and requirements of—

''(i) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or comparable State laws in impaired or threatened watersheds;

''(ii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.) or comparable State laws in watersheds providing water for drinking water supplies; or

''(iii) the Clean Air Act (42 U.S.C. 7401 et seq.) or comparable State laws; or

''(B) watersheds of special significance or other geographic areas of environmental sensitivity; or

''(C) enhancing the technical capacity of producers to facilitate community-based planning, implementation of special projects, and conservation education involving multiple producers within an area.

''(2) INCENTIVES.—To realize the objectives of the special projects under paragraph (1), the Secretary shall provide incentives to producers participating in the special projects to encourage partnerships and sharing of technical and financial resources among producers and among producers and governmental and nongovernmental organizations.

''(3) FUNDING.—

''(A) IN GENERAL.—The Secretary shall make available 5 percent of funds provided for each fiscal year under this chapter to carry out this subsection.

''(B) SPECIAL PROJECTS.—The purposes of the special projects under this subsection shall be to encourage—

''(i) producers to cooperate in the installation and maintenance of conservation systems that affect multiple agricultural operations;

''(ii) sharing of information and technical and financial resources; and

''(iii) cumulative environmental benefits across operations of producers.

''(4) FLEXIBILITY.—

''(A) IN GENERAL.—The Secretary may enter into agreements with States, local governmental and nongovernmental organizations, and persons to allow greater flexibility to adjust the application of eligibility criteria, approved practices, innovative conservation practices, and other elements of the programs described in subparagraph (B) to better reflect unique local circumstances and goals in a manner that is consistent with the purposes of this chapter.

''(B) APPLICABLE PROGRAMS.—Subparagraph (A) shall apply to—

''(i) the environmental quality incentives program established by this chapter;

''(ii) the program to establish conservation buffers announced on March 24, 1998 (63 Fed. Reg. 14109) or a successor program;

''(iii) the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 28965) or a successor program; and

''(iv) the wetlands reserve program established under subchapter C of chapter 1.

''(5) UNUSED FUNDING.—Any funds made available for a fiscal year under this subsection that are not obligated by June 1 of the fiscal year may be used to carry out other activities under this chapter during the fiscal year in which the funding becomes available.

''(h) MODIFICATION OR TERMINATION OF CONTRACTS.—

''(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under this chapter if—

''(A) the producer agrees to the modification or termination; and

''(B) the Secretary determines that the modification or termination is in the public interest.

''(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this chapter if the Secretary determines that the producer violated the contract.

''SEC. 1240C. EVALUATION OF OFFERS AND PAYMENTS.

''In evaluating applications for technical assistance, cost-share payments, and incentive payments, the Secretary shall accord a higher priority to assistance and payments that—

''(1) maximize environmental benefits per dollar expended; and

''(2)(A) address national conservation priorities involving—

''(i) comprehensive nutrient management;

''(ii) water quality, particularly in impaired watersheds;

''(iii) soil erosion; or

''(iv) air quality;

''(B) are provided in conservation priority areas established under section 1230(c); or

''(C) are provided in special projects under section 1240B(g) with respect to which State or local governments have provided, or will provide, financial or technical assistance to producers for the same conservation or environmental purposes.

''SEC. 1240D. DUTIES OF PRODUCERS.

''To receive technical assistance, cost-share payments, or incentive payments under this chapter, a producer shall agree—

''(1) to implement an environmental quality incentives program plan that describes conservation and environmental goals to be achieved through 1 or more practices that are approved by the Secretary;

''(2) not to conduct any practices on the farm or ranch that would tend to defeat the purposes of this chapter;

''(3) on the violation of a term or condition of the contract at any time the producer has control of the land, to refund any cost-share or incentive payment received with interest, and forfeit any future payments under this chapter, as determined by the Secretary;

''(4) on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all cost-share payments and incentive payments received under this chapter, as determined by the Secretary;

''(5) to supply information as required by the Secretary to determine compliance with the environmental quality incentives program plan and requirements of the program; and

''(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the environmental quality incentives program plan.

''SEC. 1240E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

''(a) IN GENERAL.—To be eligible to receive technical assistance, cost-share payments, or incentive payments under the environmental quality incentives program, an owner or producer of a livestock or agricultural operation must submit to the Secretary for approval a plan of operations that incorporates practices covered under this chapter, and is based on such principles, as the Secretary considers necessary to carry out the program, including a description of the practices to be implemented and the objectives to be met by the implementation of the plan.

''(b) AVOIDANCE OF DUPLICATION.—The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activities under the environmental quality incentives program and comparable conservation programs.

''SEC. 1240F. DUTIES OF THE SECRETARY.

''To the extent appropriate, the Secretary shall assist a producer in achieving the conservation and environmental goals of an environmental quality incentives program plan by—

''(1) providing technical assistance in developing and implementing the plan;

''(2) providing technical assistance, cost-share payments, or incentive payments for developing and implementing 1 or more practices, as appropriate;

''(3) providing the producer with information, education, and training to aid in implementation of the plan; and

''(4) encouraging the producer to obtain technical assistance, cost-share payments, or

grants from other Federal, State, local, or private sources.

"SEC. 1240G. LIMITATION ON PAYMENTS.

''(a) IN GENERAL.—Subject to subsection (b), the total amount of cost-share and incentive payments paid to a producer under this chapter may not exceed—

''(1) $50,000 for any fiscal year; or

''(2) $150,000 for any multiyear contract.

''(b) ADJUSTMENTS.—The Secretary may modify the payment limitations for producers under subsection (a), on a case-by-case basis, if the Secretary determines that a different limitation—

''(1) is warranted in light of 1 or more practices for which the payment is made; and

''(2) maximizes environmental benefits per dollar expended and is consistent with the purposes of this chapter.

"SEC. 1240H. CONSERVATION INNOVATION GRANTS.

''(a) IN GENERAL.—From funds made available to carry out this chapter, the Secretary shall use $100,000,000 for each fiscal year to pay the Federal share of competitive grants that are intended to stimulate innovative approaches to leveraging Federal investment in environmental enhancement and protection, in conjunction with agricultural production, through the environmental quality incentives program.

''(b) USE.—The Secretary shall award grants under this section to governmental and nongovernmental organizations and persons, on a competitive basis, to carry out projects that—

''(1) involve producers that are eligible for payments or technical assistance under this chapter;

''(2) implement innovative projects, such as—

''(A) market-based pollution credit trading; and

''(B) provision of funds to promote adoption of best management practices; and

''(3) leverage funds made available to carry out this chapter with matching funds provided by State and local governments and private organizations to promote environmental enhancement and protection in conjunction with agricultural production.

''(c) FEDERAL SHARE.—The Federal share of a grant made to carry out a project under this section shall not exceed 50 percent of the cost of the project.

''(d) UNUSED FUNDING.—Any funds made available for a fiscal year under this section that are not obligated by June 1 of the fiscal year may be used to carry out other activities under this chapter during the fiscal year in which the funding becomes available.''.

(b) FUNDING.—Section 1241(b) of the Food Security Act of 1985 (16 U.S.C. 3841(b)) is amended—

(1) in paragraph (1), by striking ''$130,000,000'' and all that follows through ''2002,'' and inserting ''$650,000,000 for fiscal year 2003, $1,000,000,000 for fiscal year 2004, and $1,500,000,000 for each of fiscal years 2005 through 2011,''; and

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

''(2) OBLIGATION OF FUNDS.—If a contract under the environmental quality incentives program is terminated prior to the date set out for the expiration for the contract and funds obligated for the contract are remaining, the remaining funds may be used to carry out any other contract under the program during the same fiscal year in which the original contract was terminated.''.

(c) COOPERATION WITH OTHER GOVERNMENT AGENCIES.—Section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i) is amended in the last sentence by inserting ''but excluding transfers and allotments for conservation technical assistance'' after ''activities''.

SEC. 102. CONSERVATION RESERVE PROGRAM.

(a) EXTENSION OF PROGRAM.—

(1) IN GENERAL.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(A) in subsections (a), (b)(3), and (d), by striking ''2002'' each place it appears and inserting ''2011''; and

(B) in subsection (h)(1), by striking ''the 2001 and 2002'' and inserting ''each of the 2001 through 2011''.

(2) DUTIES OF OWNERS AND OPERATORS.—Section 1232(c) of the Food Security Act of 1985 (16 U.S.C. 3832(c)) is amended by striking ''2002'' and inserting ''2011''.

(b) CONSERVATION BUFFERS AND CONSERVATION RESERVE ENHANCEMENT PROGRAM.—Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended—

(1) by striking ''2002'' and inserting ''2011''; and

(2) by inserting before the period at the end the following: '', of which not less than 4,000,000 acres shall be enrolled—

''(1) to establish conservation buffers as part of the program announced on March 24, 1998 (63 Fed. Reg. 14109) or a successor program; and

''(2) through the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 28965) or a successor program.''.

(c) HARDWOOD TREES.—Section 1231(e)(2) of the Food Security Act of 1985 (16 U.S.C. 3831(e)(2)) is amended—

(1) by striking ''In the'' and inserting the following:

''(A) IN GENERAL.—In the'';

(2) by striking ''The Secretary'' and inserting the following:

''(B) EXISTING HARDWOOD TREE CONTRACTS.—The Secretary''; and

(3) by adding at the end the following:

''(C) EXTENSION OF HARDWOOD TREE CONTRACTS.—

''(i) IN GENERAL.—In the case of land devoted to hardwood trees under a contract entered into under this subchapter before the date of enactment of this subparagraph, on the request of the owner or operator of the land, the Secretary shall extend the contract for a term of 15 years.

''(ii) RENTAL PAYMENTS.—The amount of a rental payment for a contract extended under clause (i) shall be 50 percent of the rental payment that was applicable to the contract before the contract was extended.''.

(d) HAYING AND GRAZING ON BUFFER STRIPS.—Section 1232(a)(7) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(7)) is amended—

(1) by striking ''except that the Secretary—'' and inserting ''except that—'';

(2) in subparagraph (A)—

(A) by striking ''(A) may'' and inserting ''(A) the Secretary may''; and

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

(3) in subparagraph (B)—

(A) by striking ''(B) shall'' and inserting ''(B) the Secretary shall''; and

(B) by striking the period at the end and inserting a semicolon;

(4) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(5) by adding at the end the following:

''(D) for maintenance purposes, the Secretary shall permit harvesting or grazing or other commercial uses of forage, in a manner that is consistent with the purposes of this subchapter and a conservation plan approved by the Secretary, on acres enrolled—

''(i) to establish conservation buffers as part of the program announced on March 24, 1998 (63 Fed. Reg. 14109) or a successor program; and

''(ii) into the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 28965) or a successor program.''.

(e) FUNDING.—Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended—

(1) by striking ''1996 through 2002'' and inserting ''2003 through 2011''; and

(2) in paragraph (1), by inserting '', including technical assistance'' before the semicolon at the end.

SEC. 103. WETLANDS RESERVE PROGRAM.

(a) MAXIMUM ENROLLMENT.—Section 1237(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3837(b)(1)) is amended by striking ''975,000 acres'' and inserting ''3,475,000 acres''.

(b) EXTENSION OF PROGRAM.—Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended by striking ''2002'' and inserting ''2011''.

(c) WETLANDS RESERVE ENHANCEMENT PROGRAM.—Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended by adding at the end the following:

''(h) WETLANDS RESERVE ENHANCEMENT PROGRAM.—

''(1) IN GENERAL.—The Secretary may enter into cooperative agreements with State or local governments, and with private organizations, to develop, on land that is enrolled, or is eligible to be enrolled, in the wetland reserve established under this subchapter, wetland restoration activities in watershed areas.

''(2) PURPOSE.—The purpose of the agreements shall be to address critical environmental issues, including hypoxia, eutrophication, wildlife habitat, flooding, and groundwater recharge.

''(3) LIMITATION.—The total number of acres that may be covered by agreements entered into under this subsection shall not exceed 50,000 acres for each calendar year.''.

(d) MONITORING AND MAINTENANCE.—Section 1237C(a)(2) of the Food Security Act of 1985 (16 U.S.C. 3837c(a)(2)) is amended by striking ''assistance'' and inserting ''assistance (including monitoring and maintenance)''.

(e) TECHNICAL ASSISTANCE.—Section 1241(a)(2) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(2)) is amended by inserting '', including technical assistance'' before the semicolon at the end.

SEC. 104. FARMLAND PROTECTION PROGRAM.

Section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127) is amended to read as follows:

"SEC. 388. FARMLAND PROTECTION PROGRAM.

''(a) DEFINITION OF AGRICULTURAL LAND.—In this section, the term 'agricultural land' means land on a farm or ranch that is—

''(1) cropland;

''(2) rangeland or grassland;

''(3) pastureland; or

''(4) private forest land.

''(b) ESTABLISHMENT.—The Secretary of Agriculture shall establish and carry out a farmland protection program under which the Secretary shall purchase conservation easements or other interests in agricultural land with prime, unique, or other productive soil that is subject to a pending offer for the purpose of protecting topsoil by limiting nonagricultural uses of the land from—

''(1) any agency of any State or local government, or federally recognized Indian tribe, including farmland protection boards and land resource councils established under State law; and

''(2) any organization that—

''(A) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clauses (i), (ii), and (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

''(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code;

''(C) is described in section 509(a)(2) of that Code; or

''(D) is described in section 509(a)(3) of that Code and is controlled by an organization described in section 509(a)(2) of that Code.

''(c) CONSERVATION PLAN.—Any agricultural land for which a conservation easement or other interest is purchased under this section shall be subject to the requirements of a conservation plan that ensures that continued agricultural use of the agricultural land—

''(1) will not degrade the environment; and

''(2) in the case of cropland, will require the conversion of the agricultural land to less intensive uses, at the option of the Secretary.

''(d) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available $65,000,000 for each of fiscal years 2003 through 2011 for providing technical assistance and purchasing conservation easements under this section.''.

SEC. 105. WILDLIFE HABITAT INCENTIVE PROGRAM.

Section 387(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a(c)) is amended by striking ''a total of $50,000,000 shall be made available for fiscal years 1996 through 2002'' and inserting ''the Secretary shall make available $50,000,000 for each of fiscal year 2003 through 2011''.

TITLE II—MISCELLANEOUS REFORMS AND EXTENSIONS

SEC. 201. PRIVACY OF PERSONAL INFORMATION RELATING TO NATURAL RESOURCES CONSERVATION PROGRAMS.

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended—

(1) by redesignating sections 1244 and 1245 (16 U.S.C. 3844, 3845) as sections 1245 and 1246, respectively; and

(2) by inserting after section 1243 (16 U.S.C. 3843) the following:

''SEC. 1244. PRIVACY OF PERSONAL INFORMATION RELATING TO NATURAL RESOURCES CONSERVATION PROGRAMS.

''(a) INFORMATION RECEIVED FOR TECHNICAL AND FINANCIAL ASSISTANCE.—Except as provided in subsection (c) and notwithstanding any other provision of law, information provided to, or developed by, the Secretary (including a contractor of the Secretary) for the purpose of providing technical or financial assistance to an owner or operator with respect to any natural resources conservation program administered by the Natural Resources Conservation Service or the Farm Service Agency—

''(1) shall not be considered to be public information; and

''(2) shall not be released to any person or Federal, State, local, or tribal agency outside the Department of Agriculture.

''(b) INVENTORY, MONITORING, AND SITE SPECIFIC INFORMATION.—Except as provided in subsection (c) and notwithstanding any other provision of law, in order to maintain the personal privacy, confidentiality, and cooperation of owners and operators, and to maintain the integrity of sample sites, the specific geographic locations of the National Resources Inventory of the Department of Agriculture data gathering sites and the information generated by those sites—

''(1) shall not be considered to be public information; and

''(2) shall not be released to any person or Federal, State, local, or tribal agency outside the Department of Agriculture.

''(c) EXCEPTIONS.—

''(1) RELEASE AND DISCLOSURE FOR ENFORCEMENT.—The Secretary may release or disclose to the Attorney General information covered by subsection (a) or (b) to the extent necessary to enforce the natural resources conservation programs referred to in subsection (a).

''(2) DISCLOSURE TO COOPERATING PERSONS AND AGENCIES.—

''(A) IN GENERAL.—The Secretary may release or disclose information covered by subsection (a) or (b) to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in providing technical and financial assistance described in subsection (a) or collecting information from National Resources Inventory data gathering sites.

''(B) USE OF INFORMATION.—The person or Federal, State, local, or tribal agency that receives information described in subparagraph (A) may release the information only for the purpose of assisting the Secretary—

''(i) in providing the requested technical or financial assistance; or

''(ii) in collecting information from National Resources Inventory data gathering sites.

''(3) STATISTICAL AND AGGREGATE INFORMATION.—Information covered by subsection (b) may be disclosed to the public if the information has been transformed into a statistical or aggregate form that does not allow the identification of any individual owner, operator, or specific data gathering site.

''(4) CONSENT OF OWNER OR OPERATOR.—

''(A) IN GENERAL.—An owner or operator may consent to the disclosure of information described in subsection (a) or (b).

''(B) CONDITION OF OTHER PROGRAMS.—The participation of the owner or operator in, and the receipt of any benefit by the owner or operator under, this title or any other program administered by the Secretary may not be conditioned on the owner or operator providing consent under this paragraph.

''(d) VIOLATIONS; PENALTIES.—Section 1770(c) shall apply with respect to the release of information collected in any manner or for any purpose prohibited by this section.''.

SEC. 202. REFORM AND CONSOLIDATION OF CONSERVATION PROGRAMS.

(a) IN GENERAL.—The Secretary of Agriculture shall develop a plan for—

(1) consolidating conservation programs administered by the Secretary that are targeted at agricultural land; and

(2) to the maximum extent practicable—

(A) designing forms that are applicable to all such conservation programs;

(B) reducing and consolidating paperwork requirements for such programs;

(C) developing universal classification systems for all information obtained on the forms that can be used by other agencies of the Department of Agriculture;

(D) ensuring that the information and classification systems developed under this paragraph can be shared with other agencies of the Department through computer technologies used by agencies; and

(E) developing 1 format for a conservation plan that can be applied to all conservation programs targeted at agricultural land.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the plan developed under subsection (a), including any recommendations for implementation of the plan.

(c) NATIONAL CONSERVATION PLAN.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan and estimated budget for implementing the appraisal of the soil, water, and related resources of the Nation contained in the National Conservation Program under section 5 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2004) as the primary vehicle for managing conservation on agricultural land in the United States.

SEC. 203. CERTIFICATION OF PRIVATE PROVIDERS OF TECHNICAL ASSISTANCE.

The Soil Conservation and Domestic Allotment Act is amended by inserting after section 15 (16 U.S.C. 590o) the following:

''SEC. 16. CERTIFICATION OF PRIVATE PROVIDERS OF TECHNICAL ASSISTANCE.

''(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish procedures for certifying private persons to provide technical assistance to agricultural producers and landowners participating in conservation programs administered by the Secretary.

''(b) STANDARDS.—The Secretary shall establish standards for the conduct of—

''(1) the certification process conducted by the Secretary; and

''(2) periodic recertification by the Secretary of private providers.

''(c) CERTIFICATION REQUIRED.—A private provider may not provide technical assistance under any conservation program administered by the Secretary without certification approved by the Secretary.

''(d) FEE.—In exchange for certification, a private provider shall pay a fee to the Secretary in an amount determined by the Secretary.

''(e) PROVIDER.—Except as provided in section 1240B(f)(6) of the Food Security Act of 1985 (7 U.S.C. 3839aa–(f)(6)), the Secretary shall determine under what individual cases and conservation programs technical assistance may be delivered by private providers or by the Secretary.

''(f) OTHER REQUIREMENTS.—The Secretary may establish other requirements as the Secretary determines are necessary to carry out this section.''.

SEC. 204. EXTENSION OF CONSERVATION AUTHORITIES.

(a) ECARP AUTHORITY.—Section 1230(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3830(a)(1)) is amended by striking ''2002'' and inserting ''2011''.

(b) CONSERVATION FARM OPTION.—Section 1240M(h)(6) of the Food Security Act of 1985 (16 U.S.C. 3839bb(h)(6)) is amended by striking ''fiscal year 2002'' and inserting ''each of fiscal years 2002 through 2011''.

(c) FLOOD RISK REDUCTION.—Section 385(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7334(a)) is amended by striking ''2002'' and inserting ''2011''.

(d) RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.—Section 1538 of the Agriculture and Food Act of 1981 (16 U.S.C. 3461) is amended in the first sentence by striking ''2002'' and inserting ''2011''.

(e) FORESTRY.—

(1) OFFICE OF INTERNATIONAL FORESTRY.—Section 2405(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6704(d)) is amended by striking ''2002'' and inserting ''2011''.

(2) FORESTRY INCENTIVES PROGRAM.—Section 4(j) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103(j)) is amended by striking ''2002'' and inserting ''2011''.

SEC. 205. TECHNICAL AMENDMENTS.

(a) DELINEATION OF WETLANDS; EXEMPTIONS TO PROGRAM INELIGIBILITY.—

(1) REFERENCES TO PRODUCER.—Section 322(e) of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law

104–127; 110 Stat. 991) is amended by inserting ''each place it appears'' before ''and inserting''.

(2) GOOD FAITH EXEMPTION.—Section 1222(h)(2) of the Food Security Act of 1985 (16 U.S.C. 3822(h)(2)) is amended by striking ''to actively'' and inserting ''to be actively''.

(3) DETERMINATIONS.—Section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)) is amended by striking ''National'' and inserting ''Natural''.

(b) WILDLIFE HABITAT INCENTIVE PROGRAM.—Section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a) is amended in the section heading by striking ''**incentives**'' and inserting ''**incentive**''.

SEC. 206. EFFECT OF AMENDMENTS.

(a) IN GENERAL.—Except as otherwise specifically provided in this Act and notwithstanding any other provision of law, this Act and the amendments made by this Act shall not affect the authority of the Secretary of Agriculture to carry out a conservation program for any of the 1996 through 2002 fiscal or calendar years under a provision of law in effect immediately before the date of enactment of this Act.

(b) LIABILITY.—A provision of this Act or an amendment made by this Act shall not affect the liability of any person under any provision of law as in effect immediately before the date of enactment of this Act.

By Mr. MCCAIN (for himself, Mr. LOTT, and Mr. BURNS):

S. 1327. A bill to amend title 49, United States Code to provide emergency Secretarial authority to resolve airline labor disputes; to the Committee on Health, Education, Labor, and Pensions.

Madam President, I rise today to introduce the Airline Labor Dispute Resolution Act. This bill would give the Secretary of Transportation the authority to send airline labor disputes to binding arbitration in order to prevent labor actions that might cripple the national air transportation system. The intent of this bill is to fix a collective bargaining process that is not serving the unions, the airlines, or the traveling public. Senators LOTT and BURNS are joining me as original cosponsors of this legislation.

The Commerce Committee held a hearing in April on the status of labor issues in the airline industry. The hearing made it clear to most everyone that the current process for resolving airline labor disputes is not working. While labor negotiations in the airline industry have been ongoing for years, things have begun to worsen. The trend towards larger airlines has given unions greater leverage, which appears to have contributed to a mind set that views any work stoppage as legitimate. Normally, even acrimonious labor negotiations are a part of the negotiating process with both sides using what leverage is available to them to reach the best deal. However, times have changed, and these acrimonious negotiations now adversely affect the American people.

As I have said before, I have no problems with the labor organizations exercising their legal rights. At the moment, strikes are a permitted action under applicable labor statutes, provided that specific steps have been taken to resolve the dispute. Increasingly, however, courts have found that airline labor unions have illegally resorted to self-help measures. In the past, United, American, Northwest and Delta have obtained court ordered relief from these alleged illegal job actions. In American's case, the court fined American's pilots over $45 million for not adhering to an injunction.

These actions have affected millions of consumers. Middle America has too often been stranded as a result of this illegal union activity. According to published reports, United canceled over 23,000 flights last year as a result of its pilots' refusal to fly overtime, destroying carefully planned vacations and business trips. Northwest and Delta cancelled thousands of flights preemptively over the holiday seasons to combat alleged slowdowns by mechanics and failures to fly overtime by pilots, respectively. The pilots' sickout at American in 1999 left thousands of people stranded, some of whom have banded together to sue the pilots for damages.

The unions are not the only ones to blame for the current situation—airline management must also shoulder some of the responsibility. Airlines have skillfully used the existing process to draw out negotiations and leave employees bound for years to the terms of old agreements. As one witness at our hearing testified, airlines use the current procedures to prolong negotiations and avoid accountability at the bargaining table. Employees can become quite frustrated and have reportedly lost faith in the existing system. That is no excuse for illegal job actions, but it is another indication that the current process is broken. These matters should be resolved more quickly and with more certainty.

Those who seek to maintain the status quo will undoubtedly say that the current collective bargaining process is not perfect but works well enough. They will point out that several significant agreements were reached in the industry this year without any disruption to commercial air transportation. It is true that several unions and major airlines were able to avoid strikes this year. But that does not mean the process cannot or should not be improved. Air transportation has become an integral part of our economy and society, and each year our dependence upon it grows. If we do not act now to address the flaws in the system, we will pay a very high price in the future when the very threat of a disruption in air service may be devastating.

Because airlines are so important to the well being of the country, the traveling public can be held hostage by both sides in these disputes. With few large air carriers, a job action at a major airline can have a catastrophic effect on the aviation system and the consumer. The rest of the airlines would have a difficult time absorbing the excess passengers in the event of a strike, and the system could come to a standstill. While management and labor are affected by this, both parties have contingencies planned in the event of work stoppages. The consumer is the one most affected by a job action.

The dispute resolution process in this bill is modeled on the process used by Major League Baseball to resolve contract disputes between individual players and teams. If binding arbitration is ordered by the Secretary, each side must make its last, best offer. A panel of five arbitrators would be chosen: three neutral persons and one each selected by the two sides. That panel would then choose one proposal or the other—it could not, for example, split the difference between the two proposals. This would naturally force each side to be as reasonable as possible, otherwise it would risk having to live by terms proposed by the other side. This system has worked well for baseball and can be adapted for the airline industry.

This bill would give much greater certainty to the public, the unions, and the airlines that contract disputes will get resolved without disruption to the nation. I urge my colleagues to join me in supporting this effort to improve the system for resolving labor-management disputes in the airline industry.

By Ms. LANDRIEU:

S. 1328. A bill entitled the ''Conservation and Reinvestment Act''; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Madam President, today I rise to introduce perhaps the most significant conservation effort ever considered by the Congress.

The Conservation and Reinvestment Act, CARA, is bipartisan landmark legislation that makes a multi-year commitment to conservation programs benefitting all 50 States. It reinvests revenues earned from the depletion of a nonrenewable asset, oil and gas reserves on the Outer Continent Shelf, for the protection and enhancement of our natural and cultural heritage, threatened coastal areas and wildlife. It also reinvests in our local communities and our children through enhanced outdoor recreational opportunities. By enacting CARA, we can ensure that this century begins with the most significant commitment of resources to conservation ever.

During the 106th Congress the House of Representatives passed almost identical legislation by an overwhelming vote of 315 to 102 and the Senate Committee on Energy and Natural Resources reported a version with the support of the Chairman and Ranking Member. In addition, a bipartisan group of 63 Senators sent a letter to Majority Leader LOTT and Minority Leader DASCHLE on September 19, 2000 requesting that CARA be brought to the floor of the Senate for consideration before the adjournment of the 106th Congress. Just last week the

House Committee on Resources reported the bill by a vote of 29 to 12 and it currently has two-hundred and thirty nine co-sponsors. CARA is supported by Governors, Mayors and a coalition of over 5,000 organizations from throughout the country.

This legislation provides $3.125 billion for eight distinct reinvestment programs including: Impact Assistance and Coastal Conservation for all coastal states and eligible local governments and to mitigate the various impacts of producing states that serve as the ''platform'' for the crucial development of federal offshore energy resources from the Outer Continental Shelf, restoring Congressional intent with respect to the Land and Water Conservation Fund, LWCF, by providing stable and annual funding for the state and federal side of the LWCF at its authorized $900 million level while protecting the rights of private property rights owners; establishing a Wildlife Conservation and Restoration Fund at $350 million through the successful program of Pittman-Robertson by reinvesting the development of non-renewable resources into a renewable resource of wildlife conservation and education; providing funding for the Urban Parks and Recreation Recovery program through matching grants to local governments to rehabilitate and develop recreation programs, sites and facilities enabling cities and towns to focus on the needs of its populations within our more densely inhabited areas with fewer greenspaces, playgrounds and soccer fields for our youth; providing funding for the Historic Preservation Fund through the programs of the Historic Preservation Act, including grants to the States, maintaining the National Register of Historic Places and administering numerous historic preservation programs and fully funding the Payment In-Lieu of Taxes (PILT) program.

The time has come to take the proceeds from a non-renewable resource for the purpose of reinvesting a portion of these revenues in the conservation and enhancement of our renewable resources. To continue to do otherwise, as we have over the last fifty years, is fiscally irresponsible.

By Mr. JEFFORDS (for himself, Mr. BINGAMAN, Mr. HATCH, Mr. GRASSLEY, Mr. DASCHLE, Mr. DURBIN, Mr. CHAFEE, and Mr. BOND):

S. 1329. A bill to amend the Internal Revenue Code of 1986 to provide a tax incentive for land sales for conservation purposes; to the Committee on Finance.

Mr. JEFFORDS. Madam President, together with Senators BINGAMAN, HATCH, GRASSLEY, DASCHLE, DURBIN, BOND, and CHAFEE, I am today introducing the Conservation Tax Incentives Act of 2001. As an incentive for voluntary conservation of environmentally significant land, this bill allows landowners to exclude from income fifty percent of the gain they realize on sales, for conservation purposes, of land or easements in land. This proposal, included in President Bush's Budget Blueprint, was a central element in his environmental platform during the campaign. It is a sensible, modest tax proposal to help the environment and is supported by a wide range of groups, including the American Farm Bureau, the Association of State Foresters, Defenders of Wildlife, and the Nature Conservancy.

Landowners have a stake in the quality of life of their communities' environment. They also have a right to reap the economic benefits of their investments in land. Landowners able to make charitable contributions of land for conservation purposes can realize tax benefits that make it possible to achieve both their financial and conservation goals. For many taxpayers, however, in Vermont and elsewhere throughout the country, holdings in land represent a major financial asset they cannot afford to donate. Others may not have sufficient income to be able to take full advantage of the tax benefit of a charitable donation. For these landowners, a sale of the land for development may be the only viable way to realize the full economic return on their investment in land. We need new federal tax incentives to help these ''land-rich, cash-poor'' landowners protect their investments and at the same time achieve permanent conservation interests. This bill provides a market-based, voluntary land conservation incentive to help those who own and want to conserve environmentally sensitive land but cannot afford to give it away.

The need for this bill has never been more pressing. We are consuming land at an alarming pace. The pace of land development exceeds by far both the rate of population growth and the rate of open space conservation. In the United States, two acres of farmland per minute, about a million acres per year, are lost to development. Almost one-third of the species in the United States are extinct or under threat of extinction. Loss of open space not only threatens biodiversity, but also quality of life. It increases traffic congestion, and air and water pollution; it decreases opportunities for recreation; and it threatens productive agricultural land. Healthy communities are made up to complex systems of forests, productive soils, rivers, and other interdependent resources. Deforestation, the paving over of agricultural land, the filling-in of wetlands, and urban sprawl are consuming the landscape and straining the balance of wild and human habitat. The sustainability of a healthy quality of life is increasingly in jeopardy.

My bill's approach to these problems creates no new regulatory authority; it requires no appropriations; and it has no new attempts to define conservation. It creates a simple, voluntary incentive for private, market-rate sales of land, or interests in land, to government agencies or qualified non-profit organizations. Incorporating definitions and concepts that already exist in the tax code, this bill provides substantial conservation benefits at a minimal cost—about $66 million per year, as estimated by the Joint Committee on Taxation. Projections show that every year the bill could protect land valued at up to $150 million.

In drafting the bill, we were careful to ensure that land acquired with this new tax incentive would truly serve conservation purposes. The only qualified purchasers are publicly supported conservation charitable organizations and governmental natural resource and environmental agencies; these entities have long and respected records of serving the public interest in acquiring and managing land for conservation purposes. The bill builds on that record of trust and responsible stewardship without imposing new and cumbersome requirements to ensure that the public interest is served.

In addition, the bill requires a statement by the conservation purchasers memorializing their intent to serve the specified conservation purposes. This language was crafted to protect the public's conservation investment and does not create a tax-driven land use restriction. In essence, we want to make sure that the intention to conserve land does not rob the land of the commercial value for which the landowner must be compensated. The required statement of the purchaser's intent should not be construed to impose restrictions on the property or covenants running with the land, which might result in an appraisal that could deny sellers the full value of their land. Property should be appraised at its unencumbered, full fair market value. Furthermore, the value of property in the hands of the purchasing conservation entity should be its full fair market value, regardless of the purchaser's intent of conservation and regardless of the required statement of intent. This principle is important, because it means that a land trust could serve as the original conservation purchaser and subsequently transfer the property to another cooperating conservation purchaser, such as a governmental agency, receiving the full fair market value on the subsequent transfer.

This bill has broad bipartisan support. In the 106th Congress, a majority of the Members of the Senate Finance Committee supported it as an element of the Community Renewal and New Markets Act. It is a modest, bipartisan, innovative proposal that should be a part of this year's environment and tax agenda, and I urge my colleagues to join me in support.

Mr. BINGAMAN. Madam President, I rise today to join my colleagues, Senators JEFFORDS and HATCH, as an original co-sponsor of the Conservation Tax Incentives Act of 2001. The great conservationist Aldo Leopold once stated. ''That land is a community is the basic

concept of ecology, but that land is to be loved and respected is an extension of ethics'' This legislation is in keeping with the conservation ethic so eloquently articulated by Mr. Leopold decades ago.

The bill that we are introducing today will greatly expand the benefits of our existing conservation land easement laws which will have an enormous impact on the preservation of our nation's forests, prairies, deserts and open space. This legislation will save millions of acres of our nation's land for future generations by reducing by 50 percent the tax on capital gains that would normally be owned on a sale provided the land or easements are sold to public or private conservation entities for conservation purposes. These types of sales of conservation and preservation organizations will enhance opportunities for recreation, maintain open space, help to retain lands in agricultural production, and preserve important habitat.

Whether it is riparian habitat in New Mexico, mixed grass prairie in the Midwest, open space in California and the foothills of the Rocky Mountains, or woodlands of the Southeast, this legislation would provide enhanced conservation through the voluntary actions of citizens. It would help to address the dramatic loss of farmland acreage to development. It would ensure that important habitat for wildlife is conserved. It would eliminate tax disincentive that keeps landowners who wish to see their land preserved from reaching their goal.

This bill will have positive impacts in New Mexico. The legislation will help landowners who wish to ensure that their lands remain in ranching in future decades or who want to preserve other open lands for future generations. The bill would provide a boost to the efforts of state and local government to stretch limited conservation dollars. And it will enhance the ability of local land conservation organizations to craft voluntary agreements with landowners to conserve lands.

I believe enactment of this legislation would have significant consequences for our nation's landscape for generations to come. I look forward to working with my colleagues to secure its passage.

By Mr. HARKIN (for himself and Mr. HATCH):

S. 1330. A bill to amend the Internal Revenue Code of 1986 to provide that amounts paid for foods for special dietary use, dietary supplements, or medical foods shall be treated as medical expenses; to the Committee on Finance.

Mr. HARKIN. Madam President, today I am introducing legislation, the Dietary Supplement Tax Fairness Act, on behalf of myself and my distinguished colleague Senator HATCH. This legislation will make the cost of dietary supplements, medical foods, and foods for special dietary when offered as a health insurance plan tax deductible for employers and excluded from taxable income for employees. Unfortunately, today the tax code provides this sensible tax treatment for these products only if they are prescribed drugs.

Our current policy is unfair and is failing to take full advantage of the potential to improve health and hold down health care costs through preventive health care practices available to consumers. Many Americans are using these healthcare products to improve their health and to stay healthy and would like to be able to have access to these products in the form of an insurance benefit. Insurance companies and employers responding to this consumer demand have been frustrated by being unable to offer a benefit like this in a manner consistent with other health care practices which receive favorable consideration in the Internal Revenue Code. The White House Commission on Complementary and Alternative Health Care Policy has consistently heard in testimony of the need for greater insurance coverage of products like the ones in my legislation. Bringing the code up to date to recognize and allow for this important need for wellness and health promotion is an important step forward to overall sound healthcare policy.

I want to emphasize the importance our legislation places on quality. Consumers need and deserve to know that the products they are buying are of a high quality and consistency. With that in mind, the Dietary Supplement Health and Education Act of 1994 called on the Food and Drug Administration, FDA, to develop and implement Good Manufacturing Practice Standards, GMPs, for dietary supplements. Senator HATCH and I have repeatedly pushed the FDA to produce and implement these important consumer protections. After seven years, draft GMPs were published in the Federal Register but have not been finalized. I am hopeful that these final standards will be put in place without further delay. The legislation we are introducing requires that dietary supplement and other products meet good manufacturing practice standards in order to receive the improved tax treatment. This will offer a strong incentive to maintain and improve quality.

I urge my colleagues to review this legislation and I hope they will join us in support and join us in our effort to win its passage. 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. 1330

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 shall be known as the ''Dietary Supplement Tax Fairness Act of 2001.''

SECTION 2. FINDINGS.

The Congress finds that—

(1) the inclusion of foods for special dietary use, dietary supplements, and medical foods in the deduction for medical expenses does not subject such items to regulation as drugs,

(2) the Internal Revenue Code of 1986 treats such items as allowable for the medical expense deduction, but only if such items are prescribed drugs,

(3) such items have been shown through research and historical use to be a valuable benefit to human health, in particular disease prevention and overall good health, and

(4) children with inborn errors of metabolism, metabolic disorders, and autism, and all individuals with diabetes, autoimmune disorders, and chronic inflammatory conditions, frequently require daily dietary interventions as well as medical interventions to manage their conditions and such dietary interventions often become a significant economic burden on such individuals.

SEC. 3. AMOUNTS PAID FOR FOODS FOR SPECIAL DIETARY USE, DIETARY SUPPLEMENTS, OR MEDICAL FOODS TREATED AS MEDICAL EXPENSES.

(a) IN GENERAL.—Paragraph (1) of section 213(d) of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) for foods for special dietary use, dietary supplements (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act), and medical foods,''.

(b) SPECIAL RULE FOR INSURANCE COVERING FOODS FOR SPECIAL DIETARY USE, DIETARY SUPPLEMENTS, AND MEDICAL FOODS.—Subsection (d) of section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by adding at the end the following new paragraph:

''(12) SPECIAL RULE FOR INSURANCE COVERING FOODS FOR SPECIAL DIETARY USE, DIETARY SUPPLEMENTS, AND MEDICAL FOODS.—Amounts paid for insurance covering foods and supplements referred to in paragraph (1)(C) shall be treated as described in paragraph (1)(E) only if such foods and supplements comply with applicable good manufacturing practices prescribed by the Food and Drug Administration or with other comparable standards.''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 213(d)(1) of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended by striking ''subparagraphs (A) and (B)'' and inserting ''subparagraphs (A), (B), and (C)''.

(2) The last sentence of section 213(d)(1) of such Code is amended by striking ''subparagraph (D)'' and inserting ''subparagraph (E)''.

(3) Paragraph (6) of section 213(d) of such Code is amended—

(A) by striking ''and (C)'' and inserting ''(C), and (D)'', and

(B) by striking ''paragraph (1)(D)'' in subparagraph (A) and inserting ''paragraph (1)(E)''.

(4) Paragraph (7) of section 213(d) of such Code is amended by striking ''and (C)'' and inserting ''(C), and (D)''.

(5) Sections 72(t)(2)(D)(i)(III) and 7702B(a)(4) of such Code are each amended by striking ''section 213(d)(1)(D)'' and inserting ''section 213(d)(1)(E)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. TORRICELLI:

S. 1332. A bill to amend the Internal Revenue Code of 1986 to exclude certain

severance payment amounts from income; to the Committee on Finance.

Mr. TORRICELLI. Madam President, I rise to introduce a bill that is intended to provide tax relief for people who have lost their jobs due to the current economic slowdown and the fact that many corporations are now forced to downsize their workforces. The number of layoffs this calendar year is approaching an all-time high. There were over 770,000 job cuts during the first six (6) months of the year. U.S. employers cut 124,852 jobs during the month of June. The June figure increased 56 percent from May, 80,140, and marked the sixth time in seven months that job cuts exceeded 100,000. Last month the number was actually 624 percent, over June, 2000 when job cuts totaled just 17,241 which was a three (3) year record low.

I am introducing a bill which will provide tax relief to these displaced workers. This legislation will exclude the first $5,000 of severance pay received by people who may be adjusting to an extended period of unemployment in an economy that is no longer bustling. This exclusion is available for any displaced worker whose overall severance payment does not exceed $125,000.

Under present tax law, severance payments are included in gross income. However, severance pay is not intended to be included as part of a worker's wage. Rather, it is intended to be a supplement to assist them during unemployment. Displaced workers often lose nearly a third of their severance packages to taxes. The lump sums they receive in severance pay drives them up into a higher tax bracket that is not representative of their true income or standard of living.

Corporations are already allowed to write-off the severance packages they provide to laid off employees, yet the workers are often adversely effected. For good reasons this body has devoted much time and attention this session to determining how to return to American tax payers that which is rightfully theirs. Clearly, these displaced workers deserve what is truly fair tax treatment at a time when they could truly benefit from it.

The economic prosperity of the last decade benefitted most Americans. Unfortunately, many of the industries most adversely effected by the current economic cycle contributed greatly to our unprecedented growth. Therefore, it is inexcusable for our government to disregard the needs of these displaced workers. It is important that our government take steps to help these workers by removing the unfair tax burden that is placed upon them.

By Mr. JEFFORDS (for himself, Mr. LIEBERMAN, Ms. SNOWE, Mr. SCHUMER, Mr. KERRY):

S. 1333. A bill to enhance the benefits of the national electric system by encouraging and supporting State programs for renewable energy sources, universal electric service, affordable electric service, and energy conservation and efficiency, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. JEFFORDS. Madam President, I rise today to introduce a bill to establish renewable energy targets for electricity sales, an electric systems benefit fund, and net metering programs to ensure a clean, sustainable energy future. I am pleased to be joined by Mr. LIEBERMAN, Ms. SNOWE, Mr. SCHUMER, and Mr. KERRY in introducing the ''Renewable Energy and Energy Efficiency Investment Act of 2001''.

This bill will help bring renewable energy sources and energy efficiency technologies from the minds of the American entrepreneur to the fields of the American farmer, to the hills where strong winds blow, and to the roofs of our homes. Investing in and utilizing these technologies offers tremendous benefits for the health of our citizens, environment and economy. It is time for our Nation to transition from smokestacks, coal power and smog to a future with windmills, solar power and blue skies.

Our Nation has vast, untapped resources than can power our homes and businesses using the heat of the earth, the brilliance of the sun and the strength of the wind. Unlike the limited fossil fuel resources, these sources of energy are forever replacing themselves. All we have to do is harness them.

Today, renewables are beginning to take hold. Wind power, for example, is the fastest growing form of energy in the world. Worldwide almost 4,000 megawatts of new wind energy capacity were added in the year 2000. Other forms of renewable energy, such as solar, biomass and geothermal, offer the same potential and the same benefits. These technologies provide high-tech jobs for U.S. workers. They help reduce acid rain and other forms of air pollution, including greenhouse gas emissions. They are not subject to supply changes that lead to large fluctuations in the price of fossil fuels and they help us reduce our dependence on foreign sources of fossil fuels.

There is perhaps no better time to push these technologies forward. Our Nation is focused on energy issues make it was in the last decade. We are at crossroads where we can begin to see the end of the path toward a clean, sustainable energy future. Renewable energy is the most important landmark on that path. Let me describe how this bill will make this happen.

First, our bill will put in place a Nation-wide wires charge to create an electric system benefit fund. This will help develop renewable energy sources, promote energy efficiency and assist low-income residents meet their energy needs.

Second, our legislation will make it cheaper and easier for consumers to install renewable energy sources in their homes, farms, and small business by simplifying the metering process.

Third, our bill has a comprehensive disclosure provision, giving consumers honest and verifiable information regarding their energy choices.

Finally, our bill will require the suppliers of electricity to include a minimum amount of renewable energy in the products that they sell. We start with 2.5 percent in the first year and work up to 20 percent by the year 2020. The Union of Concerned Scientists found that this program is achievable and will lead to tremendous reductions in air, water and other pollutants that turn our blue skies to grey. Energy Information Administration also found that this program would lead to an 18 percent decrease in the amount of carbon dioxide we release compared to the status quo and ease supply pressures on and prices of natural gas. All these benefits come at the same time that we establish our nation as a leader in developing and manufacturing the cutting edge technologies that will not only power our economy, but the economies of countries all over the world.

Our nation's future depends on having clean, reliable, and sustainable sources of energy. With this bill we can ensure that future becomes a reality. At the same time, we can capture the global market for renewable energy and we can increase our energy security. Most importantly, we can know that our children and grandchildren will thank us for giving them a clean, sustainable energy supply.

I ask that the bill be printed in the RECORD.

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

S. 1333

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 ''Renewable Energy and Energy Efficiency Investment Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the generation of electricity is unique in its combined influence on the security, environmental quality, and economic efficiency of the United States;

(2) the generation and sale of electricity has a direct and profound impact on interstate commerce;

(3) the Federal Government and the States have a joint responsibility for the maintenance of public purpose programs affected by the national electric system;

(4) notwithstanding the public's interest in and enthusiasm for programs that enhance the environment, encourage the efficient use of resources, and provide for affordable and universal service, the investments in those public purposes by existing means continues to decline;

(5) the dependence of the United States on foreign sources of fossil fuels is contrary to our national security;

(6) alternative, sustainable energy sources must be pursued;

(7) consumers have a right to certain information in order to make objective choices on their electric service providers; and

(8) net metering of small systems for self-generation of electricity is in the public interest in order to encourage private investment in renewable energy resources, stimulate economic growth, and enhance the continued diversification of the energy resources used in the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) BIOMASS.—The term ''biomass'' means—

(A) organic material from a plant that is planted exclusively for the purpose of being used to produce electricity; and

(B) nonhazardous, cellulosic or agricultural animal waste material that is segregated from other waste materials and is derived from—

(i) a forest-related resource, including—

(I) mill and harvesting residue;

(II) precommercial thinnings;

(III) slash; and

(IV) brush;

(ii) an agricultural resource, including—

(I) orchard tree crops;

(II) vineyards;

(III) grain;

(IV) legumes;

(V) sugar; and

(VI) other crop by-products or residues;

(iii) miscellaneous waste such as—

(I) waste pallet;

(II) crate;

(III) dunnage; and

(IV) landscape or right-of-way tree trimmings, but not including—

(aa) municipal solid waste;

(bb) recyclable postconsumer wastepaper;

(cc) painted, treated, or pressurized wood;

(dd) wood contaminated with plastic or metals; or

(ee) tires; and

(iv) animal waste that is converted to a fuel rather than directly combusted, the residue of which is converted to biological fertilizer, oil, or activated carbon.

(3) BOARD.—The term ''Board'' means the National Electric System Benefits Board established under section 4.

(4) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(5) FUND.—The term ''Fund'' means the National Electric System Benefits Fund established by section 5.

(6) LANDFILL GAS.—The term ''landfill gas'' means gas generated from the decomposition of household solid waste, commercial solid waste, and industrial solid waste disposed of in a municipal solid waste landfill unit (as those terms are defined in regulations promulgated under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.)).

(7) POLLUTANT.—The term ''pollutant'' means—

(A) carbon dioxide, mercury nitrous oxide, sulfur dioxide, or any other substance that the Administrator identifies by regulation as a substance that, when emitted into the air from a combustion device used in the generation of electricity, endangers public health or welfare (within the meaning of section 302(h) of the Clean Air Act (42 U.S.C. 7602(h));

(B) any substance discharged into water that is regulated under a National Pollutant Discharge Elimination System permit issued under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342); and

(C) any substance disposed of in a solid or hazardous waste facility that is regulated under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(8) RENEWABLE ENERGY.—The term ''renewable energy'' means electricity generated from—

(A) a renewable energy source; or

(B) hydrogen that is produced from a renewable energy source.

(9) RENEWABLE ENERGY SOURCE.—The term ''renewable energy source'' means—

(A) wind;

(B) biomass;

(C) landfill gas; or

(D) a geothermal, solar thermal, or photovoltaic source.

(10) RETAIL ELECTRIC SUPPLIER.—

(A) IN GENERAL.—The term ''retail electric supplier'' means a person or entity that sells retail electricity to consumers.

(B) INCLUSIONS.—The term ''retail electric supplier'' includes—

(i) a regulated utility company (including affiliates or associates of such a company);

(ii) a company that is not affiliated or associated with a regulated utility company;

(iii) a municipal utility;

(iv) a cooperative utility;

(v) a local government; and

(vi) a special district.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 4. NATIONAL ELECTRIC SYSTEM BENEFITS BOARD.

(a) ESTABLISHMENT.—The Secretary shall establish a National Electric System Benefits Board to carry out the functions and responsibilities described in this section.

(b) MEMBERSHIP.—The Board shall be composed of—

(1) 1 representative of the Commission appointed by the Commission;

(2) 2 representatives of the Secretary appointed by the Secretary;

(3) 2 persons nominated by the national organization representing State regulatory commissioners and appointed by the Secretary;

(4) 1 person nominated by the national organization representing State utility consumer advocates and appointed by the Secretary;

(5) 1 person nominated by the national organization representing State energy offices and appointed by the Secretary;

(6) 1 person nominated by the national organization representing energy assistance directors and appointed by the Secretary; and

(7) 1 representative of the Environmental Protection Agency appointed by the Administrator.

(c) CHAIRPERSON.—The Secretary shall select a member of the Board to serve as Chairperson of the Board.

(d) MANAGER.—

(1) APPOINTMENT.—The Board shall by contract appoint an electric systems benefits manager for a term of not more than 3 years, which term may be renewed by the Board.

(2) COMPENSATION.—The compensation and other terms and conditions of employment of the manager shall be determined by a contract between the Board and the individual or the other entity appointed as manager.

(3) FUNCTIONS.—The manager shall—

(A) monitor the amounts in the Fund;

(B) receive, review, and make recommendations to the Board regarding applications from States under section 6(b); and

(C) perform such other functions as the Board may require to assist the Board in carrying out its duties under this Act.

SEC. 5. NATIONAL ELECTRIC SYSTEM BENEFITS FUND.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Board shall establish an account or accounts at 1 or more financial institutions, which account or accounts shall be known as the ''National Electric System Benefits Fund'', consisting of amounts deposited in the fund under subsection (c).

(2) STATUS OF FUND.—The wires charges collected under subsection (c) and deposited in the Fund—

(A) shall constitute electric system revenues and shall not constitute funds of the United States;

(B) shall be held in trust by the manager of the Fund solely for the purposes stated in subsection (b); and

(C) shall not be available to meet any obligations of the United States.

(b) USE OF FUND.—

(1) FUNDING OF SYSTEM BENEFIT PROGRAMS.—Amounts in the Fund shall be used by the Board to provide matching funds to States for the support of State system benefit programs relating to—

(A) renewable energy sources;

(B) assisting low-income households in meeting home energy needs;

(C) energy conservation and efficiency; or

(D) research and development in areas described in subparagraphs (A) through (C).

(2) DISTRIBUTION.—

(A) IN GENERAL.—Except for amounts needed to pay costs of the Board in carrying out its duties under this section, the Board shall instruct the manager of the Fund to distribute all amounts in the Fund to States to fund system benefit programs under paragraph (1).

(B) FUND SHARE.—

(i) IN GENERAL.—Subject to clause (iii), the Fund share of a system benefit program funded under paragraph (1) shall be 50 percent.

(ii) PROPORTIONATE REDUCTION.—To the extent that the amount of matching funds requested by States exceeds the maximum projected revenues of the Fund, the matching funds distributed to the States shall be reduced by an amount that is proportionate to each State's annual consumption of electricity compared to the aggregate annual consumption of electricity in the United States.

(iii) ADDITIONAL STATE FUNDING.—A State may apply funds to system benefit programs in addition to the amount of funds applied for the purpose of matching the Fund share.

(3) PROGRAM CRITERIA.—The Board shall recommend eligibility criteria for system benefits programs funded under this section for approval by the Secretary.

(4) APPLICATION.—Not later than August 1 of each year, a State seeking matching funds for the following year shall file with the Board, in such form as the Board may require, an application—

(A) certifying that the funds will be used for an eligible system benefit program;

(B) stating the amount of State funds earmarked for the program; and

(C) summarizing the manner in which amounts from the Fund were used in the State during the previous calendar year.

(c) WIRES CHARGE.—

(1) DETERMINATION OF NEEDED FUNDING.—Not later than September 1 of each year, the Board shall determine and inform the Commission of the aggregate amount of wires charges that it will be required to be paid into the Fund to pay matching funds to States and the operating costs of the Board in the following year.

(2) IMPOSITION OF WIRES CHARGE.—

(A) IN GENERAL.—Not later than December 15 of each year, the Commission shall impose a nonbypassable, competitively neutral wires charge to be paid directly into the Fund by the operator of the wire on the amount of electricity carried through the wire in interstate commerce.

(B) MEASUREMENT.—For the purposes of subparagraph (A)—

(i) electricity generated in the United States shall be measured as the electricity exits the busbar at a generation facility; and

(ii) electricity generated outside the United States shall be measured at the point of delivery to the system of the wire operator.

(C) AMOUNT OF WIRES CHARGE.—The wires charge shall be set at a rate equal to the lesser of—

(i) 2 mills per kilowatt-hour; or

(ii) a rate that is estimated to result in the collection of an amount of wires charges that is as nearly as possible equal to the amount of needed funding determined under paragraph (1).

(3) DEPOSIT IN THE FUND.—The wires charge shall be paid by the operator of the wire directly into the Fund at the end of each month during the calendar year for distribution by the electric systems benefits manager under section 5.

(4) STATE WIRES CHARGE.—

(A) IN GENERAL.—A State that imposes a wires charge may pay into the Fund some or all of the wires charge imposed under this subsection on behalf of wire operators serving that State.

(B) PAYMENT.—Payments by the State into the Fund under subparagraph (A) shall be applied towards the wires charge imposed under this subsection.

(5) PENALTIES.—The Commission may assess against a wire operator that fails to pay a wires charge as required by this subsection a civil penalty in an amount equal to not more than the amount of the unpaid wires charge.

(d) AUDITING.—

(1) IN GENERAL.—The Fund shall be audited annually by a firm of independent certified public accountants in accordance with generally accepted auditing standards.

(2) ACCESS TO RECORDS.—Representatives of the Secretary and the Commission shall have access to all books, accounts, reports, files, and other records pertaining to the Fund as necessary to facilitate and verify the audit.

(3) REPORTS.—

(A) IN GENERAL.—A report on each audit shall be submitted to the Secretary, the Commission, and the Secretary of the Treasury, who shall submit the report to the President and Congress not later than 180 days after the close of the fiscal year.

(B) REQUIREMENTS.—An audit report shall—

(i) set forth the scope of the audit; and

(ii) include—

(I) a statement of assets and liabilities, capital, and surplus or deficit;

(II) a statement of surplus or deficit analysis;

(III) a statement of income and expenses;

(IV) any other information that may be considered necessary to keep the President and Congress informed of the operations and financial condition of the Fund; and

(V) any recommendations with respect to the Fund that the Secretary or the Commission may have.

SEC. 6. RENEWABLE ENERGY GENERATION STANDARDS.

(a) RENEWABLE ENERGY CREDITS.—

(1) IN GENERAL.—Not later than April 1 of each year, each retail electric supplier shall submit to the Secretary renewable energy credits in an amount equal to the required annual percentage of the retail electric supplier's total amount of kilowatt-hours of electricity sold to consumers during the previous calendar year.

(2) RATE.—The rates charged to each class of consumers by a retail electric supplier shall reflect an equal percentage of the cost of generating or acquiring the required annual percentage of renewable energy under subsection (b).

(3) ELIGIBLE RESOURCES.—A retail electric supplier shall not represent to any customer or prospective customer that any product contains more than the percentage of eligible resources if the additional amount of eligible resources is being used to satisfy the renewable generation requirement under subsection (b).

(4) STATE RENEWABLE ENERGY PROGRAM.—

(A) IN GENERAL.—Nothing in this section precludes any State from requiring additional renewable energy generation in the State under any renewable energy program conducted by the State.

(B) LIMITATION.—A State may limit the benefits of any State renewable energy program to renewable energy generators located within the boundaries of the State or other boundaries (as determined by the State).

(b) REQUIRED RENEWABLE ENERGY.—Of the total amount of electricity sold by each retail electric supplier during a calendar year, the amount generated by renewable energy sources shall be not less than the percentage specified in the following table:

Calendar year:	Percentage reduction:
2002	2.5
2003	3
2004	4
2005	5
2006	6
2007	7
2008	8
2009	9
2010	10
2011	11
2012	12
2013	13
2014	14
2015	15
2016	16
2017	17
2018	18
2019	19
2020 and thereafter	20.

(c) SUBMISSION OF RENEWABLE ENERGY CREDITS.—To meet the requirements under subsection (a)(1), a retail electric supplier may submit to the Secretary—

(1) renewable energy credits issued under subsection (d) for renewable energy generated by the retail electric supplier during the calendar year for which renewable energy credits are being submitted or any previous calendar year; or

(2) renewable energy credits—

(A) issued under subsection (d) to any renewable energy generator for renewable energy generated during the calendar year for which renewable energy credits are being submitted or a previous calendar year; and

(B) acquired by the retail electric supplier under subsection (e).

(d) ISSUANCE OF RENEWABLE ENERGY CREDITS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a program to issue, monitor the sale or exchange of, and track renewable energy credits.

(2) APPLICATION.—

(A) IN GENERAL.—Under the program established under paragraph (1), an entity that generates electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits.

(B) REQUIREMENTS.—An application under subparagraph (A) shall identify—

(i) the type of renewable energy resource used to produce the electric energy;

(ii) the State in which the electric energy was produced; and

(iii) any other information that the Secretary determines appropriate.

(3) NUMBER OF RENEWABLE ENERGY RESOURCE CREDITS.—

(A) IN GENERAL.—The Secretary shall issue to an entity 1 renewable energy credit for each kilowatt-hour of electric energy that the entity generates through the use of a renewable energy resource in any State in calendar year 2001 and each year thereafter.

(B) PARTIAL CREDIT.—If both a renewable energy resource and a nonrenewable energy resource are used to generate the electric energy, the Secretary shall issue renewable energy credits based on the proportion of the renewable energy resource used.

(4) ELIGIBILITY.—To be eligible for a renewable energy credit under this subsection, the unit of electricity generated through the use of a renewable energy resource shall be sold or used by the generator.

(5) IDENTIFICATION OF RENEWABLE ENERGY CREDITS.—The Secretary shall identify renewable energy credits by—

(A) the type of generation; and

(B) the State in which the generating facility is located.

(6) FEE.—

(A) IN GENERAL.—To receive a renewable energy credit, the entity shall pay a fee, calculated by the Secretary, in an amount that is equal to the lesser of—

(i) the administrative costs of issuing, recording, monitoring the sale of exchange of, and tracking the renewable energy credit; or

(ii) 5 percent of the national average market value (as determined by the Secretary) of that quantity of renewable energy credits.

(B) USE.—The Secretary shall use the fee to pay the administrative costs described in subparagraph (A)(i).

(e) SALE OR EXCHANGE.—A renewable energy credit may be sold or exchanged by the entity issued the renewable energy credit or by any other entity that acquires the renewable energy credit.

(f) VERIFICATION.—The Secretary may collect the information necessary to verify and audit—

(1) the annual electric energy generation and renewable energy generation of any entity applying for renewable energy credits under this section;

(2) the validity of renewable energy credits submitted by a retail electric supplier to the Secretary; and

(3) the amount of electricity sales of all retail electric suppliers.

(g) ENFORCEMENT.—

(1) IN GENERAL.—The Secretary may bring an action in United States district court to impose a civil penalty on a retail electric supplier that fails to comply with subsection (a).

(2) AMOUNT OF PENALTY.—A retail electric supplier that fails to submit the required number of renewable energy credits under subsection (a) shall be subject to a civil penalty of not more than 3 times the estimated national average market value (as determined by the Secretary) of that quantity of renewable energy credits for the calendar year concerned.

SEC. 7. NET METERING.

(a) DEFINITIONS.—In this section:

(1) CUSTOMER-GENERATOR.—The term ''customer-generator'' means a retail electric customer that generates electricity measured by a net metering system.

(2) ELECTRIC COMPANY.—

(A) IN GENERAL.—The term ''electric company'' means a company that is engaged in the business of distributing electricity to retail electric customers.

(B) INCLUSIONS.—The term ''electric company'' includes an investor-owned utility, public utility district, irrigation district, port district, electric cooperative, or municipal electric utility.

(3) NET METERING.—The term ''net metering'' means the measuring of the difference between—

(A) the quantity of electricity supplied by an electric company to a customer-generator during a billing period; and

(B) the quantity of electricity generated by a customer-generator and fed back to the electric company by a net metering system during the billing period.

(4) NET METERING SYSTEM.—The term ''net metering system'' means a facility for generation of electricity that—

(A) is of not more than 100 kilowatts capacity;

(B) is interconnected and operates in parallel with the transmission and distribution system of an electric company;

(C) is intended primarily to offset some or all of the electricity requirements of a customer-generator;

(D) is located on the premises of a customer-generator; and

(E) employs a renewable energy source.

(b) REQUIREMENT TO ALLOW NET METERING.—An electric company shall allow a retail electric customer to interconnect and employ a net metering system using—

(1) a kilowatt-hour meter capable of registering the flow of electricity in 2 directions; or

(2) another type of comparably equipped meter that would otherwise be applicable to the customer's usage but for the use of net metering.

(c) NET METERING ACCOUNTING.—

(1) IN GENERAL.—Electric energy measurements for a net metering system shall be calculated in accordance with this subsection.

(2) RATES AND CHARGES.—An electric company—

(A) shall charge a customer-generator rates and charges that are identical to those that would be charged other retail electric customers of the electric company in the same rate class; and

(B) shall not charge a customer-generator any additional standby, capacity, interconnection, or other rate or charge.

(3) MEASUREMENT.—An electric company that supplies electricity to a customer-generator shall measure the quantity of electricity produced by the customer-generator and the quantity of electricity consumed by the customer-generator during a billing period in accordance with normal metering practices.

(4) ELECTRICITY SUPPLIED EXCEEDING ELECTRICITY GENERATED.—If the quantity of electricity supplied by an electric company during a billing period exceeds the quantity of electricity generated by the customer-generator and fed back to the electric distribution system during the billing period, the electric company may bill the customer-generator for the net quantity of electricity supplied by the electric company, in accordance with normal metering practices.

(5) ELECTRICITY GENERATED EXCEEDING ELECTRICITY SUPPLIED.—If the quantity of electricity generated by a customer-generator during a billing period exceeds the quantity of electricity supplied by the electric company during the billing period—

(A) the electric company may bill the customer-generator for the appropriate charges for the billing period in accordance with paragraph (1); and

(B) the customer-generator shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

(6) UNUSED CREDITS.—At the beginning of each calendar year, any unused kilowatt-hour credits accumulated by a customer-generator during the previous calendar year shall expire without compensation to the customer-generator.

(d) SAFETY.—

(1) REQUIREMENTS.—

(A) INTERIM PROVISION.—A net metering system using photovoltaic generation shall conform to applicable electrical safety, power quality, and interconnection requirements established by the National Electrical Code, the Institute of Electrical and Electronic Engineers, and Underwriters Laboratories.

(B) REGULATION.—Not later than 180 days after the date of enactment of this Act, the Commission shall adopt electrical safety, power quality, and interconnection requirements for net metering systems that use generation technology other than photovoltaic technology.

(2) TESTING AND INSPECTION.—An electric company may, at its own expense, and upon reasonable written notice to a customer-generator, perform such testing and inspection of a net metering system as is necessary to demonstrate to the satisfaction of the electric company that the system conforms to applicable electric safety, power quality, and interconnection requirements.

(3) ADDITIONAL METERS.—An electric company may, at its own expense and with the written consent of a customer-generator, install 1 or more additional meters to monitor the flow of electricity in each direction.

SEC. 9. DISCLOSURE REQUIREMENTS.

(a) DEFINITIONS.—In this section:

(1) EMISSIONS DATA.—The term ''emissions data'' means the type and amount of each pollutant emitted or released by a generation facility in generating electricity.

(2) GENERATION DATA.—The term ''generation data'' means the type of fuel (such as coal, oil, nuclear energy, or solar power) used by a generation facility to generate electricity.

(b) DISCLOSURE SYSTEM.—The Secretary shall establish a system of disclosure that—

(1) enables retail consumers to knowledgeably compare retail electric service offerings, including comparisons based on generation source portfolios, emissions data, and price terms; and

(2) considers such factors as—

(A) cost of implementation;

(B) confidentiality of information; and

(C) flexibility.

(c) REGULATION.—Not later than March 1, 2002, the Secretary, in consultation with the Board, and with the assistance of a Federal interagency task force that includes representatives of the Commission, the Federal Trade Commission, the Food and Drug Administration, and the Environmental Protection Agency, shall promulgate a regulation prescribing—

(1) the form, content, and frequency of disclosure of emissions data and generation data of electricity by generation facilities to electricity wholesalers or retail companies and by wholesalers to retail companies;

(2) the form, content, and frequency of disclosure of emissions data, generation data, and the price of electricity by retail companies to ultimate consumers; and

(3) the form, content, and frequency of disclosure of emissions data, generation data, and the price of electricity by generation facilities selling directly to ultimate consumers.

(d) ACCESS TO RECORDS.—The Secretary shall have full access to the records of all generation facilities, electricity wholesalers, and retail companies to obtain any information necessary to administer and enforce this section.

(e) FAILURE TO DISCLOSE.—The failure of a retail company to accurately disclose information as required by this section shall be treated as a deceptive act in commerce under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(f) REGULATIONS.—The Secretary may promulgate such regulations, conduct such investigations, and take such other actions as are necessary or appropriate to implement and obtain compliance with this section and regulations promulgated under this section.

Mr. LIEBERMAN. Madam President, today Senator JEFFORDS, Senator SNOWE, and I are introducing the Renewable Energy Act of 2001. This is a landmark bill as it sets a national goal of fueling 20 percent of our electricity generation with renewable energy sources by the year 2020. For our long-term energy policy, setting such a goal is important. In addition to supporting traditional hydrocarbon fuel sources, we must also invest in those sources, like solar, wind, geothermal, and biomass, that will not eventually run dry. Such investments will also significantly lessen our vulnerability to our foreign energy suppliers. Furthermore, nations such as Japan and Denmark have already made great strides in advancing renewable technologies and it is in our economic interest to be able to compete on the international market. While some of the details of the bill need ongoing evaluation and tuning, we should view this bill as stating a goal, not as the detailed road map on how to get there. For example, the definition of renewables needs further attention and expansion. But I believe the Renewable Energy Act sets laudable goals to aspire to and makes a useful statement about our national priorities as we approach the energy debate.

By Mr. WARNER.

S. 1334. A bill to require increases in the strengths of the full-time support personnel for the Army National Guard of the United States through fiscal year 2001 to support the readiness and training of the Army National Guard of the United States to meet increasing mission requirements, and for other purposes; to the Committee on Armed Services.

Mr. WARNER. Madam President, I rise today to introduce legislation to fulfill an urgent need of the Army National Guard.

I recently visited the Headquarters of the Virginia National Guard and the Maneuver Training Center at Fort Pickett. I conferred with Major General Claude A. Williams, the Adjutant General, of the Virginia National Guard. Major General Williams heads a superb organization composed of outstanding units, including the 29th Infantry Division, Light, the 91st Troop Command, the 28th Engineer Brigade, the 54th Field Artillery Brigade, and the 192nd Fighter Wing. The Maneuver Training Center at Fort Picket and its personnel perform a vital training mission for units of the active Army, Army Guard, and Reserve.

I was astonished to learn during my visit last month that the Army has funded only 59 percent of the validated operational billets for Active Guard and Reserve, ''AGRs'', and military technicians within the Army National Guard units. The ''full rate'' in Virginia is even lower than this national

average, only 51 percent. I raised a question about this and expressed my concern to the Secretary of the Army and Chief of Staff of the Army at a recent Senate Armed Services Committee hearing.

The legislation I am introducing today requires annual increases in the numbers of full time active-duty officers and military technicians in the Army National Guard—724 AGRs and 487 military technicians each year for the next 11 years. The legislation is based on a plan drawn up, cooperatively, by the Active Army and the Army National Guard. When fully implemented, the increases contained in the legislation will raise the Guard's ''fill rate'' from its present level of 59 percent of valid personnel requirements, to a level of 71 percent—an acceptable level within current force structure and readiness planning parameters.

AGRs and Military Technicians are critically important force multipliers for Army National Guard units. They directly impact training, command and control, technical, functional, and military expertise required to effectively train, administer, and prepare ready units and equipment for transition from peacetime to a wartime posture. AGRs and Military Technicians perform functions vital for meeting supply, training, and maintenance requirements of the Army National Guard units.

The increases in authorized end strengths set forth in this legislation are essential because of the increased reliance on Guard units to carry out Army missions. Each Army National Guard division has been assigned rotational duty in Bosnia-Herzegovina with the Stabilization Force, SFOR, missions in Bosnia-Herzegovina. The 29th Infantry Division, Light, of the Virginia National Guard is now fully engaged in executing its phased deployment to Bosnia and will be in place in October of this year. I applaud the Army for its ongoing efforts to integrate the National Guard in its operational planning. The Guard needs these soldiers in place in their full time support roles to ensure its success.

I know that Army leaders must make difficult decisions each year based on changing priorities and requirements and that the President must do the same in his annual budget submission. I am convinced, however, that the increases in end strength prescribed in this legislation are necessary and must be assigned the highest priority.

By Mr. KENNEDY (for himself, Mr. DEWINE, Mr. DASCHLE, Ms. SNOWE, Mr. DURBIN, Mr. CORZINE, Ms. STABENOW, Mr. BAUCUS, Mr. BINGAMAN, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. JOHNSON, and Mr. CONRAD):

S. 1335. A bill to support business incubation in academic settings; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Madam President, it is a privilege to join my colleagues in introducing the LEADERS Act—the Linking Educators And Developing Entrepreneurs for Reaching Success Act. Our bipartisan goal is to bring together entrepreneurs and academic institutions to encourage small businesses. These innovative centers can have a significant role in the modern economy, and provide needed cutting-edge educational and entrepreneurial opportunities for college students.

I commend Senator DEWINE for his leadership in developing this bipartisan legislation, and for his continuing leadership on economic and education issues. We agree that college-affiliated business incubators can be effective tools in improving education and the economy, and this legislation is designed to encourage them.

A business incubator facilitates economic development by providing specific resources and services to entrepreneurial, start-up companies. This assistance often includes office space at discounted rent, access to telephone and Internet services, consulting opportunities, and other appropriate technical assistance. The goal of such business incubators is to produce successful firms that will be successful in the long run through modest and timely start-up assistance.

Business incubators can have an important role in strengthening and sustaining local economies. Several studies have shown that incubated businesses tend to survive longer, create more jobs, remain in their communities, and provide worthwhile benefits to their employees.

One of the best ways to encourage entrepreneurship is to enhance the role of colleges and universities in developing new ideas into sustainable businesses that prosper, remain in their communities, and provide good jobs and good benefits to local workers in the cities and towns that need them most. Business incubators will benefit colleges and universities as well, because they can provide students with real-life examples of emerging businesses and case studies to enhance their educational experience.

Our legislation creates a program in the Department of Education to support academic-affiliated business incubators. A $20 million fund will offer competitive grants to acquire or renovate space, develop curricula and training for incubator businesses or managers, and conduct feasibility studies for developing and locating incubators.

Eligible applicants will include nonprofit organizations that have an affiliation with a college or university and that manage an incubator. Priority is given to incubators in economically distressed areas, to applications which provide strong educational opportunities in entrepreneurship, and to applications that emphasize cooperation by businesses, academic institutions, local economic leaders, and local government officials.

Small business entrepreneurs have an outstanding track record of products that improve and often save lives. Today these entrepreneurs take advantage of innovative ideas and turn them into job and economic growth. Entrepreneurs can benefit immensely from contacts with academic institutions, and Congress should encourage those contacts.

Colleges and universities often have well-equipped laboratories, good computer systems, and extensive libraries. They can be a source of ideas that spur business creation. Colleges and universities can also provide the skills and experience of a dedicated faculty, and the enthusiasm and potential of today's students.

Current studies show that nearly seven out of ten teenagers want to control their own destinies by becoming entrepreneurs. Six in ten young women, seven in ten Hispanic youth, and nearly eight in ten African-American youth are interested in starting a business of their own. But too many of these young men and women say they know little about how to start their own business. A large majority are taught little about how business or the economy works.

Students who benefit from such instruction start more new business, develop more new products, and are more likely to be involved in high-technology initiatives than their peers. Most entrepreneurs say that they ''learned by doing''—through hands-on access to mentors and similar opportunities. Our legislation will provide access to real-world examples of entrepreneurship and business development, and help lay a stronger foundation for growing and thriving firms.

More and more, academic institutions across the country recognize this opportunity by establishing successful business incubators. In Massachusetts, Salem State College and the University of Massachusetts at Lowell have created successful incubators on their campuses.

Other incubators are reaching out to colleges and universities. The Commonwealth Corporation, a leader in workforce training in Massachusetts, has established an incubator and is actively pursuing ties in Boston with The University of Massachusetts.

Increasingly today, business leaders are recognizing the advantages of affiliations with institutions of higher learning, and academic leaders are welcoming the idea of including entrepreneurial projects in their curricula. In many cases, faculty members themselves are launching incubators.

It makes sense for Congress to support these constructive partnerships. The LEADERS Act can make a worthwhile contribution to this growing movement, and I look forward to early action by the Senate to approve it.

Mr. DEWINE. Madam President, I rise today, along with my good friend, Senator KENNEDY, to introduce the ''Linking Educators And Developing Entrepreneurs for Reaching Success

Act of 2001'' (LEADERS Act). This bipartisan measure will help foster business development by strengthening academic affiliated business incubators.

Our Nation's ability to expand economically hinges on new business growth. Small businesses provide 75 percent of the new jobs in this country, and in 1999, the number of new employer firms outnumbered the amount of business closures. Though our American entrepreneurial spirit is alive and well, as most businessmen and women can attest, starting and maintaining a business is very difficult. In the first two years, more than half of all new businesses fail and, after four years, the failure rate climbs to more than 60 percent.

That's why business incubation is so important. These incubators are centers designed to accelerate the successful development of new companies. They offer an array of business support resources. Most of the incubators provide their clients with access to appropriate rental space and flexible leases, shared services and equipment, technology support services, and assistance in obtaining financing for growth. They also provide a range of services like management guidance, technical assistance, and consulting. Such support an incubation increases the chance of small business survival to about 86 percent.

Our LEADERS Act authorizes the Secretary of Education to provide competitive grants to nonprofit organizations that manage incubators and are affiliated with academic institutions. These grants can be used to acquire or renovate space for an incubator or to support curriculums developed by businesses, faculty, entrepreneurs, and local leaders. The Secretary also can award a grant to help fund feasibility studies to help colleges or local development officials determine the viability of an incubator in their respective communities.

The Act would authorize $20 million for grants in each of the next three fiscal years. The nonprofit organizations that receive funding under the bill would be required to match federal contributions dollar for dollar, and their proposals must have the support of local community leaders.

Many of the non-profit incubators include universities, which are an integral part of the business incubation process. Academic affiliated incubators provide unique educational opportunities for students and entrepreneurs. This is accomplished with enhanced access to a skilled workforce and a wealth of resources. Ohio is the home of one of the oldest university-based business incubators, the Ohio University Innovation Center, which was established in 1982. Since it's inception, the Center has created 625 jobs, including 125 for students. A number of other important institutions in Ohio, such as The Ohio State University, Bowling Green State University, Case Western Reserve University, Franklin University, John Carroll University, University of Cincinnati, and University of Dayton operate business incubators.

The goal of the incubator is simple: to produce successful, financially viable firms. And, studies show that business incubation works. Almost 87 percent of incubated companies remain in operation, with roughly 84 percent of them remaining in their home communities. It is vital that we give small businesses the necessary tools to stay afloat and to prosper. This legislation will help to foster the next generation of successful entrepreneurs and ultimately further bolster the stability of our economy.

I urge my colleagues to support this legislation and our efforts to help America's entrepreneurs.

By Ms. CANTWELL:

S. 1337. A bill to provide for national digital school districts; to the Committee on Health, Education, Labor, and Pensions.

Ms. CANTWELL. Madam President, I rise today to introduce the National Digital School District Act, a bill that embraces the powerful role technology can have as a tool in educating our nation's children.

Just as technology has brought innovation and efficiency to our daily lives and our businesses, technology has already demonstrated its enormous potential to enhance the ways that we can prepare our children to meet the educational demands of the changing economy.

Across the country, we have seen how proper uses of technology can transform a conventional curriculum into a multi-media, interactive experience that not only helps children learn more effectively, but does so in a way that is enjoyable and fosters a student's passion for learning.

In numerous recent studies, including those done by the Department of Education, the White House Office on Science and Technology and the RAND Corporation, researchers have found that technology has a very positive impact on serving the goals of education in important ways, including:

1. Supporting student performance—technology provides opportunities for acquiring problem-solving skills and methods for learning in innovative and interactive ways.

2. Increased motivation and self-esteem—studies have found that one of the most common effects of technology on students was an increase in the motivation of students who experience education in new and enjoyable ways.

3. Preparing students for the future—as both higher education and the workplace are increasingly becoming infused with technology, technology is a crucial component of student preparation, and;

The potential impact of technology on education is no secret. In fact, schools have dramatically increased their focus on putting technology in the classroom. Both the public and private sector have been diligently wiring school buildings and putting computers in many classrooms, making access to computers and the Internet increasingly commonplace.

But as the old saying goes, you can lead a horse to water, but you can't make it drink. The same is true for children, just putting technology into a school does not ensure that teachers know how to use it or children are able to learn from it.

Unless technology is properly integrated into curriculum, the students will not realize the benefits of having the access. Without teachers who know how to use computers to teach the kids, the kids will not benefit.

In addition to computers and access, we need to assure teacher training and curriculum development. This legislation is a good first step toward fixing this problem, in effect, bridging the technology and teaching divide.

To accomplish this goal, our bill takes two tracks, first, the legislation establishes a grant program in which the state and federal government share the responsibility to create model programs to team technology with curriculum and teacher training—to develop comprehensive approaches to using technology in education.

Second, to help identify best practices, the legislation will also require a study to evaluate and highlight which of these strategies work and which do not work in bringing technology to the classroom.

Schools across the country are being given the tool of technology. Indeed, the total annual investment in education technology is currently almost $5 billion per year.

According to a recently released study by NetDay, although 97 percent of teachers have some type of access to computers in their schools, only 32 percent of teachers say that computers are well integrated into their classrooms and curricula.

We can do better.

Teachers around the country are finding ways to enhance the classroom experience by teaching conventional topics with technological tools. Schools and businesses in my home State of Washington are leaders in these areas.

For example, in rural, agricultural Eastern Washington, Diane Peterson wanted to improve her Waterville Elementary 4th and 5th graders' success with math, science, reading, and writing. She found that University of Washington scientists needed data gathered on local vegetation and weather—she put those facts together and came up with a plan. Students were able to use 3-mail and shared websites to write, organize and present a useful study to the Western Washington scientists. The students are learning math and science skills through real-world experience, possible only through the use of the Internet. And helping science to boot.

Also, administrators in districts around the countries are increasingly

finding particular methods and strategies that are crucial to realizing the value of technology. The Seattle Public School District, for example, has undertaken an effort to employ at every school a person who, with expertise in both education and technology, trains and advises teachers in how to use technology to teach different subjects. Teachers now have a resource to guide them as they bring technology into the classroom. The district has found that having a person who can educate teachers and help them make the most of the technology available to them can make the difference between technology as an educational tool or as a waste of money.

The Bill and Melinda Gates foundations have been leaders in improving education through the use of technology. For example, in Washington State, the Foundation had created the $45 million ''Teacher Leadership Project,'' a grant program to provide leadership development for 1,000 K–12 teachers a year, over three years. Participants receive in-depth training, as well as hardware and software to create a technology-rich learning environment. Teachers attend workshops and seminars, participate in e-mail discussions, keep records of the experiences, and assist with assessment and evaluation. Clearly, assessment and evaluation are critical to the future application for this program. This program is an excellent model to bring technology into the classroom.

These programs show that when used effectively, technology can enhance learning.

But to fully employ technology as an educational tool across the country we must develop programs that take into account the real needs for education and that can be scaled for implementation by any school or district.

Successful strategies are those that not only install computers, but also integrate these resources in three crucial ways, through:

1. Teacher Training and professional development—We must teach the teachers so they can use technology to teach the children.

2. Curriculum development—Technology isn't helpful unless it is incorporated into lesson plans.

3. Resource allocation—In order to be successful, a program should match the technology needs to the goals of the program.

The National Digital School District Act addresses these important elements of technology in education by requiring that local and state agencies incorporate these criteria into their education plans.

Through these requirements, the National Digital School District Act will encourage the development of best practices for the use of technology in schools; practices that can be scaled up in states and local districts around the country.

Additionally, this legislation will ensure that the Department of Education leads the way in identifying best practices for the use of technology by assessing and evaluating the effectiveness of these strategies.

Teachers, administrators, private sector organizations, and non-profit groups are developing innovative approaches in countless classrooms, schools and districts.

Too often, however, the programs and strategies are springing up in isolation—without any mechanisms to facilitate the evaluation and sharing of the results of these efforts.

My bill will bridge this information gap. Not only will this legislation help provide assistance to schools, districts and states as they begin using technology in the classroom, but this will help ensure that federal monies are spent prudently and effectively.

The National Digital School District Act directs the Secretary of Education to complete a comprehensive report after three years to describe what works and what doesn't work—providing guidance to educators and policymakers at the federal, state and local levels. This report will describe the strategies being implemented around the country that best achieve their intended goals.

Using this report we will be able to identify which programs work well and could be adapted successfully for use in other school districts. The report need not be exhaustive, but it must be comprehensive—if a program works, we should know about it. We need a clear inventory of successful programs to identify the best practices educators can implement.

The National Digital School District Act will succeed in identifying these practices and helping to bridge the gap between the vast potential for technology as an educational tool, and the challenges facing teachers who uses it in the classroom.

By Mr. CAMPBELL:

S. 1338. A bill to expand and enhance the Little Bighorn Battlefield National Monument; to the Committee on Energy and Natural Resources.

Mr. CAMPBELL. Madam President, the ultimate test of patriotism has always been the willingness to die for one's country. To step in harm's way, to face shots fired in anger for the sake of defending those things one holds sacred, these are acts of courage that people admire almost instinctively. So much so that we even admire the courage displayed by our enemies.

Those of us who witness such bravery, either up close or from accounts written years ago, often feel compelled to make some gesture that acknowledges the heroism and sacrifice of those who were willing to endure the horror of war.

For this reason, our Nation has a long tradition of setting aside and preserving the sites where important battles have occurred, believing that such ground is hallowed by those who gave their lives in conflict, and in the hope that understanding the events of our past helps us to understand the kind of people we are. A necessary part of this honoring is attempting to preserve the appearance of the places where these battles occurred as the combatants would have experienced them and to freeze these locations in time as much as possible.

Today, I am proud to offer a bill that will continue to protect the sanctity of one such place: the Little Bighorn Battlefield National Monument in southern Montana, the site where Gen. George Armstrong Custer and the U.S. Seventh Cavalry were defeated by a united force of Northern Cheyenne, Arapaho and Lakota Indians, in 1876.

Anyone who has stood, looking down past the grave markers to the trees along the Little Bighorn River, can tell you that it is a haunting place to visit. As you walk along Battle Ridge where soldiers of the U.S. Seventh Cavalry and Indian warriors struggled furiously, it is easy to imagine exactly how it looked on that hot June day when so many men died.

But anyone who has stood on that same hill recently can also tell you that beyond the trees are the telltale signs of commercial development creeping up on the borders of the Monument. For years the site was protected by its sheer isolation. That is no longer the case. The actual battle occurred across a wide area, and only a very small part of that area is protected by inclusion in the Monument. Other historically important sites nearby have already been overrun by development. Hills have been graded and geographical features have been altered. Action must be taken quickly if we are to preserve the Monument looking as it did over a century ago.

The bill I am introducing proposes a way for additional lands to be protected by the Monument. This bill does this by establishing a Committee composed of all interested parties, both those with current interests and those with historical interests in this piece of land, which will keep a registry of important sites that might be taken into the Monument. It is my belief that through a consultative process and cooperation, all interests can be accommodated. I have used this inclusionary process before with the research and protection of the Sand Creek National Historic Site in Colorado.

In the 102nd Congress, while serving as a member of the House, I introduced the bill that changed the name of this monument from the Custer Battlefield National Monument to the Little Bighorn National Monument, to recognize that there were heroes on both sides of this conflict: not only Custer, but also Sitting Bull and Crazy Horse and thousands of other warriors.

I wanted to reclaim the memory of that day for Indian people, and to make clear that the tragedy of June 26, 1876, was just one small part of a much larger tragedy: the near destruction of a people and the ending of a way of life.

The Indian victory at the Little Bighorn that day was only a brief pause in the march of history, it was the beginning of the end. One week later the Untied States marked its first centennial, only one hundred years of existence.

This country needs places like the Little Bighorn Battlefield, just as we need places like Bunker Hill and Gettsburg and Omaha Beach, locations made special by the extraordinary events that occurred there. We need to keep them separate and sacred and dedicated to the belief that some things are worthy of laying down your life. They are, in the fullest sense of the word, monuments: reminders of what is important.

The Little Bighorn Battlefield National Monument is such a place. I ask this Congress to join me in ensuring that this Monument remain a special place for generations to come.

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. 1338

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 ''Little Bighorn Battlefield National Monument Enhancement Act of 2001''.

SEC. 2. FINDINGS AND PURPOSES.

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

(1) The following events were key in the creation of the Little Bighorn Battlefield National Monument:

(A) On June 25 and 26, 1876, a historic battle between the United States Seventh Cavalry, led by General George Armstrong Custer, and an opposing force of Arapaho, Northern Cheyenne, and Lakota Indians, was fought near the Little Bighorn River in southern Montana.

(B) On August 1, 1879, the battlefield was officially recognized and designated as a national cemetery under General Order No. 78, Headquarters of the Army.

(C) On December 7, 1886, Executive Order No. 337443 established the boundary, approximately one mile square, for the National Cemetery of Custer's Battlefield Reservation.

(D) On April 14, 1926, the Reno-Benteen Battlefield was acquired by an Act of Congress (44 Stat. 168), and the Army was ordered to take charge of the site.

(E) On April 15, 1930, by an Act of Congress (46 Stat. 168), all rights, titles and privileges of the Crow tribe, from whose reservation the battlefield site was carved, were granted to the United States.

(F) On August 10, 1939, a public historical museum was authorized (53 Stat. 1337).

(G) On June 3, 1940, Executive Order No. 8428 transferred management of the area to the National Park Service, Department of the Interior.

(H) On March 22, 1946, by an Act of Congress (Public Law 79–332) the area was redesignated, Custer Battlefield National Monument.

(I) On January 3, 1991, by an Act of Congress (Public Law 102–201), Custer Battlefield National Monument was redesignated as Little Bighorn Battlefield National Monument (referred to in this Act as the ''Monument''), and an Indian memorial was authorized.

(2) The current total size of the Monument is 765.34 acres. This includes the areas immediately surrounding the cemetery and a separate area, the Reno-Benteen Battlefield, a few miles from the cemetery. There are additional sites of historical interest related to the 1876 battle that are not contained within the boundaries of the Monument as it is presently constituted.

(3) The United States has a tradition of preserving the sites of historic battles, in the conviction that such ground is hallowed by the sacrifices of those who gave their lives in conflict, and in the hope that understanding the events of our past, especially tragic events, helps us to understand the people we have become. A necessary part of this preserving and honoring is attempting, as much as is possible, to maintain the appearance of the places where these struggles occurred as the participants would have experienced them.

(4) The area surrounding the Monument has seen markedly increased commercial development in recent years. Such development not only threatens to intrude on the experience of visitors to the Monument, but in many instances the development has actually taken place directly on sites of historical importance, irrevocably altering physical features of the landscape that are crucial for understanding what took place at the Battle of the Little Bighorn.

(5) It is in the interest of the United States to preserve the integrity of the site of the Battle of the Little Bighorn, an event of lasting significance for the United States and for the sovereign Indian nations. In order to preserve this historical treasure, it is imperative that additional lands surrounding the Monument be set aside and given protected status or be made part of the Monument itself.

(6) All areas of the Monument, as well as the other areas of historical interest, are completely contained within the external boundaries of the Crow Indian Reservation.

(7) There is every indication that additional land and facilities are available for inclusion in the Monument through either voluntary conveyance or by gift or donation from private individuals and entities.

(b) PURPOSES.—It is the purpose of this Act—

(1) to establish a cooperative and collaborative process for expanding and enhancing the Monument;

(2) to ensure that the process established by this Act reflects the social, historical and cultural concerns of the Indian tribes participating in such processes in a manner consistent with the long-standing Federal policy to encourage tribal self-determination; and

(3) to ensure that the resources within the Monument are protected and enhanced by—

(A) providing for partnerships between the Crow Tribe, the National Park Service, and the Native American Tribes who participated in the Battle of Little Bighorn; and

(B) encouraging private individuals and entities to donate land and facilities to the Monument.

SEC. 3. LITTLE BIGHORN BATTLEFIELD NATIONAL MONUMENT ENHANCEMENT COMMITTEE.

(a) IN GENERAL.—There is established a committee to be known as the ''Little Bighorn Battlefield National Monument Enhancement Committee'' (referred to in this section as the ''Committee'').

(b) COMPOSITION.—The Committee shall be composed of—

(1) 1 member appointed by the Secretary of Interior to represent the Department of Interior;

(2) 3 members appointed by the Secretary of Interior to represent the Native American tribes who participated in the Battle of Little Bighorn; and

(3) 1 member appointed by the Crow Indian tribe.

(c) ADMINISTRATIVE PROVISIONS.—

(1) QUORUM; MEETINGS.—Three members of the Committee shall constitute a quorum. The Committee shall act and provide advise by the affirmative vote of a majority of the members voting at a meeting at which a quorum is present. The Committee shall meet on a regular basis. Notice of meetings and the agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the Monument. Committee meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(2) ADVISORY FUNCTIONS.—The Committee shall advise the Secretary to ensure that the Monument, its resources and landscape, is sensitive to the history being portrayed and artistically commendable.

(3) TECHNICAL STAFF.—In order to provide staff support and technical services to assist the Committee in carrying out its duties under this Act, upon the request of the Committee, the Secretary of the Interior is authorized to detail any personnel of the National Park Service to the Committee.

(4) COMPENSATION.—Members of the Committee shall serve without compensation but shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(5) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. Appendix; 86 Stat. 776), are hereby waived with respect to the Committee.

(d) DUTIES.—The Committee shall—

(1) maintain a registry of facilities and land that may be offered by private individuals and entities by gift, sale, transfer, or other voluntary conveyance for inclusion in the Monument;

(2) by a majority vote determined whether some or all of a parcel of land or facility listed on the registry under paragraph (1) is appropriate for inclusion as a part of the Monument; and

(3) in the case of a positive recommendation under subparagraph (A), provide advise to the Secretary on—

(A) whether the land or facility involved may be available for no or nominal consideration or under what terms and conditions the owner of such land or facility would be willing to transfer such land or facility for inclusion in the Monument for no or nominal consideration; or

(B) whether the Committee recommends the use of the Fund established under section 5 to acquire such land or facility.

SEC. 4. RULE OF CONSTRUCTION.

Nothing in this act shall be construed to limit or impair the jurisdiction or authority of the Crow Indian tribe.

SEC. 5. ESTABLISHMENT OF FUND.

There is established in the Treasury of the United States a fund to be known as the ''Little Bighorn Battlefield National Monument Enhancement Fund''. The Fund shall be used as provided for in section 3(d)(3)(B) and shall include—

(1) all amounts appropriated to the Fund; and

(2) all amounts donated to the Fund.

By Mr. CAMPBELL:

S. 1339. A bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes; to the Committee on the Judiciary.

Mr. CAMPBELL. Madam President, I am pleased to introduce the ''Persian Gulf War POW/MIA Accountability Act of 2001.'' This bill will help persuade foreign Nations and their inhabitants to take necessary and sometimes risky steps needed to return any surviving American POW/MIAs from the Persian Gulf War by providing asylum to those foreign nationals who cooperate.

This bill builds on S. 484, the Bring Them Home Alive Act of 2000, which I introduced in the 106th Congress. This legislation was signed into law last November. As many of you know, this law provides for the granting of refugee status in the United States to nations of certain foreign countries in which American Vietnam War POW/MIAs or American Korean War POW/MIAs may be present.

On January 17, 1991, Lieutenant Commander Michael Speicher's F–18 was shot down over Western Iraq during the first hours of the Persian Gulf War. Based on the accounts of other pilots flying in the mission and 12 hours of radio silence, Lieutenant Commander Speicher was declared Missing in Action, MIA, the next day. On May 22, 1991, his status was changed to Killed in Action/Body Not Recovered, KIA/BNR.

In December 1995, investigators from the Army and Navy found the crash site of Lieutenant Commander Speicher's F–18. Located at the crash site were used flares and parts of a survival kit. Near the site, the canopy of the plane was found which would indicate that Lieutenant Commander Speicher ejected from his plane before it crashed. Based on this and other information, the Navy came to the conclusion that they could no longer assume that Lieutenant Commander Speicher was indeed KIA. On January 11, of this year, the Navy changed his official status from KIA/BNR back to MIA.

News reports indicated one of the major breaks in this case was provided by an Iraqi defector. According to his information, during the first days of the war, he drove a downed American pilot to Baghdad. The pilot was alive and alert. This defector was able to pass two lie detector tests and pointed to Lieutenant Commander Speicher in a photo lineup.

Under this legislation, if Lieutenant Commander Speicher were found alive and returned home, this defector and his family would be granted refugee status in the United States. As a veteran and a proud American, I will not rest until we have exhausted every avenue available to repatriate the brave men and women who have sacrificed so much for the freedom we enjoy. This legislation provides the kinds of incentives we need to help bring American POW/MIAs home alive.

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. 1339

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 ''Persian Gulf War POW/MIA Accountability Act of 2001''.

SEC. 2. AMERICAN PERSIAN GULF WAR POW/MIA ASYLUM PROGRAM.

(a) ASYLUM PROGRAM.—The Bring Them Home Alive Act of 2000 (Public Law 106–484; 114 Stat. 2195; 8 U.S.C. 1157 note) is amended by inserting after section 3 the following new section:

''SEC. 3A. AMERICAN PERSIAN GULF WAR POW/MIA ASYLUM PROGRAM.

''(a) ASYLUM FOR ELIGIBLE ALIENS.—Notwithstanding any other provision of law, the Attorney General shall grant refugee status in the United States to any alien described in subsection (b), upon the application of that alien.

''(b) ELIGIBILITY.—Refugee status shall be granted under subsection (a) to—

''(1) any alien who—

''(A) is a national of Iraq or a nation of the Greater Middle East Region (as determined by the Attorney General in consultation with the Secretary of State); and

''(B) personally delivers into the custody of the United States Government a living American Persian Gulf War POW/MIA; and

''(2) any parent, spouse, or child of an alien described in paragraph (1).

''(c) DEFINITIONS.—In this section:

''(1) AMERICAN PERSIAN GULF WAR POW/MIA.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'American Persian Gulf War POW/MIA' means an individual—

''(i) who is a member of a uniformed service (within the meaning of section 101(3) of title 37, United States Code) in a missing status (as defined in section 551(2) of such title and this subsection) as a result of the Persian Gulf War, or any successor conflict, operation, or action; or

''(ii) who is an employee (as defined in section 5561(2) of title 5, United States Code) in a missing status (as defined in section 5561(5) of such title) as a result of the Persian Gulf War, or any successor conflict, operation, or action.

''(B) EXCLUSION.—Such term does not include an individual with respect to whom it is officially determined under section 552(c) of title 37, United States Code, that such individual is officially absent from such individual's post of duty without authority.

''(2) MISSING STATUS.—The term 'missing status', with respect to the Persian Gulf War, or any successor conflict, operation, or action, means the status of an individual as a result of the Persian Gulf War, or such conflict, operation, or action, if immediately before that status began the individual—

''(A) was performing service in Kuwait, Iraq, or another nation of the Greater Middle East Region; or

''(B) was performing service in the Greater Middle East Region in direct support of military operations in Kuwait or Iraq.

''(3) PERSIAN GULF WAR.—The term 'Persian Gulf War' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.''.

(b) BROADCASTING INFORMATION.—Section 4(a)(2) of that Act is amended—

(1) by striking ''and'' at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

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

''(C) Iraq, Kuwait, or any other country of the Greater Middle East Region (as determined by the International Broadcasting Bureau in consultation with the Attorney General and the Secretary of State).''.

By Mr. CAMPBELL:

S. 1340. A bill to amend the Indian Land Consolidation Act to provide for probate reform with respect to trust or restricted lands; to the Committee on Indian Affairs.

Mr. CAMPBELL. Madam President, today, I am pleased to introduce the Indian Probate Reform Act of 2001 which builds on the solid foundations of the Indian Land Consolidation Act Amendments of 2000, P.L. 106–462, which I also sponsored.

The Land Consolidation Act Amendments were necessary for two reasons. First, it rewrote the parts of the existing law that were held unconstitutional by the United States Supreme Court.

Second, many of the laws dealing with Indian probate and the use of Indian land had been in place for more than a century. Through P.L. 106–462, Congress was able to revisit those laws to remove provisions that were based on out-dated, misguided, and discredited federal policies.

As my colleagues know Federal Indian policy is sometimes out-dated, and counter-productive Federal laws impede tribal efforts to achieve economic self determination and sufficiency.

As Congress worked on the Land Consolidation Act Amendments, it became clear that other laws also needed to be updated but could not be addressed until we enacted P.L. 106–462. With that work completed, we now have an opportunity to remove a number of complications concerning the probate of Indian estates and lands.

Presently about 20 different State laws of interstate succession apply to the inheritance of Indian allotments. This makes it almost impossible for the Federal Government to provide general probate planning advice to allotment owners.

Also, administrative law judges must monitor developments and changes in the probate laws of every State where allotments are located. This is simply an unnecessary waste of their time and tax dollars. The average Indian estate takes more than a year to probate, and in some cases a decedent's heirs will have died before the decedent's probate is completed. We can do better.

I am pleased that Interior Secretary Norton is making trust fund reform such a high priority. But we in Congress have to do our part to support these efforts. I trust that my colleagues share my commitment to ensure that adequate resources are available to support real trust reform efforts. We must also be willing to roll up our sleeves and take a good hard look at the laws that provide the framework for the use and probate of Indian trust lands, especially trust lands that are in individual Indian ownership.

This bill is the next step in completing the work we began last Congress by establishing uniform federal Indian probate rules.

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

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

S. 1340

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 ''Indian Probate Reform Act of 2001''.

SEC. 2. AMENDMENTS TO THE INDIAN LAND CONSOLIDATION ACT.

(a) IN GENERAL.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended by adding at the end the following:

"Subtitle B—Indian Probate Reform

"SEC. 231. FINDINGS.

''Congress makes the following findings:

''(1) The General Allotment Act of 1887 (commonly known as the ''Dawes Act''), which authorized the allotment of Indian reservations, did not allow Indian allotment owners to provide for the testamentary disposition of the land that was allotted to such owners.

''(2) The Dawes Act provided that allotments would descend according to State law of intestate succession based on the location of the allotment.

''(3) The Federal Government's reliance on the State law of intestate succession with respect to the descendency of allotments has resulted in numerous problems to Indian tribes, their members, and the Federal Government. These problems include—

''(A) the increasing fractionated ownership of trust and restricted land as these lands are inherited by successive generations of owners as tenants in common;

''(B) the application of different rules of intestate succession to each of a decedent's interests in trust and restricted land if such land is located within the boundaries of different States which makes probate planning unnecessarily difficult and impedes efforts to provide probate planning assistance or advice;

''(C) the absence of a uniform general probate code for trust and restricted land which makes it difficult for Indian tribes to work cooperatively to develop tribal probate codes; and

''(D) the failure of Federal law to address or provide for many of the essential elements of general probate law, either directly or by reference, which is unfair to the owners of trust and restricted land and their heirs and devisees and which makes probate planning more difficult.

''(4) Based on the problems identified in paragraph (3), a uniform Federal probate code would likely—

''(A) reduce the number of unnecessary fractionated interests in trust or restricted land;

''(B) facilitate efforts to provide probate planning assistance and advice;

''(C) facilitate inter-tribal efforts to produce tribal probate codes pursuant to section 206; and

''(D) provide essential elements of general probate law that are not applicable on the date of enactment of this subtitle to interests in trust or restricted land.

"SEC. 232. RULES RELATING TO INTESTATE INTERESTS AND PROBATE.

''(a) IN GENERAL.—Any interest in trust or restricted land that is not disposed of by a valid will shall—

''(1) descend according to a tribal probate code that is approved pursuant to section 206; or

''(2) in the case of an interest in trust or restricted land to which such a code does not apply, be considered an 'intestate interest' and descend pursuant to subsection (b), this Act, and other applicable Federal law.

''(b) INTESTATE SUCCESSION.—An interest in trust or restricted land described in subsection (a)(2) (intestate interest) shall descend as provided for in this subsection in the following order:

''(1) SURVIVING INDIAN SPOUSE.—

''(A) SOLE HEIR.—A surviving Indian spouse of the decedent shall receive all of the decedent's intestate interests if no Indian child or grandchild of the decedent survives the decedent.

''(B) OTHER HEIRS.—A surviving Indian spouse of the decedent shall receive a one-half interest in each of the decedent's intestate interests if the decedent is also survived by Indian children or grandchildren.

''(C) HEIRS OF THE FIRST OR SECOND DEGREE OTHER THAN SURVIVING INDIAN SPOUSE.—The one-half interest in each of the decedent's intestate interests that do not descend to the surviving Indian spouse under subparagraph (B) shall descend in the following order:

''(i) To the Indian children of the decedent in equal shares, or to the Indian grandchildren of the decedent, if any, in equal shares by right of representation if 1 or more of the Indian children of the decedent do not survive the decedent.

''(ii) If the decedent is not survived by Indian children or grandchildren, to the surviving Indian parent of the decedent, or to both of the surviving Indian parents of the decedent as joint tenants with the right of survivorship.

''(iii) If the decedent is not survived by any person who is eligible to inherit under clause (i) or (ii), to the surviving Indian brothers and sisters of the decedent.

''(iv) If the decedent is not survived by any person who is eligible to inherit under clause (i), (ii), or (iii), the intestate interests shall descend, or may be acquired, as provided for in section 207(a)(3)(B), 207(a)(4), or 207(a)(5).

''(2) NO SURVIVING INDIAN SPOUSE.—If the decedent is not survived by an Indian spouse, the intestate interests of the decedent shall descend to the individuals described in subparagraphs (A) through (D) who survive the decedent in the following order:

''(A) To the Indian children of the decedent in equal shares, or to the Indian grandchildren of the decedent, if any, in equal shares by right of representation if 1 or more of the Indian children of the decedent do not survive the decedent.

''(B) If the decedent is not survived by Indian children or grandchildren, to the surviving Indian parent of the decedent, or to both of the surviving Indian parents of the decedent as joint tenants with the right of survivorship.

''(C) If the decedent is not survived by any person who is eligible to inherit under subparagraph (A) or (B), to the surviving Indian brothers and sisters of the decedent.

''(D) If the decent is not survived by any person who is eligible to inherit under subparagraph (A), (B), or (C), the intestate interests shall descend, or may be acquired, as provided for in section 207(a)(3)(B), 207(a)(4), or 207(a)(5).

''(3) SURVIVING NON-INDIAN SPOUSE.—

''(A) NO DESCENDANTS.—A surviving non-Indian spouse of the decedent shall receive a life estate in each of the intestate interests of the decedent pursuant to section 207(b)(2) if the decedent is not survived by any children or grandchildren.

''(B) DESCENDANTS.—A surviving non-Indian spouse of the decedent shall receive a life estate in one-half of the intestate interests of the decedent pursuant to section 207(b)(2) if the decedent is survived by at least one of the children or grandchildren of the decedent.

''(C) DESCENDANTS OTHER THAN SURVIVING NON-INDIAN SPOUSE.—The one-half life estate interest in each of the decedent's intestate interests that do not descend to the surviving non-Indian spouse under subparagraph (B) shall descend to the children of the decedent in equal shares, or to the grandchildren of the decedent, if any, in equal shares by right of representation if 1 or more of the children of the decedent do not survive the decedent.

''(4) NO SURVIVING SPOUSE OR INDIAN HEIRS.—If the decedent is not survived by a spouse, a life estate in the intestate interests of the decedent shall descend in the following order:

''(A) To the children of the decedent in equal shares, or to the grandchildren of the decedent, if any, in equal shares by right of representation if 1 or more of the children of the decedent do not survive the decedent.

''(B) If the decedent has no surviving children or grandchildren, to the surviving parents of the decedent.

''(5) REMAINDER INTEREST FROM LIFE ESTATES.—The remainder interest from a life estate established under paragraphs (3) and (4) shall descend in the following order:

''(A) To the Indian children of the decedent in equal shares, or to the Indian grandchildren of the decedent, if any, in equal shares by right of representation if 1 or more of the children of the decedent do not survive the decedent.

''(B) If there are no surviving Indian children or grandchildren of the decedent, to the surviving Indian parent of the decedent or to both of the surviving Indian parents of the decedent as joint tenant with the right of survivorship.

''(C) If there is no surviving Indian child, grandchild, or parent, to the surviving Indian brothers or sisters of the decedent in equal shares.

''(D) If there is no surviving Indian descendant or parent, brother or sister, the intestate interests of the decedent shall descend, or may be acquired, as provided for in section 207(a)(3)(B), 207(a)(4), or 207(a)(5).

''(c) SPECIAL RULE RELATING TO SURVIVAL.—For purposes of this section, an individual who fails to survive a decedent by at least 120 hours is deemed to have predeceased the decedent for purposes of intestate succession, and the heirs of the decedent shall be determined accordingly. If it is not established by clear and convincing evidence that an individual who would otherwise be an heir survived the decedent by at least 120 hours, such individual shall be deemed to have failed to survive for the required time-period for purposes of the preceding sentence.

''(d) PRETERMITTED SPOUSES AND CHILDREN.—

''(1) SPOUSES.—For purposes of this section, if the surviving spouse of a testator married the testator after the testator executed his or her will, the surviving spouse shall receive the intestate share in trust or restricted land that such spouse would have otherwise received if the testator had died intestate. The preceding sentence shall not apply to an interest in trust or restricted lands where—

''(A) the will is executed before the date specified in section 234(a);

''(B) the testator's spouse is a non-Indian and the testator has devised his or her interests in trust or restricted land to an Indian or Indians;

''(C) it appears from the will or other evidence that the will was made in contemplation of the testator's marriage to the surviving spouse;

''(D) the will expresses the intention that it is to be effective notwithstanding any subsequent marriage; or

''(E) the testator provided for the spouse by a transfer of funds or property outside of the will and an intent that the transfer be in lieu of a testamentary provision is demonstrated by the testator's statements or is reasonably inferred from the amount of the transfer or other evidence.

''(2) CHILDREN.—For purposes of this section, if a testator executed his or her will prior to the birth of 1 or more children of the testator and the omission is the product of inadvertence rather than an intentional omission, such children shall share in the decedent's intestate interests in trust or restricted lands as if the decedent had died intestate.Any person recognized as an heir by virtue of adoption under the Act of July 8, 1940 (54 Stat 746) shall be treated as a decedent's child under this section.

''(e) DIVORCE.—

''(1) SURVIVING SPOUSE.—

''(A) IN GENERAL.—For purposes of this section, an individual who is divorced from the decedent, or whose marriage to the decedent has been annulled, shall not be considered to be a surviving spouse unless, by virtue of a subsequent marriage, such individual is married to the decedent at the time of death. A decree of separation that does not terminate the status of husband and wife shall not be considered a divorce for purposes of this subsection.

''(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed to prevent an entity responsible for adjudicating interests in trust or restricted land from giving force and effect to a property right settlement if one of the parties to the settlement dies before the issuance of a final decree dissolving the marriage of the parties to the property settlement.

''(2) EFFECT OF SUBSEQUENT DIVORCE ON A WILL OR DEVISE.—If after executing a will the testator is divorced or the marriage of the testator is annulled, upon the effective date of the divorce or annulment any disposition of interests in trust or restricted land made by the will to the former spouse shall be deemed to be revoked unless the will expressly provides otherwise. Property that is prevented from passing to a former spouse based on the preceding sentence shall pass as if the former spouse failed to survive the decedent. Any provision of a will that is revoked solely by operation of this paragraph shall be revived by the testator's remarriage to the former spouse.

''(f) NOTICE.—To the extent practicable, the Secretary shall notify the owners of trust and restricted land of the provisions of this title. Such notice may, at the discretion of the Secretary, be provided together with the notice required under section 207(g).

''SEC. 233. COLLECTION OF PAST-DUE AND OVER-DUE CHILD SUPPORT

''The Secretary shall establish procedures to provide for the collection of past-due or over-due support obligations entered by a tribal court or any other court of competent jurisdiction from the revenue derived from an interests in trust or restricted land.

''SEC. 234. EFFECTIVE DATE.

''(a) IN GENERAL.—The provisions of this title shall not apply to the estate of an individual who dies prior to the later of—

''(1) the date that is 1 year after the date of enactment of this subtitle; or

''(2) the date specified in section 207(g)(5).''.

(b) OTHER AMENDMENTS.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

(1) by inserting after section 202, the following:

''Subtitle A—General Land Consolidation'';

(2) in section 206 (25 U.S.C. 2205)—

(A) in subsection (a)(3)—

(i) by striking ''The Secretary'' and inserting the following:

''(A) IN GENERAL.—The Secretary''; and

(ii) by adding at the end the following:

''(B) TRIBAL PROBATE CODES.—A tribal probate code shall not prevent the devise of an interest in trust or restricted land to nonmembers of the tribe unless the code—

''(i) provides for the renouncing of interests, reservation of life estates, and payment of fair market value in the manner prescribed under subsection (c)(2); and

''(ii) does not prohibit the devise of an interest in an allotment to an Indian person if such allotment was originally allotted to the lineal ancestor of the devisee.''; and

(B) in subsection (c)(2)—

(i) in subparagraph (A)—

(I) by striking ''IN GENERAL.—Paragraph'' and inserting the following:

''(A) NONAPPLICABILITY TO CERTAIN INTERESTS.—

''(i) IN GENERAL.—Paragraph'';

(II) by striking ''if, while'' and inserting the following: ''if—

''(I) while'';

(III) by striking the period and inserting ''; or'';

(IV) by adding at the end thereof the following:

''(II) the interest is part of a family farm that is devised to a member of the decedent's family if the devisee agrees that the Indian tribe that exercises jurisdiction over the land will have the opportunity to acquire the interest for fair market value if the interest is offered for sale to an entity that is not a member of the family of the owner of the land.

''(ii) RULE OF CONSTRUCTION.—Nothing in clause (i)(II) shall be construed to prevent or limit the ability of an owner of land to which such clause applies to mortgage such land or to limit the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement pursuant to applicable law.''; and

(ii) in subparagraph (B), by striking ''207(a)(6)(B)'' and inserting ''207(a)(6)'';

(3) in section 207 (25 U.S.C. 2206)—

(A) in subsection (a)(6), by striking subparagraph (A) and inserting the following:

''(A) DEVISE TO OTHERS.—

''(i) IN GENERAL.—Notwithstanding paragraph (2), an owner of trust or restricted land—

''(I) who does not have an Indian spouse or an Indian lineal descendant may devise his or her interests in such land to his or her spouse, lineal descendant, heirs of the first or second degree, or collateral heirs of the first or second degree;

''(II) who does not have a spouse or an Indian lineal descendent may devise his or her interests in such land to his or her lineal descendant, heirs of the first or second degree, or collateral heirs of the first or second degree; or

''(III) who does not have a spouse or lineal descendant may devise his or her interests in such land to his or her heirs of the first or second degree, or collateral heirs of the first or second degree.

''(ii) RULE OF CONSTRUCTION.—Any devise of an interest in trust or restricted land under clause (i) to a non-Indian will be construed to devise a life estate unless the devise explicitly states that the testator intends for the devisee to take the interest in fee.

''(B) UNEXERCISED RIGHTS OF REDEMPTION.—

''(i) IN GENERAL.—This subparagraph (B) shall only apply to interests in trust or restricted land that are held in trust or restricted status as of the date of enactment of the Indian Probate Reform Act of 2001, and interests in any parcel of land, at least a portion of which is in trust or restricted status as of such date of enactment, that is subject to a tax sale, tax foreclosure proceeding, or similar proceeding.

''(ii) EXERCISE OF RIGHT.—If the owner of such an interest referred to in clause (i) fails or refuses to exercise any right of redemption that is available to that owner under applicable law, the Indian tribe that exercises jurisdiction over the trust or restricted land referred to in such clause may exercise such right of redemption.

''(iii) PENALTIES AND ASSESSMENTS.—To the extent permitted under the Constitution of the United States, an Indian tribe acquiring an interest under clause (i) may acquire such an interest without being required to pay—

''(I) penalties; or

''(II) past due assessments that exceed the fair market value of the interest.''; and

(B) in subsection (g)(5), by striking ''this section'' and inserting ''subsections (a) and (b)''; and

(4) in section 217 (25 U.S.C. 2216)—

(A) in subsection (e)(3), by striking ''prospective applicants for the leasing, use, or consolidation of'' and insert ''any person that is leasing, using or consolidating, or is applying to, lease, use, or consolidate,''; and

(B) in subsection (f)—

(A) by striking ''After the expiration of the limitation period provided for in subsection (b)(2) and prior'' and inserting ''Prior''; and

(B) by striking ''sold, exchanged, or otherwise conveyed under this section''.

(c) ISSUANCE OF PATENTS.—Section 5 of the Act of February 8, 1887 (24 Stat. 348) is amended by striking the second proviso and inserting the following: ''*Provided*, That the rules of intestate succession under the Indian Land Consolidation Act, or a tribal probate code approved under such Act and regulations, shall apply thereto after such patents have been executed and delivered:''.

By Mr. HATCH (for himself, Mr. KENNEDY, and Mr. JEFFORDS):

S. 1341. A bill to amend the Internal Revenue Code of 1986 to expand human clinical trials qualifying for the orphan drug credit, and for other purposes; to the Committee on Finance.

Mr. HATCH. Madam President, I rise today to introduce legislation to clarify and expand the expenses qualifying for the orphan drug tax credit. I am pleased to be joined in this legislation by Senators KENNEDY and JEFFORDS.

As the original sponsor of the legislation authorizing the orphan drug program, and a leader in the Senate in our successful effort in 1996 to make the tax credit permanent, I am here today to ask my colleagues to support a needed improvement to the Orphan Drug Tax Credit. This improvement would make the tax credit even more effective in advancing the development of treatments for life-threatening rare diseases and conditions.

The Orphan Drug Tax Credit provides tax incentives to companies that develop treatments for diseases affecting fewer than 200,000 people, a population typically too small to provide a natural impetus for the private sector to take the necessary risks to develop a remedy that may never be profitable. The diseases covered under the credit include: ALS, Lou Gehrig's disease;

cerebral palsy; cystic fibrosis; epilepsy; Gaucher's disease; Hunington disease; sickle cell disease; and system lupus erythematosus, Lupus. More than 20 million Americans suffer from these rare diseases.

The Orphan Drug Tax Credit has been very successful. For example, in the case of multiple sclerosis, 6 years ago there was no treatment for any type of the disease, only for its symptoms. Thanks in large part to this law, there are now three products on the market to treat the disease.

Unfortunately, the design of the credit includes a flaw that limits its effectiveness. The bill we are introducing today would correct this problem. Under the current Orphan Drug Tax Credit, a 50 percent is available for expenses related to human clinical testing of drugs that are designated as meeting the statutory definition of an ''orphan'' by the Food and Drug Administration, FDA. Qualifying expenses are those paid or incurred after the date on which the drug is designated as a potential treatment for a rare disease or disorder.

The problem is that qualified expenses incurred during the time it takes the FDA to officially designate the drug as an ''orphan'' are not eligible for the credit. Unfortunately, the FDA approval process can take from two months to more than a year. In some cases, companies developing these potentially life-saving drugs are left with a difficult decision, delay the start of the clinical trials until the designation is received, or go ahead and start the trials without the designation, but forego the benefits of tax credit that is so crucial to offsetting the high cost of developing these drugs. Neither choice is in the best interest of the 20 million Americans who are waiting and hoping for a cure for their disorder.

The bill we are introducing today would solve this problem by simply providing that qualifying expenses include those incurred after the date on which the company files an application with the FDA for designation of the drug as a potential treatment for a rare disease or disorder. The credit's availability for these pre-designation expenses, however, is conditioned upon the FDA actually making the designation. Thus, under this change, the designation must still first be granted before the credit could be claimed. But, once the designation is granted, the credit could be claimed for both the clinical testing expenses incurred between the filing of the application and the designation date, as well as for those incurred after the designation date.

It is important to note that this change will also simplify the current law. In fact, this change was recommended earlier this year by the staff of the Joint Committee on Taxation in its study of recommendations to simplify the Federal tax system.

The bill would also make one other change designed to help Americans suffering from rare diseases. It would provide that the FDA publish on a monthly basis a list of applications for orphan drug designations. This provision will allow rare disease patients early access to information about proposed clinical trials and will help the industry locate research subjects for their studies.

The Orphan Drug Tax Credit enjoys wide bipartisan support, and rightly so. It is a tax incentive that works. Now, we have a chance to make it work even better. The tax clarification in this bill was passed in both the Senate twice in the 106th Congress, once in H.R. 2488, the Financial Freedom Act of 1999, which was vetoed by President Clinton for unrelated reasons, and again in H.R. 4577, the Department of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 2001, which passed on July 10, 2000.

I urge my colleagues to support this legislation and I ask unanimous consent that the text of bill be printed in the RECORD.

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

S. 1341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANDED HUMAN CLINICAL TRIALS QUALIFYING FOR ORPHAN DRUG CREDIT.

(a) IN GENERAL.—Subclause (I) of section 45C(b)(2)(A)(ii) of the Internal Revenue Code of 1986 is amended to read as follows:

''(I) after the date that the application is filed for designation under such section 526, and''.

(b) CONFORMING AMENDMENT.—Clause (i) of section 45C(b)(2)(A) of the Internal Revenue Code of 1986 is amended by inserting ''which is'' before ''being'' and by inserting before the comma at the end ''and which is designated under section 526 of such Act''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2001.

SEC. 2. PUBLICATION OF FILING AND APPROVAL OF REQUESTS FOR DESIGNATION OF DRUGS FOR RARE DISEASES OR CONDITIONS.

Subsection (c) of section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb) is amended to read as follows:

''(c) Not less than monthly, the Secretary shall publish in the Federal Register, and otherwise make available to the public, notice of requests for designation of a drug under subsection (a) and approvals of such requests. Such notice shall include—

''(1) the name and address of the manufacturer and the sponsor;

''(2) the date of the request for designation or of the approval of such request;

''(3) the nonproprietary name of the drug and the name of the drug under which an application is filed under section 505(b) or section 351 of the Public Health Service Act;

''(4) the rare disease or condition for which the designation is requested or approved; and

''(5) the proposed indication for use of the product.''.

By Mr. DORGAN (for himself and Mr. STEVENS):

S. 1342. A bill to allocate H–1B visas for demonstration projects in rural America; to the Committee on the Judiciary.

Mr. DORGAN. Madam President, I'm pleased to be joined by Senator STEVENS in introducing legislation that we believe will develop high-tech employment opportunities in small towns and rural communities by using the H–1B visa program in a meaningful way for rural States.

Over the past several decades, hundreds of communities in rural America have seen their populations shrink by more than a third. Devastated by the overwhelming loss of people and businesses, or outmigration, these rural communities have been stymied in their efforts to grow their economies and create jobs for their people. Most of these areas have also not benefited from the recent technology-driven growth in the economy. The combined effects of this economic stagnation and isolation have made it extremely difficult for these small rural towns to attract high-tech companies and recruit the skilled technology workers that they need to participate in the new economy.

The proposal we are introducing today builds upon legislation signed into law by President Clinton last fall that provided the Nation's high-technology companies with the stopgap measure they needed to secure skilled workers for unfilled positions by increasing the annual number of foreign workers that can receive H–1B status to 195,000 over the next three years. That legislation, which I supported, was an appropriate short-term response to the problems caused by a scarcity of qualified labor that threatened the nation's continued economic growth.

The bill that Senator STEVENS and I are now introducing is called the ''21st Century Homesteading Act.'' It would establish up to six H–1B visa demonstration projects in qualifying rural areas, including those devastated by population loss. This legislation is designed to encourage high-technology firms to grow their businesses and increase employment in those distressed rural areas that need them the most. It would do this by both awarding grant funds and targeting a small portion of the total annual H–1B visa allocations to economic development planning districts in eligible areas.

The major provisions of the 21st Century Homesteading Act are as follows:

Six demonstration programs. The bill authorizes and requires the Secretary of Agriculture to conduct up to six demonstration H–1B visa projects to be implemented through the award of grant funding to qualifying economic development planning districts in rural areas.

Application process. To apply for grant funds, economic development planning districts would be required, among other things, to submit an application to the Secretary, sign a resolution of support to bring high-tech development opportunities into that district, and execute a declaration of need confirming that the area has experienced substantial outmigration, has

high unemployment or poverty rates, or has a population that is 10 percent or more Native American.

Local transfer of visa fees. The amount of each grant awarded to eligible districts would be equal to the H–1B visa fees paid by petitioning employers. Grants can be used only to provide education, training, equipment, and infrastructure in connection with the employment of H–1B workers within that district.

Total of 12,000 H–1B visas. Up to 12,000 H–1B visas could be issued to eligible aliens for employment through these demonstration projects—and no one planning district could issue more than 2,000 H–1B visas.

New account for program funds. A separate ''Twenty-first Century Homesteading Account'' would be established in the Treasury general fund. The H–1B visa fees paid for foreign workers in approved demonstration projects would be deposited into that account and remain available to the Agriculture Secretary until expended to carry out such projects.

Let me be clear on three points. First, we do not intend with this legislation to replace skilled American workers with their foreign counterparts. Under current law, H–1B visas are temporary and firms that significantly rely on them must have attempted to hire U.S. workers and attest that a U.S. worker is not laid off during a significant period of time before and after an H–1B worker is hired. Our legislation would not change these and other restrictions. Furthermore, the 21st Century Homesteading Act also requires designated economic development planning districts to establish training programs for other workers who live in that district.

Second, this legislation permits an allocation of no more than 2,000 H–1B visas for each of the six demonstration projects that are authorized. Thus, even if all 12,000 H–1B visas were ultimately allocated to the full six demonstration projects, that number would still represent less than one-tenth of the total H–1B visas permitted in the first year. This small allocation of H–1B visas should have little or no impact on the overall efforts of companies seeking H–1B workers in other parts of the country. In fact, to date, only 117,000 of the 195,000 H–1B visas available for this year have been approved, so allocating a small portion for these demonstration programs should not present a problem.

And third, this legislation in no way increases or decreases the overall levels of immigration into the country. It simply targets a very small number of existing employment visas to those communities that have not benefited from the recent technology boom, and which are likely to benefit the most from the addition of new residents with the necessary skills to help attract and retain high-tech employers.

Finally, I would note that the prospect for these demonstration projects is not merely a theoretical exercise. This approach was raised with me by economic development officials in North Dakota who stand ready, willing, and able to apply for economic development planning district status. In my judgment, this group has already demonstrated the kind and level of commitment that is needed to make this initiative successful.

There is great need in rural America, especially in states like mine. But often this need is not properly addressed here in Washington because of what I think is a fundamental misunderstanding of the problem of outmigration and the economic maladies associated with it. The 21st Century Homesteading Act is an effort to fine tune one of our federal policies in order to address the shortage of skilled labor and lack of job growth in many rural communities. I urge my colleagues to support this important demonstration initiative for rural America.

By Mr. CHAFFEE (for himself, Mrs. FEINSTEIN, Ms. SNOWE, Mr. SCHUMER, Ms. COLLINS, Mr. BINGAMAN, Mr. SPECTER, Mrs. CLINTON, Mr. JEFFORDS, Mr. GRAHAM, Mr. HARKIN, and Mr. CORZINE):

S. 1343. A bill to amend title XIX of the Social Security Act to provide States with options for providing family planning services and supplies to individuals eligible for medical assistance under the Medicaid program; to the Committee on Finance.

Mr. CHAFEE, Madam President, I am pleased to be joined today by Senators FEINSTEIN, SNOWE, BINGAMAN, COLLINS, SCHUMER, SPECTER, GRAHAM, CLINTON, CORZINE, HARKIN, and JEFFORDS in introducing the Family Planning State Empowerment Act of 2001. This legislation would provide States with a mechanism to improve the health of low-income women and families by allowing States to expand family planning services to additional women under the Medicaid program.

The Federal Government currently reimburses States for 90 percent of their expenditures for family planning services under Medicaid, due to the importance of these for low-income women. This reimbursement rate is higher than for most other health care services.

Generally, women may qualify for Medicaid services, including family planning, in one of two ways: they have children and an income level below a threshold set by the State (ranging from 15–86 percent of the Federal poverty level; or they are pregnant and have incomes up to 133 percent of the poverty level, federal law allows states to raise this income eligibility level to 185 percent, if they desire. If a woman qualifies because of pregnancy, she is automatically eligible for family planning services for sixty days following delivery. After those sixty days, the women's Medicaid eligibility expires.

If States want to provide Medicaid family planning services to additional populations of low-income women, they must apply to the federal government for a so-called ''1115'' waiver. These waivers allow States to establish demonstration projects in order to test new approaches to health care delivery in a manner that is budget-neutral to the Federal Government.

To date, these waivers have enabled fourteen States to expand access to family planning services. Most of these waivers allow states to extend family planning to women beyond the sixty-day post-partum period. This allows many women to increase the length of time between births, which was significant health benefits for women and their children. For this reason, an Institute of Medicine report recommended that Medicaid should cover family planning services for two years following a delivery.

Some of the waivers allow States to provide family planning to women based solely on income, regardless of whether they qualify for Medicaid due to pregnancy or children. In general, States have used the same income eligibility levels that apply to pregnant women (133 percent or 185 percent of the poverty level, creating continuity for both family planning and prenatal care services. These expanded services also help states reduce rates of unintended pregnancy and the need for abortion.

My State of Rhode Island was one of the first states to obtain one of these waivers, and has had great success with it in terms of preventing unintended pregnancies and improving public health in general. Rhode Island's waiver has averted 1,443 pregnancies from August 1994 through 1997, resulting in a savings to the state of $14.3 million. In addition, Rhode Island's waiver has assisted low-income women with spacing-out their births. The number of low-income women in Rhode Island with short inter-birth intervals, becoming pregnant within 18 months of having given birth dropped from 41 percent in 1993 to 29 percent in 1999. The gap between Medicaid recipients and privately insured women was 11 percent in 1993, compared with only 1 percent—almost negligible, in 1999. As these statistics show, these waivers are extremely valuable and serve as a huge asset to the women's health, not only to my constituents but to constituents in the thirteen other States who currently benefit from these waivers.

Unfortunately, the waiver process is extremely cubersome and time consuming, often taking up to three years for States to receive approval from the Federal Government. This may discourage States from applying for family planning waivers, or at the very least, delay them from providing important services to women.

Our bill would rectify this problem by allowing States to extend family planning services through Medicaid without going through the waiver process. Eliminating the waiver requirement will facilitate State innovation

and provide assistance to more low-income women.

This bill will allow States to provide family planning services to women with incomes up to 185 percent of the Federal poverty level. For low-income, post-partum women, States will no longer be limited to providing them with only sixty days of family planning assistance. States may also provide family planning for up to one year to women who lose Medicaid-eligibility because of income.

I urge my colleagues to join me in supporting this important legislation, and ask for unanimous consent that the legislation and the accompanying findings section be printed in the RECORD.

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

S. 1343

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 ''Family Planning State Empowerment Act of 2001''.

SEC. 2. STATE OPTION TO PROVIDE FAMILY PLANNING SERVICES AND SUPPLIES TO INDIVIDUALS WITH INCOMES THAT DO NOT EXCEED A STATE'S INCOME ELIGIBILITY LEVEL FOR MEDICAL ASSISTANCE.

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

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

(2) by inserting after section 1934 the following:

''STATE OPTION TO PROVIDE FAMILY PLANNING SERVICES AND SUPPLIES

''SEC. 1935. (a) IN GENERAL.—Subject to subsections (b) and (c), a State may elect (through a State plan amendment) to make medical assistance described in section 1905(a)(4)(C) available to any individual whose family income does not exceed the greater of—

''(1) 185 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved; or

''(2) the eligibility income level (expressed as a percent of such poverty line) that has been specified under a waiver authorized by the Secretary or under section 1902(r)(2)), as of October 1, 2001, for an individual to be eligible for medical assistance under the State plan.

''(b) COMPARABILITY.—Medical assistance described in section 1905(a)(4)(C) that is made available under a State plan amendment under subsection (a) shall—

''(1) not be less in amount, duration, or scope than the medical assistance described in that section that is made available to any other individual under the State plan; and

''(2) be provided in accordance with the restrictions on deductions, cost sharing, or similar charges imposed under section 1916(a)(2)(D).

''(c) OPTION TO EXTEND COVERAGE DURING A POST-ELIGIBILITY PERIOD.—

''(1) INITIAL PERIOD.—A State plan amendment made under subsection (a) may provide that any individual who was receiving medical assistance described in section 1905(a)(4)(C) as a result of such amendment, and who becomes ineligible for such assistance because of hours of, or income from, employment, may remain eligible for such medical assistance through the end of the 6-month period that begins on the first day the individual becomes so ineligible.

''(2) ADDITIONAL EXTENSION.—A State plan amendment made under subsection (a) may provide that any individual who has received medical assistance described in section 1905(a)(4)(C) during the entire 6-month period described in paragraph (1) may be extended coverage for such assistance for a succeeding 6-month period.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to medical assistance provided on and after October 1, 2001.

SEC. 3. STATE OPTION TO EXTEND THE POSTPARTUM PERIOD FOR PROVISION OF FAMILY PLANNING SERVICES AND SUPPLIES.

(a) IN GENERAL.—Section 1902(e)(5) of the Social Security Act (42 U.S.C. 1396a(e)(5)) is amended—

(1) by striking ''eligible under the plan, as though'' and inserting ''eligible under the plan—

''(A) as though'';

(2) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(B) for medical assistance described in section 1905(a)(4)(C) for so long as the family income of such woman does not exceed the maximum income level established by the State for the woman to be eligible for medical assistance under the State plan (as a result of pregnancy or otherwise).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to medical assistance provided on and after October 1, 2001.

Mrs. FEINSTEIN. Madam President, I am pleased to be joined by a bipartisan group of my colleagues in introducing this important legislation. I rise today with Senators CHAFEE, SNOWE, SCHUMER, COLLINS, BINGAMAN, SPECTER, CLINTON, JEFFORDS, GRAHAM, HARKIN, and CORZINE to introduce the Family Planning State Empowerment Act of 2001.

The Family Planning State Empowerment Act of 2001 would give States the option to provide family planning services to low-income women who do not qualify for Medicaid.

Each year, approximately 3 million pregnancies, or about half of all pregnancies, are unintended. Increasing access to family planning services could help avert these 3 million unintended pregnancies and all the decisions and costs associated with either continuing or terminating a pregnancy.

Family planning services give women the necessary tools to space the births of their children, which improves women's health and reduces rates of infant mortality.

Medicaid family planning is also cost effective. For every $1 invested in family planning, $3 are saved in pregnancy and health care-related costs.

The Federal Government currently reimburses States for 90 percent of their expenditures for family planning services under Medicaid.

If States want to provide Medicaid family planning services to populations of low-income women, other than low-income pregnant women or low-income women with children, they must apply to the Federal Government for a waiver.

Presently, 14 States, including California, have obtained Medicaid waivers from the Federal Government to provide family planning services to over 1.3 million women annually. Another eight States have applied for waivers.

The waiver process is extremely cumbersome and time consuming, often taking up to three years to receive approval from the Federal Government.

This is legislation is timely because once again the door is being closed by the Administration on women's reproductive health. This time, the losers will be low-income women.

Secretary of Health and Human Services Tommy Thompson announced last month that he will not approve any new waiver requests nor grant any renewals for single service waivers, which includes this Medicaid family planning waiver.

And if the Administration gets its way, California will lose $100 million a year, and over 900,000 low-income Californians will have to look elsewhere for family planning and reproductive health services.

Family planning and reproductive health services are much more than just accessing contraceptives. Services provided include screening and treatment for sexually transmitted diseases and HIV, basic infertility services and pregnancy testing and counseling. Women can receive pap smears and breast exams, which are crucial to detecting cervical and breast cancer.

It is estimated that this waiver will save California $900 million over the 5-year waiver period in public expenditures for medical care and social services.

It is ironic that an Administration that is seeking to reduce the number of abortions would try to halt the very family planning services that could avoid unintended pregnancies.

In effect, the Administration is asking the clinics in our States, which provide services to some of our Nation's sickest and most vulnerable populations, to either turn away low-income women that need family planning services at the door or to provide them with services without the necessary funds.

I am pleased to join my colleagues in saying enough is enough. Low income women deserve access to family planning and reproductive health services. And States should not have to ask the federal government for permission to use Medicaid funds to provide these essential services.

It is time that this Administration walk-the-walk and talk-the-talk. We cannot afford to shut the door on those who cannot otherwise afford family planning and reproductive health services.

I urge my colleagues to join me in supporting this important legislation.

Mr. SCHUMER. Madam President, the Family Planning State Empower

ment Act is our long-term shield against the ideological whims of those who threaten to cut cost-effective family planning services for low income women across the country. Why do we need such a protective measure? In the past two weeks, it became clear that the Federal Government would not renew these programs nor would they approve any pending application requests. That is why I, along with 21 of my colleagues including Mr. CHAFEE, sent a letter asking the government to reconsider their decision which would seriously impinge upon the ability of states to expand coverage of family planning services.

The Family Planning State Empowerment Act would allow State governments and agency experts to practice what they know best, implementing these cost-effective family planning service programs that reduce the number of unintended pregnancies and abortions. In New York alone, 13,440 women would be served under its pending family planning service program proposal. As the years go by, States are offering more services to more women all at a minimal cost to the Federal Government.

There are 1.2 million women aged 13 to 44 in New York who are in need of publicly supported contraceptive services, 16.5 million in the United States. Thousands of women have already benefitted from prenatal, delivery, and postpartum family planning services in states such as New York, Georgia, Colorado, Virginia, Wisconsin, and Kentucky, to name a few. These programs successfully help low-income women to avoid closely spaced births that are linked to low birth weight, infant mortality, and maternal morbidity. It would be a shame to curtail the progress of these family planning service programs when there are so many more women to serve.

As part of their applications for federal approval, States are required to demonstrate that expanding Medicaid coverage of family planning services would come at no additional cost to the Federal Government. Every dollar spent for contraceptive services saves $3 in public funds that would have been needed to provide prenatal and newborn medical care alone. New York's pending family planning service program would save the Federal Government $3.2 billion. Instead of allowing these programs to be used as decoys in the ideological battle over choice issues, let us preserve their effectiveness and put them out of the way of federal reach and under full state authority.

Though the Federal Government can play an important oversight role in the welfare of publicly financed programs—it has overstepped its boundaries in using these programs as sacrificial lambs to further its ideological agenda. We cannot stand idly by and let the Federal Government determine the fate of such programs that have proven themselves since 1993 not only economically sound but essential to the provision of vital health services to individuals who could not receive them otherwise. That is why I am a proud original co-sponsor of the Family Planning State Empowerment Act of 2001.

By Mr. CAMPBELL:

S. 1344. A bill to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers; to the Committee on Indian Affairs.

Mr. CAMPBELL. Madam President, today I am pleased to introduce a bill that promotes job creation and economic opportunity for Native Americans. The Native American Commercial Driving Training and Technical Assistance Act will encourage and promote tribally-controlled community colleges to offer commercial vehicle training programs.

Economic development is the key to many of the social and economic ills that plague Indian and Alaska Native communities. In 1999, the Bureau of Indian Affairs labor statistics for Indian and Alaska Native communities determined that the unemployment rate for Indians living near or in Indian communities was 43 percent. This figure is astonishing when compared to the overall unemployment rate in the United States which is only 4.5 percent.

As former Chairman and now Vice-Chairman of the Committee on Indian Affairs, I have focused on building tribal capacity and good governance so that Indian and Alaska Native communities can create business-friendly environments. Human capital and skill development is also important, and with training and certificate programs tribally-controlled community colleges are fostering skilled workers who are ready to enter into the marketplace.

The bill that I am introducing today will enable tribally-controlled community colleges to have more resources to develop commercial vehicle training programs. There are already two tribally-controlled community colleges, D–Q University in the state of California and Fort Peck Community College in the state of Montana, that offer commercial vehicle driving programs. The grant program authorized in this bill will encourage other tribal colleges to develop commercial truck driving training programs.

The trucking industry is a thriving industry. According to the Department of Transportation, there are currently about 3 million truck drivers in the United States. However, the American Trucking Association estimates that between 10 percent and 20 percent of the Nation's trucks sit idle due to a lack of qualified drivers. In fact, estimates range from 200,000 to 500,000 as to the shortage of new qualified drivers that are needed this year and in the coming years.

I am the only Member of the Senate who is a licensed and certified commercial truck driver and who once earned his living as an over-the-road driver.

Based on my personal experience the truck driving industry has something unique to offer Indian communities; a well-paying profession. This is a win-win situation because the trucking industry needs more qualified drivers, and Indian communities need more job opportunities. With this bill,more American Indians will have the opportunity to undertake the training necessary to obtain a Commercial Truck Driver's License, and join a rewarding and well-paying profession.

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. 1344

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 ''Native American Commercial Driving Training and Technical Assistance Act''.

SEC. 2. FINDINGS AND PURPOSES.

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

(1) Despite the availability of abundant natural resources on Indian lands and a rich cultural legacy that accords great value to self-determination, self-reliance, and independence, Native Americans suffer higher rates of unemployment, poverty, poor health, substandard housing, and associated social ills than those of any other group in the United States.

(2) The United States has an obligation to assist Indian tribes with the creation of appropriate economic and political conditions.

(3) The economic success and material well-being of Native American communities depends on the combined efforts of the Federal Government, tribal governments, the private sector, and individuals.

(4) Two tribally controlled community colleges, D-Q University in the State of California and Fort Peck Community College in the State of Montana, currently offer commercial vehicle driving programs.

(5) The American Trucking Association reports that at least until the year 2005, the trucking industry will need to hire 403,000 truck drivers each year to fill empty positions.

(6) According to the Federal Government Occupational Handbook the commercial driving industry is expected to increase about as fast as the average for all occupations through the year 2008 as the economy grows and the amount of freight carried by trucks increases.

(7) A career in commercial vehicle driving offers a competitive salary, employment benefits, job security, and a profession.

(b) PURPOSE.—It is the purpose of this Act—

(1) to foster and promote job creation and economic opportunities for Native Americans; and

(2) to provide education, technical, and training assistance to Native Americans who are interested in a commercial vehicle driving career.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMERCIAL VEHICLE DRIVING.—The term ''commercial vehicle driving'' means the driving of a vehicle which is a tractor-trailer truck.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

SEC. 4. COMMERCIAL VEHICLE DRIVING TRAINING PROGRAM.

(a) GRANTS.—The Secretary may award 4 grants, on a competitive basis, to eligible entities to support programs providing training and certificates leading to the professional development of individuals with respect to commercial vehicle driving.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a tribally-controlled community college or university (as defined in section 2 of the Tribally-Controlled Community College or University Assistance Act of 1978 (25 U.S.C. 1801)); and

(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to—

(1) grant applications that propose training that exceeds the United States Department of Transportation's Proposed Minimum Standards for Training Tractor-Trailer Drivers; and

(2) grant applications that propose training that exceeds the entry level truck driver certification standards set by the Professional Truck Driver Institute.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the Act.

By Ms. SNOWE (for herself and Ms. COLLINS)

S. 1345. A bill to direct the Secretary of Transportation to establish a commercial truck safety pilot program in the State of Maine, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Madam President, I rise today to introduce legislation the Commercial Truck Safety Pilot Program Act to create a safety pilot program for commercial trucks.

The Commercial Truck Safety Pilot Program Act would authorize a safety demonstration program in my home state of Maine that could be a model for other states. I have been working closely with the Maine Department of Transportation, communities in my State, and others to address statewide concerns about the existing Federal Interstate truck weight limit of 80,000 pounds.

I believe that safety must be the number one priority on our roads and highways, and I am very concerned that the existing Interstate weight limit has the perverse impact of forcing commercial trucks onto State and local secondary roads that were never designed to handle heavy commercial trucks safely. We are talking about narrow roads, lanes, and rotaries, with frequent pedestrian crossings and school zones.

I have been working to address this concern for many years. During the 105th Congress, for example, I authored a provision providing a waiver from federal weight limits on the Maine Turnpike the 100-mile section of Maine's Interstate in the southern portion of the State and it was signed into law as part of TEA–21. I have also corresponded with the Department of Transportation and the Senate Environment and Public Works Committee to make them aware of my serious concerns and to urge them to work with me in an effort to address this challenge.

In addition, the Maine Department of Transportation is in the process of conducting a study of the truck weight limit waiver on the Maine Turnpike, and I have been working closely with the State in the hopes of expanding this study, which will focus on the safety impact of higher limits, infrastructure issues, air quality issues and economic issues as well, in order to secure the data necessary to ensure that commercial trucks are required to operate in the safest possible manner.

Federal law attempts to provide uniform truck weight limits, 80,000 pounds, on the Interstate system, but the fact is there are a myriad of exemptions and grandfathering provisions. The legislation I am submitting today would simply direct the Secretary of Transportation to establish a three-year pilot program to improve commercial motor vehicle safety in the State of Maine.

Specifically, the measure would direct the Secretary, during this period, to waive federal vehicle weight limitations on certain commercial vehicles weighing over 80,000 pounds using the Interstate System within Maine, permitting the State to set the limit. In addition, it would provide for the waiver to become permanent unless the Secretary determines it has resulted in an adverse impact on highway safety.

I believe this is a measured, responsible approach to a very serious public safety issue. I hope to work with all of those with a stake in this issue, safety advocates, truckers, states, and communities, to address this matter in the most effective possible way, and I hope that my colleagues will join me in this effort.

Ms. COLLINS. Madam President, I rise to join with my colleague from Maine in sponsoring the Commercial Truck Safety Pilot Program Act, an important piece of legislation that addresses a significant safety problem in our State.

Under current law, trucks weighing as much as 100,000 pounds are allowed to travel on Interstate 95 from Maine's border with New Hampshire to Augusta, our capital city located. At Augusta, trucks weighing more than 80,000 pounds are forced off Interstate 95, which proceeds for another 200 miles through the northern half of the State, and on to smaller roads that pass through cities, towns, and villages.

Trucks weighing up to 100,000 pounds are permitted on interstate highways in New Hampshire, Massachusetts, and New York as well as the Canadian provinces of New Brunswick and Quebec. The weight limit disparity on various segments of Maine's Interstate Highway System forces trucks traveling to and from destinations in these States and provinces to use Maine's State and local roads. Consequently, many Maine communities along the Interstate see substantially more truck traffic than would otherwise be the case if the weight limit were 100,000 pounds for all of Maine's Interstate highways.

The problem Maine faces because of the disparity in truck weight limits is perhaps most pronounced in our State capital. Augusta is the Maine Turnpike's northern terminus where heavy trucks that are prohibited from traveling along the northern segment of Interstate 95 enter and exit the turnpike. The high number of trucks that must traverse Augusta's local roads creates a severe hazard for those who live and work in as well as visit the city.

It is estimated that the truck weight disparity sends 310 vehicles in excess of 80,000 pounds through Augusta everyday. These vehicles, which are often carrying hazardous materials, must pass through the Cony Circle, one of the State's most dangerous traffic circles and the scene of 130 accidents per year. The fact that the circle is named for the twelve hundred student high school that it abuts adds to the severity of the problem.

A uniform truck weight limit of 100,000 pounds on Maine's interstate highways would reduce the highway miles and travel times necessary to transport freight through Maine, resulting in economic and environmental benefits. Moreover, Maine's extensive network of State and local roads will be better preserved without the wear and tear of heavy truck traffic. Most importantly, however, a uniform truck weight limit will keep trucks on the interstate where they belong rather than on roads and highways that pass through Maine's cities, towns, and neighborhoods.

The legislation that Senator SNOWE and I are introducing addresses the safety issues we face in Maine because of the disparities in truck weight limits. The legislation directs the Secretary of Transportation to establish a commercial truck safety pilot program in Maine. Under the pilot program, the truck weight limit on all Maine highways that are part of the interstate highway system would be set at 100,000 pounds for three years. During the waiver period, the Secretary would study the impacts of the pilot program on safety, and would receive the input of a panel that would include State officials, safety organizations, municipalities, and the commercial trucking industry. The waiver would become permanent if the panel determined that motorists were safer as a result of a uniform truck weight limit on Maine's Interstate highway system.

Maine's citizens and motorists are needlessly at risk because too many heavy trucks are forced off the interstate and on to local roads. The legislation Senator SNOWE and I are introducing is not an attempt to roll back

weight standards but rather a commonsense approach to a severe safety problem in my State. I hope my colleagues will support passage of this important legislation.

By Mr. SESSIONS (for himself, Mr. BINGAMAN, Mr. ALLARD, and Ms. COLLINS):

S. 1346. A bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes; to the Committee on Finance.

Mr. SESSIONS. Madam President, we do a lot of things here that are controversial and get headlines. But oftentimes we do things that are bipartisan, that are complex and technical. Working together, we accomplish things that are good for the country.

The legislation I have introduced tonight, along with Senator JEFF BINGAMAN from New Mexico, is that kind of legislation. It is supported by 27 different farm and veterinary medicine groups. It is called the Minor Use and Minor Species Animal Health Act. It deals with a problem that, unfortunately, goes largely unnoticed, except by those who are directly affected. Livestock and food animal producers, pet owners, zoo and wildlife biologists, and animals themselves face a severe shortage of approved animal drugs for use in minor species.

Minor species include thousands of animal species, including all fish, birds, and sheep. By definition, minor species are any animals other than the major species, which are cattle, horses, chickens, turkeys, dogs, and cats. A similar shortage of drugs and medicines for major animal species exists for diseases that occur infrequently or which occur in limited geographical areas.

Due to the lack of availability for these minor use drugs, millions of animals go untreated or treatment is delayed. Without access to these necessary minor use drugs, farmers and ranchers also suffer. An unhealthy animal that is left untreated can spread disease throughout an entire herd. For example, sheep ranchers lost nearly $45 million worth of livestock in 1999 alone. The sheep industry estimates if it had access to effective and necessary drugs to treat diseases, growers' reproduction costs for their animals would be cut by up to 15 percent. In addition, feedlot deaths would be reduced by 1 to 2 percent, adding approximately $8 million of revenue to the industry.

Alabama's catfish industry ranks second in the Nation. Though it is not the State's only aquacultural commodity, catfish is by far its largest. Indeed, catfish make up 68 percent of the Nation's aquacultural industry. That industry generates enormous opportunities in the poorest part of Alabama, and it is necessary that it be a strong industry.

The catfish industry estimates its losses at $60 million per year attributable to diseases for which drugs are not available. Indeed, it is not uncommon for a catfish producer to lose half his stock to disease.

The U.S. aquacultural industry overall, including food fish and ornamental fish, produces and raises over 800 different species. Unfortunately, this industry has only five drugs approved for use in treating aquacultural diseases. This results in economic hardship.

The problem is simply this: A drug company must go through a long research program to develop a drug. Then the company has to seek approval for the drug. The company simply is financially unable to do so because there are not many animals for which the product will be used. It makes it difficult for them to do the investment.

I, along with Senators BINGAMAN, ALLARD, and COLLINS, resolve to improve this situation by introducing the Minor Use and Minor Species Animal Health Act. The legislation will allow animal drug manufacturers the opportunity to develop and obtain approval for minor use drugs which are vitally needed by a wide variety of animal industries.

Our legislation incorporates the major proposals of the Food and Drug Administration's Center for Veterinary Medicine to increase the availability of drugs for minor animal species and rare diseases in all animals. The act creates incentives for animal drug manufacturers to invest in product development and obtain FDA approval.

The legislation creates a program very similar to the human orphan drug program that has dramatically increased the availability of drugs to treat rare human diseases over the past 20 years.

The Minor Use and Minor Species Animal Health Act will not alter, however, the FDA drug approval responsibilities that ensure the safety of animal drugs to the public. The FDA's Center for Veterinary Medicine currently evaluates new animal products prior to approval and use. This rigorous testing and review process provides consumers with the confidence that animal drugs are safe for animals and consumers of products derived from treated animals.

Current FDA requirements include guidelines to prevent harmful residues and evaluations to examine the potential for the selection of resistant pathogens. Any food animal medicine or drug considered for approval under this bill would be subject to the same assessments.

The Minor Use and Minor Species Animal Health Act is supported by 25 organizations, including the American Farm Bureau Federation, the Animal Health Institute, the American Veterinary Medical Association, and the National Aquaculture Association. This is vital, important legislation.

The act will reduce the economic risks and hardships which fall upon ranchers and farmers as a result of livestock diseases. It will benefit pets and their owners and benefit various endangered species and aquatic animals. It will promote the health of all animal species while protecting human health as well, and will alleviate unnecessary animal suffering.

This is commonsense legislation which would benefit millions of American pet owners, farmers, and ranchers. I believe it represents a consensus effort on which we worked hard.

Mary Alice Tyson, on my staff, and other staff members have worked hard on it. I believe it is an act that will gain universal support in the Senate, will be a step forward, and something good we can do to help animals and the producers of animals in America.

By Mr. BAUCUS (for himself and Mr. BYRD):

S. 1347. A bill to establish a Congressional Trade Office; to the Committee on Government Affairs.

Mr. BAUCUS. Madam President, on behalf of myself and Senator BYRD, I am introducing a bill to create a Congressional Trade Office. This is designed to help the Senate get ahead of the curve and better understand and deal with globalization, trade, and economic commercial actions around the world, to help us understand what we are doing.

The Congressional Trade Office, the CTO, will have the expertise we need in Congress to get independent and nonpartisan information about trade. This new entity will help us meet our constitutional responsibility for trade policy.

The importance of trade in our economy continues to grow. Trade is equivalent to 27 percent of our economy today, compared with only 11 percent in 1970, just 30 years ago.

Article I, section 8 of the U.S. Constitution provides:

> Congress shall have the power . . . to regulate commerce with foreign nations.

Our responsibility as Members of Congress is to set the direction of trade policy. It is true that under article II of the Constitution, the President, the Chief Executive, has the primary responsibility with respect to foreign policy. With respect to trade, the Constitution is clear, and it provides that Congress shall have the power to regulate commerce with foreign nations. Our responsibility is effective and active oversight of our Nation's trade policy.

I have served in the Congress for 25 years and I have watched the continuing transfer of responsibility for trade policy from the Congress to the executive branch.

I believe this must stop. We must reassert Congress' constitutionally defined responsibility. The CTO will provide the means to meet our responsibilities.

Congress needs to be much better prepared to deal with trade issues responsibly and authoritatively: consideration of fast track; FTAs—so-called free trade agreements—with Jordan, Chile, Singapore, and perhaps Australia, and others; Chinese accession to the WTO; a possible new round launch; compliance with existing agreements.

To manage trade policy, we need access to more and better information, independently arrived at, from people whose commitment is to the Congress, and only to the Congress.

The first task of the CTO is to monitor compliance with major trade agreements. It will evaluate success based on real world business results. It will recommend actions needed to ensure that commitments are fully implemented. It will also provide annual assessments of the extent to which agreements comply with labor and environmental goals.

The CTO's second task will be to observe trade negotiations firsthand. CTO staff will participate in selected negotiations as observers and report back to the Congress. Congress needs this information to provide meaningful oversight of trade policy. And it is especially vital for Congress to monitor trade negotiations under fast track.

The third task relates to dispute settlement. The CTO will evaluate each WTO decision where the U.S. is a participant, explain why cases are lost, and measure the anticipated commercial results from wins. CTO staff will participate as observers on the U.S. delegation.

Frankly, I don't think we know whether the WTO dispute settlement process has been successful or not, from the perspective of U.S. commercial interests. A count of wins versus losses doesn't tell us very much. The CTO will give us the facts we need to evaluate the process properly.

The final task will be analytical. The CTO will analyze major outstanding trade barriers based on a cost to the U.S. economy. It will also provide an analysis of the administration's—Republican or Democrat—trade policy agenda, and it will analyze the trade accounts every quarter.

The Congressional Trade Office is designed to serve the Congress. Its Director will report to the Senate Finance Committee and the House Ways and Means Committee, but will also advise other committees on the impact of trade negotiations on those committees' areas of jurisdiction.

Trade rules increasingly affect domestic regulations. The CTO can advise on the implications of trade policy for domestic regulatory issues.

The CTO will have a professional staff with a mix of expertise in economics and trade law in various industries and geographic regions. I believe this will give Congress long-term institutional memory on trade, something that is very much needed, particularly when other countries have much more expertise, much more time in their governments devoted to trade and how their countries can benefit from trade basically at the expense of others.

I am very grateful for the support of my good friend, Senator BYRD, and I encourage my colleagues to join with us in creating the Congressional Trade Office. I believe this will help the Congress get a little bit further ahead of the curve, better understand the implications of globalization, and pull us a little bit out of our day-to-day reactive mode around here, thinking more long term in a better sense of what is happening in the world—more information, better information on which we can make decisions in this body and, therefore, serve our people better.

I very much thank my good friend, Senator BYRD. He has been helpful to us. I yield the floor, and I, again, thank him for his help.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I congratulate the Senator from Montana on his longtime leadership in the trade field and for his services on the Finance Committee which has jurisdiction in very great measure over this subject matter. I thank him for his leadership. I thank him for sponsoring the legislation that he has just discussed and for allowing me to be a cosponsor with him. I value his leadership in this area.

I have been long concerned about the U.S. trade policy. It extends over these 49 years in which I have been a Member of the Congress. I am for free trade, and I am for fair trade. I have in recent years voted against the North American Free Trade Agreement. I voted against the GATT/WTO agreements. I voted against the permanent normal trading relations with China. It is my belief that American interests, particularly the interests of American workers, have not been properly represented in these developments. I believe that Congress has allowed itself to take a backseat to the intent of Presidents on making international trade negotiations an executive-to-executive preserve.

Congress should vigorously defend the authority it has been granted under the Constitution, whether the issue is a legislative enactment that strips away the authority of Congress to debate and, if necessary, to amend trade agreements or a constitutional amendment that—in the name of balanced budgets—strips away our power over the purse. The balanced budget amendment is an issue for another occasion. The need for Congress to restore its role with respect to foreign trade, however, is something that Senator BAUCUS and I wish to highlight. We note that article I, section 8, of the Constitution gives Congress the exclusive authority to ''regulate commerce with foreign nations.'' Congress, not the President, has this authority and responsibility.

Unfortunately, over the past few decades, Congress has been less than zealous in safeguarding its prerogatives with respect to foreign trade. The result is that the American people have less input into our trade agreements than they should have. Is there any doubt that the process is less democratic than was intended by the Framers of the Constitution?

U.S. trade negotiators need our input at each and every stage of the process. Enhanced congressional participation will help them in their efforts to reinforce the framework of fair trade. It will give the results of trade negotiations greater legitimacy and increase public understanding of the costs and benefits of globalization. The Constitution demands that we make this effort, and the people we represent expect us to make that effort.

Madam President, now is the time for the House and the Senate to create a Congressional Trade Office modeled after the Congressional Budget Office. Regardless of how each of us may feel about the great trade issues of the day, we should be able to agree that Congress needs better access to information about trade negotiations and the impact of trade agreements on the U.S. economy. It is indisputable that we live in an increasingly interdependent world, and it is our duty under the Constitution to make sure that American interests are properly reflected as the architecture of that world is established.

Senator BAUCUS and I agree on the urgency of this task. Our legislation would establish a nonpartisan Congressional Trade Office the purposes of which would be to first, provide Congress with trade data and analysis; second, participate in all future trade negotiations; third, observe and evaluate international trade dispute resolution processes; and fourth, monitor compliance with major bilateral, regional, and multilateral trade agreements.

The Senate Finance Committee and the House Ways and Means Committee cannot possibly address the full panoply of issues that arise in this day and age in connection with trade legislation. Consequently, trade bills can be—and are—referred to multiple committees in both Houses of Congress. Our bill recognizes this trend and provides that the resources of the Congressional Trade Office will be available to all House and Senate committees of relevant jurisdiction.

I join with Senator BAUCUS in urging our colleagues to seize this opportunity to move toward the restoration of our constitutional role in trade policy. Let us resolve to put ourselves, the Congress, back in the center of the great game of formulating and implementing mutually beneficial international trade agreements.

Madam President, I thank my colleague, Mr. BAUCUS, again, for his leadership, and I yield the floor.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 147—TO DESIGNATE THE MONTH OF SEPTEMBER OF 2001, AS ''NATIONAL ALCOHOL AND DRUG ADDICTION RECOVERY MONTH''

Mr. WELLSTONE submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 147

Whereas alcohol and drug addiction is a devastating disease that can destroy lives, families, and communities;

Whereas alcohol and drug addiction carry direct and indirect costs for the United States of more than $246,000,000,000 each year;

Whereas scientific evidence demonstrates the crucial role that treatment plays in restoring those suffering from alcohol and drug addiction to more productive lives;

Whereas in 1999, research at the National Institute on Drug Abuse at the National Institutes of Health showed that about 14,800,000 Americans were users of illicit drugs, and about 3,500,000 were dependent on illicit drugs; an additional 8,200,000 were dependent on alcohol;

Whereas the 1999 National Household Survey of Drug Abuse, a project of the Substance Abuse and Mental Health Services Administration, showed that drug use varies substantially among States, ranging from a low of 4.7 percent to a high of 10.7 percent for the overall population, and from 8.0 percent to 18.3 percent for youths age 12–17;

Whereas the Office of National Drug Control Policy's 2001 National Drug Control Strategy includes the reduction of the treatment gap for individuals who are addicted to drugs as one of the top 3 goals for reducing the health and social costs to the public;

Whereas the lives of children, families, and communities are severely affected by alcohol and drug addiction, through the effects of the disease, and through the neglect, broken relationships, and violence that are so often a part of the disease of addiction;

Whereas a National Institute on Drug Abuse 4-city study of 1,200 adolescents found that community-based treatment programs can reduce drug and alcohol use, improve school performance, and lower involvement with the criminal justice system;

Whereas a number of organizations and individuals dedicated to fighting addiction and promoting treatment and recovery will recognize the month of September of 2001 as National Alcohol and Drug Addiction Recovery Month;

Whereas the Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Treatment, in conjunction with its national planning partner organizations and treatment providers, have taken a Federal leadership role in promoting Recovery Month 2001;

Whereas National Alcohol and Drug Addiction Recovery Month aims to promote the societal benefits of substance abuse treatment, laud the contributions of treatment providers, and promote the message that recovery from substance abuse in all its forms is possible;

Whereas the 2001 national campaign embraces the theme of ''We Recover Together: Family, Friends and Community'', and highlights the societal benefits, importance, and effectiveness of drug and treatment as a public health service in our country; and

Whereas the countless numbers of those who have successfully recovered from addiction are living proof that people of all races, genders, and ages recover every day from the disease of alcohol and drug addiction, and make positive contributions to their families, workplaces, communities, States, and the Nation: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of September of 2001 as ''National Alcohol and Drug Addiction Recovery Month''; and

(2) requests that the President issue a proclamation urging the people of the United States to carry out appropriate programs and activities to demonstrate support for those individuals recovering from alcohol and drug addiction.

Mr. WELLSTONE. Madam President, I rise today to submit a resolution to proclaim September, 2001 as ''National Alcohol and Drug Addiction Recovery Month''. The purpose is to recognize the societal benefits, importance and effectiveness of drug treatment as a public health service. The Year 2001 Recovery Month theme is ''We Recover Together: Family, Friends, and Community'', with a clear message that we need to work together to promote treatment for alcohol and drug addiction throughout our country.

Addiction to alcohol and drugs is a disease that many individuals face as a painful, private struggle, often without access to treatment or medical care. But this disease also has staggering public costs. A 1998 report prepared by The Lewin Group for the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, estimated the total economic cost of alcohol and drug abuse to be approximately $246 billion for 1992. Of this cost, an estimated $98 billion was due to addiction to illicit drugs and other drugs taken for non-medical purposes. This estimate includes addiction treatment and prevention costs, as well as costs associated with related illnesses, reduced job productivity or lost earnings, and other costs to society such as crime and social welfare programs.

Adults and children who have the disease of addiction can be found throughout our society. We know from the outstanding research done at the National Institute on Drug Abuse at the National Institutes of Health that 14,800,000 Americans were users of illicit drugs, and about 3,500,000 were dependent on illicit drugs. An additional 8 million were dependent on alcohol. The 1999 Household Survey of Drug Abuse, a project of the Substance Abuse and Mental Health Services Administration, showed that drug use varies among States, ranges from a low of 4.7 percent to a high of 10.7 percent of the overall population, and from 8.0 percent to 18.3 percent for youths age 12–17.

The 2001 National Drug Control Strategy of the Office of National Drug Control Policy, ONDCP, has recognized the importance of drug treatment. The ONDCP Strategy includes the reduction of the treatment gap for individuals who are addicted to drugs as one of the top 3 goals for reducing the health and social costs to the public. And yet, 80 percent of adolescents needing treatment are unable to access services because of the severe lack of coverage for addiction treatment or the unavailability of treatment programs or trained health care providers in their community. The 1998 Hay Group Report revealed that the overall value of substance abuse treatment benefits has decreased by 74.5 percent from 1988 through 1998, leaving our youth without sufficient medical care for this disease when they are most vulnerable.

We know that addiction to alcohol and other drugs contribute to other problems as well. Addictive substances have the potential for destroying the person who is addicted, as well as his or her family. We know, for example, that fetal alcohol syndrome is the leading known cause of mental retardation. If a woman who was addicted to alcohol could receive proper treatment, fetal alcohol syndrome for her baby would be 100 percent preventable, and more than 12,000 infants born in the U.S. each year would not suffer from fetal alcohol syndrome, with its irreversible physical and mental damage.

We know too of the devastation caused by addiction when violence between people is one of the consequences. A 1998 SAMHSA report outlined the links between domestic violence and substance abuse. We know from clinical reports that 25–50 percent of men who commit acts of domestic violence also have substance abuse problems. The report recognized the link between the victim of abuse and use of alcohol and drugs, and recommended that after the woman's safety has been addressed, the next step would be to help with providing treatment for her addiction as a step toward independence and health, and toward the prevention of the consequences for the children who suffer the same abuse either directly, or indirectly by witnessing spousal violence.

The physical, emotional, and social harm caused by this disease is both preventable and treatable. We know from the excellent research conducted at NIH, through the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, that treatment for drug and alcohol addiction can be effective. The effectiveness of treatment is the major finding from a NIDA-sponsored 4-city study of drug abuse treatment outcomes for 1,200 adolescents. The study showed that community-based treatment programs can reduce drug and alcohol use, improve school performance, and lower involvement with the criminal justice system.

Addiction to alcohol and drugs is a disease that affects the brain, the body, and the spirit. We must provide adequate opportunities for the treatment of addiction in order to help those who are suffering and to prevent the health and social problems that it causes. We know that the costs to do so are very low. A 1999 study by the Rand Corporation found that the cost to managed care health plans is now only about $5 per person per year for unlimited substance abuse treatment benefits to employees of big companies. A 1997 Milliman and Robertson study found that complete substance abuse treatment parity would increase per capita health insurance premiums by only one half of one percent, or less than $1 per member per month—without even considering any of the obvious savings that will result from treatment. Several studies have shown that for every $1 spent on treatment, more than $7 is saved in other health care expenses. These savings are in addition to the financial and other benefits of increased productivity, as well as participation in family and community life. Providing treatment for addiction also saves millions of dollars in the criminal justice system. But for treatment to be effective and helpful throughout our society all systems of care, including private insurance plans, must share this responsibility.

The National Alcohol and Drug Addiction Recovery Month in the year 2001 celebrates the tremendous strides taken by individuals who have undergone successful treatment and recognizes those in the treatment field who have dedicated their lives to helping our young people recover from addiction. Many individuals, families, organizations, and communities give generously of their time and expertise to help those suffering from addiction and to help them to achieve recovery and productive, healthy lives. The Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Treatment, SAMHSA/CSAT, in conjunction with national planning partner organizations and treatment providers, have taken a Federal leadership role in promoting Recovery Month 2001. The Recovery Month events being planned throughout our nation, including one on September 29, in St. Paul, Minnesota, will recognize the countless numbers of those who have successfully recovered from addiction and who are living proof that people of all races, genders, and ages recover every day from the disease of alcohol and drug addiction, and now make positive contributions to their families, workplaces, communities, state, and nation.

I urge the Senate to adopt this resolution designating the month of September, 2001, as Recovery Month, and to take part in the many local and national activities and events recognizing this effort.

SENATE RESOLUTION 148—DESIGNATING OCTOBER 30, 2001, AS ''NATIONAL WEATHERIZATION DAY''

Mr. BIDEN submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 148

Whereas the average family in the United States spends more than $1,300 annually on utility bills.

Whereas that figure represents nearly 15 percent of a low-income family's income and could approach 18 percent as fuel costs steadily rise;

Whereas the Weatherization Assistance Program (referred to in this resolution as the ''Program''), by using Federal, State, local, and private dollars, benefits households and communities across the Nation by providing cost-effective, energy-efficient retrofits to homes occupied by low-income families;

Whereas the average energy cost savings for each home that is weatherized is more than $250 annually, allowing families to spend the saved money on groceries, doctor bills, prescriptions, and other needs, thereby making them more self-sufficient;

Whereas carbon dioxide emissions are reduced by an average of 1 ton per weatherized household, reducing pollution levels in our air;

Whereas 52 jobs are created within the Nation's communities for each $1,000,000 invested in weatherization;

Whereas for every $1 invested by the Department of Energy in the Program, another $3.39 is leveraged from other sources;

Whereas the Program works with public and private partners to help reduce the energy burden of the Nation's low-income families and promote the benefits of weatherization to all people in the Nation;

Whereas people across the Nation should become more aware of the importance of energy conservation, pollution reduction, and safer homes; and

Whereas a concerted public information campaign will help get the weatherization message to the people in our Nation: Now, therefore, be it

Resolved,

SECTION 1. NATIONAL RESPONSE TO WEATHERIZATION.

(a) DESIGNATION.—The Senate—

(1) designates October 30, 2001, as ''National Weatherization Day'';

(2) encourages families to learn about the benefits of weatherizing their homes, including energy conservation, money savings, and safer homes for their children; and

(3) encourages community action and service agencies, Federal, State, and local government agencies, and private sector partners to work together to promote the positive aspects of weatherizing our Nation's housing stock.

(b) PROCLAMATION.—The Senate requests that the President issue a proclamation calling upon the Federal, State, local, and private sector leaders of our Nation to observe and promote National Weatherization Day with appropriate partnerships, activities, and ceremonies.

Mr. BIDEN. Madam President, today I am proud to submit a resolution expressing the sense of the Senate that October 30, 2001, be designated as ''National Weatherization Day.'' By doing so, we will anchor a national effort by States, localities, and community groups to raise the awareness of all Americans concerning the importance of weatherizing the Nation's housing stock to conserve energy, thereby reducing consumption of all forms of energy.

October is already designated as Energy Awareness Month and will serve as the ideal host month for this day. Why, then, do we need a day specifically devoted to supporting weatherization efforts? Although some people today know of the benefits of weatherizing a home, most unfortunately do not. Weatherization Day, then, will help bring targeted recognition of these efforts, and specifically those of the U.S. Department of Energy's Weatherization Assistance Program, which uses Federal, State, local, and private dollars to provide cost-effective, energy-efficient retrofits to homes occupied by low-income families.

The average family in the United States spends more than $1,300 annually on utility bills. For low-income families, that can take away almost 15 percent of their entire annual income, and 18 percent if fuel costs rise as they have been for the past year. That is unacceptable and that is why the Weatherization Assistance Program exists today. The average energy cost savings for each home that is weatherized is more than $250 annually. This gives these families the ability to purchase essential items like groceries and prescription drugs, pay for medical bills, and make themselves more self-sufficient. At the same time, weatherizing a

home also provides a substantial economic and environmental boon to local communities, by adding an average of 52 jobs for every $1,000,000 invested and by reducing carbon dioxide emissions by an average of 1 ton per weatherized household.

I think that we owe it to ourselves and, more importantly, to our future generations, to continue to improve the awareness of all Americans of the importance of energy conservation, pollution reduction, and safer homes. By having a designated Weatherization Day, we will provide much-needed attention to this issue.

SENATE RESOLUTION 149—ELECTING ALFONSO E. LENHARDT OF NEW YORK AS THE SERGEANT OF ARMS AND DOORKEEPER OF THE SENATE

Mr. DASCHLE submitted the following resolution; which was considered and agreed to:

S. RES. 149

Resolved, That Alfonso E. Lenhardt of New York be, and he is hereby, elected Sergeant at Arms and Doorkeeper of the Senate effective September 4, 2001.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1228. Mr. NELSON, of Florida proposed an amendment to amendment SA 1214 submitted by Ms. MIKULSKI and intended to be proposed to the bill (H.R. 2620) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes.

SA 1229. Mr. KYL (for himself, Mr. FITZGERALD, Mr. MCCAIN, Mr. BROWNBACK, and Mr. DURBIN) proposed an amendment to amendment SA 1214 submitted by Ms. MIKULSKI and intended to be proposed to the bill (H.R. 2620) supra.

SA 1230. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table.

SA 1231. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 1214 submitted by Ms. MIKULSKI and intended to be proposed to the bill (H.R. 2620) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes.

SA 1232. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table.

SA 1233. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1234. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1235. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1236. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1237. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1238. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1239. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1240. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1241. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1242. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1243. Ms. COLLINS (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 1243, to amend the Internal Revenue Code of 1986 to treat spaceports like airports under the exempt facility bond rules; which was ordered to lie on the table.

SA 1244. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table.

SA 1245. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1246. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1247. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1248. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1249. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1250. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1251. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1252. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1253. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1254. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1255. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1256. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1257. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1258. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1259. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1260. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1261. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1262. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1263. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1264. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1265. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1266. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1267. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1268. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1269. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1270. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1271. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1272. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1273. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1274. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1275. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1276. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1277. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1278. Mr. LUGAR submitted an amendment intended to be proposed by him to the

bill S. 1246, supra; which was ordered to lie on the table.

SA 1279. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1280. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1281. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1282. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1283. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1284. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1285. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1286. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1287. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1288. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1289. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1290. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1291. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1292. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1293. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1246, supra ; which was ordered to lie on the table.

SA 1294. Ms. SNOWE (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1295. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1296. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1297. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1298. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1299. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1300. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1301. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1302. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1303. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1304. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1305. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1306. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1307. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1308. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA 1309. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1310. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2620, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

SA–1311. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table.

SA–1312. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1313. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1314. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1315. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1316. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1317. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1318. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1319. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1320. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1321. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1322. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1323. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1324. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1325. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1326. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1327. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1328. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1329. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1330. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1331. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1332. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1333. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1334. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1335. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1336. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill H.R. 2620, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

SA–1337. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill H.R. 2620, supra; which was ordered to lie on the table.

SA–1338. Ms. MIKULSKI (for herself and Mr. BOND) proposed an amendment to amendment SA 1214 submitted by Ms. MIKULSKI and intended to be proposed to the bill (H.R. 2620) supra.

SA–1339. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table.

SA–1340. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

SA–1341. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

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SA–1470. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1228. Mr. NELSON of Florida proposed an amendment to amendment SA 1214 submitted by Ms. MIKULSKI and intended to be proposed to the bill (H.R.

2620) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . ARSENIC IN PLAYGROUND EQUIPMENT.

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

(1) The Department of Health and Human Services has determined that arsenic is a known carcinogen, and the Environmental Protection Agency has classified chromated copper arsenate (CCA), which is 22 percent arsenic, as a ''restricted use chemical.''

(2) CCA is often used as a preservative in pressure-treated wood, and CCA-treated wood is widely used in constructing playground equipment frequented by children.

(3) In 2001, many communities in Florida and elsewhere have temporarily or permanently closed playgrounds in response to elevated levels of arsenic in soil surrounding CCA-treated wood playground equipment.

(4) The State of Florida recently announced that its own wood-treatment plant would cease using arsenic as a preservative.

(5) PlayNation Play Systems, which manufactures playground equipment, announced in June 2001 that it would no longer use CCA as a preservative in its playground products.

(6) In May 2001, the Environmental Protection Agency announced that it would expedite its ongoing review of the health risks facing children playing near CCA-treated wood playground equipment, and produce its findings in June 2001. The EPA later postponed the release of its risk assessment until the end of the summer of 2001, and announced that its risk assessment would be reviewed by a Scientific Advisory Panel in October 2001.

(7) The EPA also plans to expedite its risk assessment regarding the re-registering of arsenic as a pesticide by accelerating its release from 2002 to 2003.

(8) The Consumer Product Safety Commission, which has the authority to ban hazardous and dangerous products, announced in June 2001 that it would consider a petition seeking the banning of CCA-treated wood from all playground equipment.

(9) Many viable alternatives to CCA-treated wood exist, including cedar, plastic products, aluminum, and treated would without CCA. These products, alone or in combination, can fully replace CCA-treated wood in playground equipment.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the potential health and safety risks to children playing on and around CCA-treated wood playground equipment is a matter of the highest priority, which demands immediate attention from the Congress, the Executive Branch, state and local governments, affected industries, and parents.

(c) REPORT.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency, in consultation with the Consumer Product Safety Commissions, shall submit a report to Congress which shall include—

(1) the Environmental Protection Agency's most up-to-date understanding of the potential health and safety risks to children playing on and around CCA-treated wood playground equipment;

(2) the Environmental Protection Agency's current recommendations to state and local governments about the continued use of CCA-treated wood playground equipment; and

(3) an assessment of whether consumers considering purchases of CCA-treated wood playground equipment are adequately informed concerning the health effects associated with arsenic.

SA 1229. Mr. KYL (for himself, Mr. FITZGERALD, Mr. MCCAIN, Mr. BROWNBACK, and Mr. DURBIN) proposed an amendment to amendment SA 1214 submitted by Ms. MIKULSKI and intended to be proposed to the bill (H.R. 2620) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 105, between lines 14 and 15, insert the following:

SEC. 4___. STATE AND TRIBAL ASSISTANCE GRANTS.

Notwithstanding any other provision of this Act, none of the funds made available under the heading ''STATE AND TRIBAL ASSISTANCE GRANTS'' in title III for capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) shall be expended by the Administrator of the Environmental Protection Agency except in accordance with the formula for allocation of funds among recipients developed under subparagraph (D) of section 1452(a)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(1)(D)) (including under a regulation promulgated under that section before the date of enactment of this Act) and in accordance with the wastewater infrastructure needs survey conducted under section 516 of the Federal Water Pollution Control Act (33 U.S.C. 1375), except that—

(1) subject to paragraph (3), the proportional share under clause (ii) of section 1452(a)(1)(D) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(1)(D)) shall be a minimum of 0.675 percent and a maximum of 8.00 percent;

(2) any State the proportional share of which is greater than that minimum but less than that maximum shall receive 97.50 percent of the proportionate share of the need of the State; and

(3) the proportional share of American Samoa, Guam, the Northern Mariana Islands, and the United States Virgin Islands shall be, in the aggregate, 0.25 percent.

SA 1230. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

SEC. 7___. UNLAWFUL STOCKYARD PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

(a) IN GENERAL.—Title III of the Packers and Stockyards Act, 1921, (7 U.S.C. 201 et seq.) is amended by adding at the end the following:

''SEC. 318. UNLAWFUL STOCKYARD PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

''(a) DEFINITIONS.—In this section:

''(1) HUMANELY EUTHANIZE.—The term 'humanely euthanize' means to kill an animal by mechanical, chemical, or other means that immediately render the animal unconscious, with this state remaining until the animal's death.

''(2) NONAMBULATORY LIVESTOCK.—The term 'nonambulatory livestock' means any livestock that is unable to stand and walk unassisted.

''(b) UNLAWFUL PRACTICES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any stockyard owner, market agency, or dealer to buy, sell, give, receive, transfer, market, hold, or drag any nonambulatory livestock unless the nonambulatory livestock has been humanely euthanized.

''(2) EXCEPTIONS.—

''(A) NON-GIPSA FARMS.—Paragraph (1) shall not apply to any farm the animal care practices of which are not subject to the authority of the Grain Inspection, Packers, and Stockyards Administration.

''(B) VETERINARY CARE.—Paragraph (1) shall not apply in a case in which nonambulatory livestock receive veterinary care intended to render the livestock ambulatory.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) takes effect 1 year after the date of enactment of this Act.

(2) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations to carry out the amendment.

SA 1231. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 1214 submitted by Ms. MIKULSKI and intended to be proposed to the bill (H.R. 2620) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 25, line 23, before the period, insert the following: '': *Provided further*, That of the amount under this heading, $15,000,000 shall be available for the BuyBack America program, enabling gun buyback initiatives undertaken by public housing authorities and their local police departments''.

SA 1232. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 24, line 3, insert ''(a) IN GENERAL.—'' before ''In''.

On page 24, between lines 9 and 10, insert the following:

(b) BAYOU METO DEMONSTRATION PROJECT.—Of the amount made available under subsection (a), the Secretary shall use not less than $8,000,000 to provide financial, technical, educational, and research assistance for the Bayou Meto Demonstration Project in Lonoke County, Arkansas, in order to encourage ground water conservation, including irrigation system installation and improvement.

SA 1233. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act

as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (2) shall become effective one day after the date of enactment.

SA 1234. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (3) shall become effective one day after the date of enactment.

SA 1235. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.

(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (4) shall become effective one day after the date of enactment.

SA 1236. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (5) shall become effective one day after the date of enactment.

SA 1237. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract

payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may

not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (6) shall become effective one day after the date of enactment.

SA 1238. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (7) shall become effective one day after the date of enactment.

SA 1239. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.

(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (8) shall become effective one day after the date of enactment.

SA 1240. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to

the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (9) shall become effective one day after the date of enactment.

SA 1241. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section

204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (10) shall become effective one day after the date of enactment.

SA 1242. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (11) shall become effective one day after the date of enactment.

SA 1243. Ms. COLLINS (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 1243, to amend the Internal Revenue Code of 1986 to treat spaceports like airports under the exempt facility bond rules; which was ordered to lie on the table; as follows:

On page 35, line 2, before the period, insert the following: '', of which $500,000 shall be set aside for the Forum Francophone Des Affaires of Lewiston, Maine, for a program to increase exports by small businesses in the United States to French-speaking regions''.

SA 1244. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. . LAMB FEEDER ELIGIBILITY.

Upon enactment, all rancher and feeder members of the Rocky Mountain States Lamb Cooperative engaged in the production of lamb, and the Rocky Mountain States Lamb Cooperative shall be eligible to participate in 7 USC 2009(d)(3)(B) business and industry direct and guaranteed loans under 7 USC 1932(a)(1) as proscribed by the Cooperative Stock Purchase Program.

SA 1245. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. . BUSINESS AND INDUSTRY LOAN ELIGIBLE PURPOSE.

Upon enactment, the Rocky Mountain Grower Finance Company shall be eligible to distribute 7 USC 2009(d)(3)(B) business and industry direct and guaranteed loans under 7 USC 1932(a)(1) as proscribed by the Cooperative Stock Purchase Program to the member growers of the Rocky Mountain Sugar Growers Cooperative.

SA 1246. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—CONSERVATION

SEC. ___01. CONSERVATION RESERVE PROGRAM.

(a) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), in addition to amounts made available under section 801 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–49), the Secretary shall use $44,000,000 of funds of the Commodity Credit Corporation to provide technical assistance under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(b) EXTENSION OF CONTRACTS.—Notwithstanding section 1231(e)(1) of the Food Security Act of 1985 (16 U.S.C. 3831(e)(1)), an owner or operator that has entered into a contract under the conservation reserve program that would otherwise expire during calendar year 2001 may extend the contract for 1 year.

(c) PAYMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), during the 2001 and 2002 calendar years, the Secretary shall include among practices that are eligible for payments under the conservation reserve program—

(A) the preservation of shallow water areas for wildlife;

(B) the establishment of permanent vegetative cover, such as contour grass strips and cross-wind trap strips; and

(C) the preservation of wellhead protection areas.

(2) OTHER PRACTICES.—The Secretary shall administer paragraph (1) in a manner that does not reduce the amount of payments made by the Secretary for other practices under the conservation reserve program.

(d) PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.—

(1) IN GENERAL.—Section 1231(h)(4)(B) of the Food Security Act of 1985 (16 U.S.C. 3831(h)(4)(B)) is amended by inserting ''(which may include emerging vegetation in water)'' after ''vegetative cover''.

(2) CONFORMING AMENDMENT.—Section 1232(a)(4) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(4)) is amended by inserting ''(which may include emerging vegetation in water)'' after ''vegetative cover''.

SEC. ___02. WETLANDS RESERVE PROGRAM.

(a) MAXIMUM ENROLLMENT.—Notwithstanding section 1237(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3837(b)(1)) and section 808 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–52), subject to subsection (b), the Secretary shall use $200,000,000 of funds of the Commodity Credit Corporation for enrollment of additional acres beginning in fiscal year 2002 in the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.).

(b) TECHNICAL ASSISTANCE; MONITORING AND MAINTENANCE EXPENSES.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary shall use—

(1) not less than $12,000,000, but not more than $15,000,000, to provide technical assistance under the wetlands reserve program; and

(2) not less than $8,000,000, but not more than $10,000,000, for monitoring and maintenance expenses incurred by the Secretary for land enrolled in the wetlands reserve program as of the date of enactment of this Act.

SEC. ___03. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

In addition to amounts made available under section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841), the Secretary shall use $250,000,000 of funds of the Commodity Credit Corporation to carry out the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.).

SEC. ___04. WILDLIFE HABITAT INCENTIVE PROGRAM.

In addition to amounts made available under section 387(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a(c)), the Secretary shall use $7,000,000 of funds of the Commodity Credit Corporation to carry out the Wildlife Habitat Incentive Program established under section 387 of that Act.

SEC. ___05. FARMLAND PROTECTION PROGRAM.

(a) IN GENERAL.—In addition to amounts made available under section 388(c) of the

Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127) and section 211(a) of the Agricultural Risk Protection Act of 2000 (16 U.S.C. 3830 note; Public Law 106–224), the Secretary shall use $40,000,000 of funds of the Commodity Credit Corporation to make payments under the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 to—

(1) any agency of any State or local government, or federally recognized Indian tribe, including farmland protection boards and land resource councils established under State law; and

(2) any organization that—

(A) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clauses (i), (ii), and (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code;

(C) is described in section 509(a)(2) of that Code; or

(D) is described in section 509(a)(3) of that Code and is controlled by an organization described in section 509(a)(2) of that Code.

(b) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary may use not more than $3,000,000 to provide technical assistance under the farmland protection program.

SEC. ____06. RISK MANAGEMENT CONSERVATION ASSISTANCE.

(a) IN GENERAL.—Notwithstanding sections ____01 through ____05, subject to subsection (d), of the amount of funds made available under this title (other than section ____01(a)), the Secretary shall use $100,000,000 to address critical risk management needs (including such needs under programs specified in subsection (b)) in States that are described in section 522(c)(1)(A) of the Federal Crop Insurance Act (7 U.S.C. 1522(c)(1)(A)).

(b) MINIMUM AMOUNT.—Subject to subsection (d), the minimum amount each State described in subsection (a) shall receive under subsection (a) shall be $5,000,000.

(c) PROGRAMS.—For the purpose of subsection (a), the programs specified in this subsection are—

(1) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.);

(2) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.);

(3) the Wildlife Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a); and

(4) the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127).

(d) OTHER STATES.—The Secretary shall use any funds made available under subsection (a) that have not been obligated by June 1, 2002, to provide assistance under the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) in States that are not described in section 522(c)(1)(A) of the Federal Crop Insurance Act (7 U.S.C. 1522(c)(1)(A)).

SA 127. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Emergency Agricultural Assistance Act of 2001''.

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

Sec. 1. Short title; table of contents.

TITLE I—MARKET LOSS ASSISTANCE

Sec. 101. Bonus market loss payments.
Sec. 102. Oilseeds.
Sec. 103. Peanuts.
Sec. 104. Sugar.
Sec. 105. Honey.
Sec. 106. Cottonseed.
Sec. 107. Commodity purchases.
Sec. 108. Loan deficiency payments.
Sec. 109. Milk.
Sec. 110. Pulse crops.
Sec. 111. Apples.

TITLE II—CONSERVATION

Sec. 201. Conservation reserve program.
Sec. 202. Wetlands reserve program.
Sec. 203. Environmental quality incentives program.
Sec. 204. Wildlife Habitat Incentive Program.
Sec. 205. Farmland protection program.
Sec. 206. Risk management conservation assistance.

TITLE III—CREDIT AND RURAL DEVELOPMENT

Subtitle A—Credit

Sec. 301. Farm energy emergency loans.

Subtitle B—Rural Development

Sec. 311. Value-added agricultural product market development grants.
Sec. 312. Regulations; notice of acceptance of applications.
Sec. 313. Funding.

TITLE IV—MISCELLANEOUS

Sec. 401. Crop and pasture flood compensation program.

TITLE V—ADMINISTRATION

Sec. 501. Obligation period.
Sec. 502. Commodity Credit Corporation.
Sec. 503. Regulations.

TITLE I—MARKET LOSS ASSISTANCE

SEC. 101. BONUS MARKET LOSS PAYMENTS.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall use funds of the Commodity Credit Corporation to make a bonus market loss payment to owners and producers on a farm that produced a 2001 crop of a contract commodity (as defined in section 102 of the Agricultural Market Transition Act (7 U.S.C. 7202)).

(b) COMPUTATION.—A payment under this section shall be computed by multiplying—

(1) the payment rate determined under subsection (c); by

(2) the payment quantity determined under subsection (d).

(c) PAYMENT RATE.—The payment rate for a payment under this section shall equal—

(1) in the case of wheat, $0.095 per bushel;

(2) in the case of corn, $0.037 per bushel;

(3) in the case of grain sorghum, $0.066 per bushel;

(4) in the case of barley, $0.056 per bushel;

(5) in the case of oats, $0.004 per bushel;

(6) in the case of upland cotton, $0.00993 per pound; and

(7) in the case of rice, $0.383 per hundredweight.

(d) PAYMENT QUANTITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the payment quantity for a payment made to owners and producers on a farm under this section shall equal the quantity of the 2001 crop of a contract commodity produced by the owners and producers on the farm.

(2) DISASTERS.—In the case of owners and producers on a farm that suffered a loss in the production of the 2001 crop of a contract commodity as a result of a natural disaster (as determined by the Secretary), the payment quantity for a payment made to the owners and producers on the farm under this section shall equal the product obtained by multiplying—

(A) the greater of—

(i) the yield assigned to the farm for the 2001 crop of the contract commodity under subparagraphs (A) and (B) of section 508(g)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(g)(2)); or

(ii) the county average yield for the 2000 crop of the contract commodity, as determined by the Secretary; by

(B) the number of acres planted or considered planted to the contract commodity for harvest on the farm in the 2001 crop year.

SEC. 102. OILSEEDS.

The Secretary shall use $76,490,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1421 note; Public Law 106–224) to producers of the 2000 crop of oilseeds that received a payment under that section.

SEC. 103. PEANUTS.

The Secretary shall use $1,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1421 note; Public Law 106–224) to producers of quota peanuts or additional peanuts for the 2000 crop year that received a payment under that section.

SEC. 104. SUGAR.

(a) MARKETING ASSESSMENT.—Section 156(f) of the Agricultural Market Transition Act (7 U.S.C. 7272(f)) shall not apply with respect to the 2001 crop of sugarcane and sugar beets.

(b) EMERGENCY FINANCIAL ASSISTANCE FOR 2000 CROP OF SUGAR BEETS.—Notwithstanding section 815(d)(1) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–56), in making payments under that section for quality losses for the 2000 crop of sugar beets of producers on a farm in an area covered by Manager's Bulletin MGR–01–010 issued by the Federal Crop Insurance Corporation on March 2, 2001—

(1) the Secretary shall calculate the amount of a quality loss, regardless of whether the sugar beets are processed, on an aggregate basis by cooperative;

(2) the Secretary shall make the quality loss payments to a cooperative for distribution to cooperative members; and

(3) the amount of a quality loss, regardless of whether the sugar beets are processed, shall be equal to the difference between—

(A) the per unit payment that the producers on the farm would have received for the crop from the cooperative if the crop had not suffered a quality loss; and

(B) the average per unit payment that the producers on the farm received from the cooperative for the affected sugar beets.

SEC. 105. HONEY.

(a) NONRECOURSE MARKETING ASSISTANCE LOANS.—

(1) IN GENERAL.—The Secretary shall use funds of the Commodity Credit Corporation to make nonrecourse marketing assistance loans available to producers of the 2001 crop of honey.

(2) LOAN RATE.—The loan rate for a marketing assistance loan under paragraph (1) for honey shall be 65 cents per pound.

(3) REPAYMENT RATE.—The Secretary shall permit producers to repay a marketing assistance nonrecourse loan under paragraph (1) at a rate that is the lesser of—

(A) the loan rate for honey, plus interest (as determined by the Secretary); or

(B) the prevailing domestic market price for honey, as determined by the Secretary.

(b) LOAN DEFICIENCY PAYMENTS.—

(1) IN GENERAL.—The Secretary may make loan deficiency payments available to any producer of honey that, although eligible to obtain a marketing assistance loan under subsection (a), agrees to forgo obtaining the loan in return for a payment under this subsection.

(2) AMOUNT.—A loan deficiency payment under this subsection shall be determined by multiplying—

(A) the loan payment rate determined under paragraph (3); by

(B) the quantity of honey that the producer is eligible to place under loan, but for which the producer forgoes obtaining the loan in return for a payment under this subsection.

(3) LOAN PAYMENT RATE.—For the purposes of this subsection, the loan payment rate shall be the amount by which—

(A) the loan rate established under subsection (a)(2); exceeds

(B) the rate at which a loan may be repaid under subsection (a)(3).

(c) CONVERSION OF RECOURSE LOANS.—In order to provide an orderly transition to the loans and payments provided under this section, the Secretary shall convert recourse loans for the 2001 crop of honey outstanding on the date of enactment of this Act to nonrecourse marketing assistance loans under subsection (a).

(d) LIMITATIONS.—

(1) IN GENERAL.—The marketing assistance loan gains and loan deficiency payments that a person may receive for the 2001 crop of honey under this section shall be subject to the same limitations that apply to marketing assistance loans and loan deficiency payments received by producers of the same crop of other agricultural commodities.

(2) FORFEITURES.—The Secretary shall carry out this section in such a manner as to minimize forfeitures of honey marketing assistance loans.

(e) TRANSITION ASSISTANCE.—In the case of a producer that marketed or redeemed, before, on, or within 30 days after the date of the enactment of this Act, a quantity of an eligible 2001 crop for which the producer has not received a loan deficiency payment or marketing loan gain under this section, the producer shall be eligible to receive a payment from the Secretary under this section in an amount equal to the payment or gain that the producer would have received for that quantity of eligible production as of the date on which the producer lost beneficial interest in the quantity or redeemed the quantity, as determined by the Secretary.

SEC. 106. COTTONSEED.

The Secretary shall use $15,000,000 of funds of the Commodity Credit Corporation for fiscal year 2002 to provide assistance to producers and first handlers of the 2001 crop of cottonseed.

SEC. 107. COMMODITY PURCHASES.

(a) IN GENERAL.—The Secretary shall use $110,599,473 of funds of the Commodity Credit Corporation to purchase agricultural commodities, especially agricultural commodities that have experienced low prices during the 2000 or 2001 crop years, such as apples, apricots, asparagus, bell peppers, bison meat, black beans, black-eyed peas, blueberries (wild and cultivated), cabbage, cantaloupe, cauliflower, chickpeas, cranberries, cucumbers, dried plums, dry peas, eggplants, lemons, lentils, melons, onions, peaches (including freestone), pears, potatoes (summer and fall), pumpkins, raisins, raspberries, red tart cherries, snap beans, spinach, strawberries, sweet corn, tomatoes, and watermelons.

(b) GEOGRAPHIC DIVERSITY.—The Secretary is encouraged to purchase agricultural commodities under this section in a manner that reflects the geographic diversity of agricultural production in the United States, particularly agricultural production in the Northeast and Mid-Atlantic States.

(c) OTHER PURCHASES.—The Secretary shall ensure that purchases of agricultural commodities under this section are in addition to purchases by the Secretary under any other law.

(d) TRANSPORTATION AND DISTRIBUTION COSTS.—The Secretary may use not more than $20,000,000 of the funds made available under subsection (a) to provide assistance to States to cover costs incurred by the States in transporting and distributing agricultural commodities purchased under this section.

(e) PURCHASES FOR SCHOOL NUTRITION PROGRAMS.—The Secretary shall use not less than $55,000,000 of the funds made available under subsection (a) to purchase agricultural commodities of the type distributed under section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) for distribution to schools and service institutions in accordance with section 6(a) of that Act.

SEC. 108. LOAN DEFICIENCY PAYMENTS.

Section 135(a)(2) of the Agricultural Market Transition Act (7 U.S.C. 7235(a)(2)) is amended by striking ''2000 crop year'' and inserting ''each of the 2000 and 2001 crop years''.

SEC. 109. MILK.

(a) EXTENSION OF MILK PRICE SUPPORT PROGRAM.—Section 141 of the Agricultural Market Transition Act (7 U.S.C. 7251) is amended by striking ''2001'' each place it appears in subsections (b)(4) and (h) and inserting ''2002''.

(b) REPEAL OF RECOURSE LOAN PROGRAM FOR PROCESSORS.—Section 142 of the Agricultural Market Transition Act (7 U.S.C. 7252) is repealed.

SEC. 110. PULSE CROPS.

(a) IN GENERAL.—The Secretary shall use $20,000,000 of funds of the Commodity Credit Corporation to provide assistance in the form of a market loss assistance payment to owners and producers on a farm that grow dry peas, lentils, or chickpeas (collectively referred to in this section as a ''pulse crop'').

(b) COMPUTATION.—A payment to owners and producers on a farm under this section for a pulse crop shall be equal to the product obtained by multiplying—

(1) a payment rate determined by the Secretary; by

(2) the acreage of the producers on the farm for the pulse crop determined under subsection (c).

(c) ACREAGE.—

(1) IN GENERAL.—The acreage of the producers on the farm for a pulse crop under subsection (b)(2) shall be equal to the number of acres planted to the pulse crop by the owners and producers on the farm during the 1998, 1999, or 2000 crop year, whichever is greatest.

(2) BASIS.—For the purpose of paragraph (1), the number of acres planted to a pulse crop by the owners and producers on the farm for a crop year shall be based on (as determined by the Secretary)—

(A) the number of acres planted to the pulse crop for the crop year, as reported to the Secretary by the owners and producers on the farm, including any acreage that is included in reports that are filed late; or

(B) the number of acres planted to the pulse crop for the crop year for the purpose of the Federal crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

SEC. 111. APPLES.

(a) IN GENERAL.—The Secretary shall use $150,000,000 of funds of the Commodity Credit Corporation to make payments to apple producers to provide relief for the loss of markets during the 2000 crop year.

(b) PAYMENT QUANTITY.—

(1) IN GENERAL.—Subject to paragraph (2), the payment quantity of apples for which the producers on a farm are eligible for payments under this section shall be equal to the quantity of the 2000 crop of apples produced by the producers on the farm.

(2) MAXIMUM QUANTITY.—The payment quantity of apples for which the producers on a farm are eligible for payments under this section shall not exceed 5,000,000 pounds of apples produced on the farm.

(c) LIMITATIONS.—Subject to subsection (b)(2), the Secretary shall not establish a payment limitation, or gross income eligibility limitation, with respect to payments made under this section.

(d) APPLICABILITY.—This section applies only with respect to the 2000 crop of apples and producers of that crop.

TITLE II—CONSERVATION

SEC. 201. CONSERVATION RESERVE PROGRAM.

(a) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), in addition to amounts made available under section 801 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–49), the Secretary shall use $44,000,000 of funds of the Commodity Credit Corporation to provide technical assistance under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(b) EXTENSION OF CONTRACTS.—Notwithstanding section 1231(e)(1) of the Food Security Act of 1985 (16 U.S.C. 3831(e)(1)), an owner or operator that has entered into a contract under the conservation reserve program that would otherwise expire during calendar year 2001 may extend the contract for 1 year.

(c) PAYMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), during the 2001 and 2002 calendar years, the Secretary shall include among practices that are eligible for signing incentive payments under the conservation reserve program—

(A) the preservation of shallow water areas for wildlife;

(B) the establishment of permanent vegetative cover, such as contour grass strips and cross-wind trap strips; and

(C) the preservation of wellhead protection areas.

(2) OTHER PRACTICES.—The Secretary shall administer paragraph (1) in a manner that does not reduce the amount of payments made by the Secretary for other practices under the conservation reserve program.

(d) PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.—

(1) IN GENERAL.—Section 1231(h)(4)(B) of the Food Security Act of 1985 (16 U.S.C. 3831(h)(4)(B)) is amended by inserting ''(which may include emerging vegetation in water)'' after ''vegetative cover''.

(2) CONFORMING AMENDMENT.—Section 1232(a)(4) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(4)) is amended by inserting

''(which may include emerging vegetation in water)'' after ''vegetative cover''.

SEC. 202. WETLANDS RESERVE PROGRAM.

(a) MAXIMUM ENROLLMENT.—Notwithstanding section 1237(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3837(b)(1)) and section 808 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–52), subject to subsection (b), the Secretary shall use $200,000,000 of funds of the Commodity Credit Corporation for enrollment of additional acres beginning in fiscal year 2002 in the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.).

(b) TECHNICAL ASSISTANCE; MONITORING AND MAINTENANCE EXPENSES.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary shall use—

(1) not less than $12,000,000, but not more than $15,000,000, to provide technical assistance under the wetlands reserve program; and

(2) not less than $8,000,000, but not more than $10,000,000, for monitoring and maintenance expenses incurred by the Secretary for land enrolled in the wetlands reserve program as of the date of enactment of this Act.

SEC. 203. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

In addition to amounts made available under section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841), the Secretary shall use $250,000,000 of funds of the Commodity Credit Corporation to carry out the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.).

SEC. 204. WILDLIFE HABITAT INCENTIVE PROGRAM.

In addition to amounts made available under section 387(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a(c)), the Secretary shall use $7,000,000 of funds of the Commodity Credit Corporation to carry out the Wildlife Habitat Incentive Program established under section 387 of that Act.

SEC. 205. FARMLAND PROTECTION PROGRAM.

(a) IN GENERAL.—In addition to amounts made available under section 388(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127) and section 211(a) of the Agricultural Risk Protection Act of 2000 (16 U.S.C. 3830 note; Public Law 106–224), the Secretary shall use $40,000,000 of funds of the Commodity Credit Corporation to make payments under the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 to—

(1) any agency of any State or local government, or federally recognized Indian tribe, including farmland protection boards and land resource councils established under State law; and

(2) any organization that—

(A) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clauses (i), (ii), and (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code;

(C) is described in section 509(a)(2) of that Code; or

(D) is described in section 509(a)(3) of that Code and is controlled by an organization described in section 509(a)(2) of that Code.

(b) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary may use not more than $3,000,000 to provide technical assistance under the farmland protection program.

SEC. 206. RISK MANAGEMENT CONSERVATION ASSISTANCE.

(a) IN GENERAL.—Notwithstanding sections 201 through 205, subject to subsection (d), of the amount of funds made available under this title (other than section 201(a)), the Secretary shall use $100,000,000 to address critical risk management needs (including such needs under programs specified in subsection (b)) in States that are described in section 522(c)(1)(A) of the Federal Crop Insurance Act (7 U.S.C. 1522(c)(1)(A)).

(b) MINIMUM AMOUNT.—Subject to subsection (d), the minimum amount each State described in subsection (a) shall receive under subsection (a) shall be $5,000,000.

(c) PROGRAMS.—For the purpose of subsection (a), the programs specified in this subsection are—

(1) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.);

(2) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.);

(3) the Wildlife Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a); and

(4) the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127).

(d) OTHER STATES.—The Secretary shall use any funds made available under subsection (a) that have not been obligated by June 1, 2002, to provide assistance under the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) in States that are not described in section 522(c)(1)(A) of the Federal Crop Insurance Act (7 U.S.C. 1522(c)(1)(A)).

TITLE III—CREDIT AND RURAL DEVELOPMENT

Subtitle A—Credit

SEC. 301. FARM ENERGY EMERGENCY LOANS.

(a) IN GENERAL.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) in the first sentence—

(A) by striking ''aquaculture operations have'' and inserting ''aquaculture operations (i) have''; and

(B) by striking ''the Disaster Relief and Emergency Assistance Act:'' and inserting ''the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or (ii) have suffered or are likely to suffer substantial economic injury on or after June 1, 2000, as the result of a sharp and significant increase in energy costs or input costs from energy sources occurring on or after June 1, 2000, in connection with an energy emergency declared by the President or the Secretary:'';

(2) in the third sentence, by striking ''the Disaster Relief and Emergency Assistance Act'' and inserting ''the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or by an energy emergency declared by the President or the Secretary''; and

(3) in the fourth sentence—

(A) by inserting ''or energy emergency'' after ''natural disaster'' each place it appears; and

(B) by inserting ''or declaration'' after ''emergency designation''.

(b) FUNDING.—Funds available for emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) to meet the needs resulting from natural disasters shall be available to carry out the amendments made by subsection (a).

(c) GUIDELINES.—Not later than 30 days after the date of enactment of this Act, the Secretary shall issue such guidelines as the Secretary determines to be necessary to carry out the amendments made by subsection (a).

(d) REPORT.—Not later than 18 months after the date of final publication by the Secretary of the guidelines issued under subsection (c), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the effectiveness of loans made available as a result of the amendments made by subsection (a), together with recommendations for improvements to the loans, if any.

Subtitle B—Rural Development

SEC. 311. VALUE-ADDED AGRICULTURAL PRODUCT MARKET DEVELOPMENT GRANTS.

The Secretary shall use funds made available under section 313(a) to award grants for projects under the terms and conditions provided in section 231(a) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1621 note), except that the Secretary shall give preference to bioenergy projects.

SEC. 312. REGULATIONS; NOTICE OF ACCEPTANCE OF APPLICATIONS.

(a) IN GENERAL.—Not later than 75 days after the date of enactment of this Act, the Secretary shall promulgate final regulations to carry out this subtitle.

(b) NOTICE OF ACCEPTANCE OF APPLICATIONS.—Not later than 20 days after the date of promulgation of regulations under subsection (a), the Secretary shall publish in the Federal Register a notice that the Secretary is accepting applications for grants for which funds are made available under this subtitle.

SEC. 313. FUNDING.

(a) IN GENERAL.—On October 1, 2001, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary $20,000,000 to carry out section 311.

(b) ENTITLEMENT.—The Secretary shall be entitled to receive the funds transferred under subsection (a) and shall accept the funds.

TITLE IV—MISCELLANEOUS

SEC. 401. CROP AND PASTURE FLOOD COMPENSATION PROGRAM.

(a) DEFINITION OF COVERED LAND.—In this section:

(1) IN GENERAL.—The term ''covered land'' means land that—

(A) was unusable for agricultural production during the 2001 crop year as the result of flooding;

(B) was used for agricultural production during at least 1 of the 1992 through 2000 crop years; and

(C) is a contiguous parcel of land of at least 1 acre.

(2) EXCLUSIONS.—The term ''covered land'' excludes any land for which a producer is insured, enrolled, or assisted during the 2001 crop year under—

(A) a policy or plan of insurance authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(B) the noninsured crop assistance program operated under section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333);

(C) any crop disaster program established for the 2001 crop year;

(D) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

(E) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.);

(F) any emergency watershed protection program or Federal easement program that prohibits crop production or grazing; or

(G) any other Federal or State water storage program, as determined by the Secretary.

(b) COMPENSATION.—The Secretary shall use not more than $24,000,000 of funds of the Commodity Credit Corporation to compensate producers with covered land for losses from long-term flooding.

(c) PAYMENT RATE.—The payment rate for compensation provided to a producer under this section shall be equal to the average county cash rental rate per acre established by the National Agricultural Statistics Service for the 2001 crop year.

(d) PAYMENT LIMITATION.—The total amount of payments made to a person (as defined in section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5))) under this section may not exceed $40,000.

TITLE V—ADMINISTRATION

SEC. 501. OBLIGATION PERIOD.

(a) IN GENERAL.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and, to the maximum extent practicable, expend funds during fiscal year 2002 to carry out this Act and the amendments made by this Act.

(b) AVAILABILITY.—Funds described in subsection (a) shall remain available until expended.

SEC. 502. COMMODITY CREDIT CORPORATION.

Except as otherwise provided in this Act, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this Act and the amendments made by this Act.

SEC. 503. REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.

(b) PROCEDURE.—The promulgation of the regulations and administration of the amendments made by this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SA 1248. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by inserting ''New York,'' after ''New Hampshire,'';

(2) by striking paragraphs (1) and (7);

(3) in paragraph (2), by striking ''Class III-A'' and inserting ''Class IV'';

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

''(3) DURATION.—Consent for the Northeast Interstate Dairy Compact shall terminate on—

''(A) in the case of States other than New York, September 30, 2011; and

''(B) in the case of New York, September 30, 2004.'';

(5) in paragraph (4), by striking ''New York,''.

(6) in paragraph (5), by striking ''the projected rate of increase'' and all that follows through ''Secretary'' and inserting ''the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code''; and

(7) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

SA 1249. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147(3) of the Agricultural Market Transition Act (7 U.S.C. 7256(3)) is amended by striking ''September 30, 2001'' and inserting ''on the ending date on which certain provisions of the Agricultural Act of 1949 are not applicable to milk under section 171(b)(1)''.

SA 1250. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. . NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147(3) of the Agricultural Market Transition Act (7 U.S.C. 7256(3)) is amended by striking ''2001'' and inserting ''2004''.

SA 1251. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. . NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147(3) of the Agricultural Market Transition Act (7 U.S.C. 7256(3)) is amended by striking ''2001'' and inserting ''2006''.

SA 1252. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. . NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147(3) of the Agricultural Market Transition Act (7 U.S.C. 7256(3)) is amended by striking ''2001'' and inserting ''2002''.

SA 1253. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7 . NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by inserting ''Maryland,'' after ''Maine,'';

(2) in paragraph (3), by striking ''2001'' and inserting ''2004''; and

(3) in paragraph (4), by striking ''Maryland,''.

SA 1254. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7 . NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1) by inserting ''Pennsylvania,'' after ''New Hampshire,'';

(2) in paragraph (3), by striking ''2001'' and inserting ''2004''; and

(3) in paragraph (4), by striking ''Pennsylvania,''.

SA 1255. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7 . NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by inserting ''Delaware,'' after ''Connecticut,'';

(2) in paragraph (3), by striking ''2001'' and inserting ''2004''; and

(3) in paragraph (4), by striking ''Delaware,''.

SA 1256. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7 . NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by inserting ''New Jersey,'' after ''New Hampshire,'';

(2) in paragraph (3), by striking ''2001'' and inserting ''2004''; and

(3) in paragraph (4), by striking ''New Jersey,''.

SA 1257. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1___. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) by striking paragraphs (1), (3), and (7);

(2) in paragraph (2), by striking ''Class III-A'' and inserting ''Class IV'';

(3) in paragraph (5), by striking ''the projected rate of increase'' and all that follows through ''Secretary'' and inserting ''the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code''; and

(4) by redesignating paragraphs (2), (4), (5), and (6) as paragraphs (1), (2), (3), and (4), respectively.

SA 1258. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7___. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by striking ''and Vermont'' and inserting '', Vermont, and Virginia'';

(2) in paragraph (3), by striking ''2001'' and inserting ''2006''; and

(3) in paragraph (4), by striking ''Virginia,''.

SA 1259. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by inserting ''New York,'' after ''New Hampshire,'';

(2) by striking paragraphs (1) and (7);

(3) in paragraph (2), by striking ''Class III–A'' and inserting ''Class IV'';

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

''(3) DURATION.—Consent for the Northeast Interstate Dairy Compact shall terminate on—

''(A) in the case of States other than New York, September 30, 2011; and

''(B) in the case of New York, September 30, 2006'';

(5) in paragraph (4), by striking ''New York.'';

(6) in paragraph (5), by striking ''the projected rate of increase'' and all that follows through ''Secretary'' and inserting ''the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United Stats Code''; and

(7) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

SA 1260. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7___. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by inserting ''New Jersey,'' after ''New Hampshire,'';

(2) in paragraph (3), by striking ''2001'' and inserting ''2006''; and

(3) in paragraph (4), by striking ''New Jersey,''.

SA 1261. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7___. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by inserting ''Pennsylvania,'' after ''New Hampshire,'';

(2) in paragraph (3), by striking ''2001'' and inserting ''2006''; and

(3) in paragraph (4), by striking ''Pennsylvania,''.

SA 1262. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis is adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7___. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by inserting ''Delaware,'' after ''Connecticut,'';

(2) in paragraph (3), by striking ''2001'' and inserting ''2006''; and

(3) in paragraph (4), by striking ''Delaware,''.

SA 1263. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7___. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by inserting ''Maryland,'' after ''Maine,'';

(2) in paragraph (3), by striking ''2001'' and inserting ''2006''; and

(3) in paragraph (4), by striking ''Maryland,''.

SA 1264. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7___. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by striking ''and Vermont'' and inserting ''Vermont, and Virginia'';

(2) in paragraph (3), by striking ''2001'' and inserting ''2004''; and

(3) in paragraph (4), by striking ''Virginia,''.

SA 1265. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1___. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by inserting ''New York,'' after ''New Hampshire,'';

(2) by striking paragraphs (1) and (7);

(3) in paragraph (2), by striking ''Class III-A'' and inserting ''Class IV'';

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

''(3) DURATION.—Consent for the Northeast Interstate Dairy Compact shall terminate on—

''(A) in the case of States other than New York, September 30, 2011; and

''(B) in the case of New York, September 30, 2004.'';

(5) in paragraph (4), by striking ''New York,''.

(6) in paragraph (5), by striking ''the projected rate of increase'' and all that follows through ''Secretary'' and inserting ''the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code''; and

(7) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

SA 1266. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to

the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1___. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by inserting ''New York,'' after ''New Hampshire,'';

(2) by striking paragraphs (1) and (7);

(3) in paragraph (2), by striking ''Class III-A'' and inserting ''Class IV'';

(4) in paragraph (3), by striking ''2001'' and inserting ''2006'';

(5) in paragraph (4), by striking ''New York,''.

SA 1267. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. 1___. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by inserting ''New York,'' after ''New Hampshire,'';

(2) by striking paragraphs (1) and (7);

(3) in paragraph (2), by striking ''Class III-A'' and inserting ''Class IV'';

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

''(3) DURATION.—Consent for the Northeast Interstate Dairy Compact shall terminate on—

''(A) in the case of States other than New York, September 30, 2011; and

''(B) in the case of New York, September 30, 2004.'';

(5) in paragraph (4), by striking ''New York,''.

(6) in paragraph (5), by striking ''the projected rate of increase'' and all that follows through ''Secretary'' and inserting ''the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code''; and

(7) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

SA 1268. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

SEC. 703. CERTIFICATION AND LABELING OF ORGANIC WILD SEAFOOD.

(a) EXCLUSIVE AUTHORITY OF SECRETARY OF COMMERCE.—The Secretary of Commerce shall have exclusive authority to provide for the certification and labeling of wild seafood as organic wild seafood.

(b) RELATIONSHIP TO OTHER LAW.—The certification and labeling of wild seafood as organic wild seafood shall not be subject to the provisions of the Organic Foods Production Act of 1990 (title XXI of Public Law 101–624; 104 Stat. 3935; 7 U.S.C. 6501 et seq.).

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Commerce shall prescribe regulations for the certification and labeling of wild seafood as organic wild seafood.

(2) CONSIDERATIONS.—In prescribing the regulations, the Secretary—

(A) may take into consideration as guidance, to the extent practicable, the provisions of the Organic Foods Production Act of 1990 and the regulations prescribed in the administration of that Act; and

(B) shall accommodate the nature of the commercial harvesting and processing of wild fish in the United States.

(3) TIME FOR INITIAL IMPLEMENTATION.—The Secretary shall promulgate the initial regulations to carry out this section not later than one year after the date of the enactment of this Act.

SA 1269. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . SALMON.

(a) The Secretary of the Treasury shall transfer, out of funds in the Treasury not otherwise appropriated, $5,000,000, to remain available until expended, to respond to fisheries failures and record low salmon harvests in the State of Alaska by providing individual assistance and economic development, including the following amounts—

(1) $10,000,000 to the Kenai Peninsular Borough;

(2) $10,000,000 to the Association of Village Council Presidents;

(3) $10,000,000 to the Tanana Chiefs Conference, including $2,000,000 to address the combined impacts of poor salmon runs and the implementation of the Yukon River Salmon Treaty;

(4) $10,000,000 to Kawerak, Inc.; and

(5) $10,000,000 to the Bristol Bay Native Association, including funds for its revolving loan program in support of local fishermen.

(b) Amounts made in this section shall be transferred by direct lump sum payment within 30 days of enactment.

SA 1270. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (10) shall become effective one day after the date of enactment.

SA 1271. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the

Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (11) shall become effective one day after the date of enactment.

SA 1272 Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (9) shall become effective one day after the date of enactment.

SA 1273. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug

Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (4) shall become effective one day after the date of enactment.

SA 1274. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.

(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (5) shall become effective one day after the date of enactment.

SA 1275. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same

time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (6) shall become effective one day after the date of enactment.

SA 1276. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified

in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (7) shall become effective one day after the date of enactment.

SA 1277. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the

indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (8) shall become effective one day after the date of enactment.

SA 1278. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.

(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (2) shall become effective one day after the date of enactment.

SA 1279. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike everything after the enacting clause and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall, to the maximum extent practicable, use $4,622,240,000 of funds of the Commodity Credit Corporation to make a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transaction Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the total contract payments received by the owners and producers for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

SEC. 2. SUPPLEMENTAL OILSEEDS PAYMENT.

The Secretary shall use $423,510,000 of funds of the Commodity Credit Corporation to make a supplemental payment under section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers of the 2000 crop of oilseeds that previously received a payment under such section.

SEC. 3. SUPPLEMENTAL PEANUT PAYMENT.

The Secretary shall use $54,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (Public Law 206–224; 7 U.S.C. 1421 note) to producers of quota peanuts or additional peanuts for the 2000 crop year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 4. SUPPLEMENTAL TOBACCO PAYMENT.

(a) SUPPLEMENTAL PAYMENT.—The Secretary shall use $129,000,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to eligible persons (as defined in such section) that previously received a payment under such section.

(b) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use the sum of $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000.

SEC. 5. SUPPLEMENTAL WOOL AND MOHAIR PAYMENT.

The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387), to producers of

wool and producers of mohair, for the 2000 marketing year that previously received a payment under such section. The Secretary shall adjust the payment rate specified in such section to reflect the amount made available for payments under this section.

SEC. 6. SUPPLEMENTAL COTTONSEED ASSISTANCE.

The Secretary shall use $84,700,000 of funds of the Commodity Credit Corporation to provide supplemental assistance under section 204(e) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note) to producers and first-handlers of the 2000 crop of cottonseed that previously received assistance under such section.

SEC. 7. SPECIALTY CROPS.

(a) BASE STATE GRANTS.—The Secretary shall use $26,000,000 of funds of the Commodity Credit Corporation to make grants to the several States and the Commonwealth of Puerto Rico to be used to support activities that promote agriculture. The amount of the grant shall be—

(1) $500,000 to each of the several States; and

(2) $1,000,000 to the Commonwealth of Puerto Rico.

(b) GRANTS FOR VALUE OF PRODUCTION.—The Secretary shall use $133,400,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States in an amount that represents the proportion of the value of specialty crop production in the State in relation to the national value of specialty crop production, as follows:

(1) California, $63,320,000.
(2) Florida, $16,860,000.
(3) Washington, $9,610,000.
(4) Idaho, $3,670,000.
(5) Arizona, $3,430,000.
(6) Michigan, $3,250,000.
(7) Oregon, $3,220,000.
(8) Georgia, $2,730,000.
(9) Texas, $2,660,000.
(10) New York, $2,660,000
(11) Wisconsin, $2,570,000.
(12) North Carolina, $1,540,000.
(13) Colorado, $1,510,000.
(14) North Dakota, $1,380,000.
(15) Minnesota, $1,320,000.
(16) Hawaii, $1,150,000.
(17) New Jersey, $1,100,000.
(18) Pennsylvania, $980,000.
(19) New Mexico, $900,000.
(20) Maine, $880,000.
(21) Ohio, $800,000.
(22) Indiana, $660,000.
(23) Nebraska, $640,000.
(24) Massachusetts, $640,000.
(25) Virginia, $620,000.
(26) Maryland, $500,000.
(27) Louisiana, $460,000.
(28) South Carolina, $440,000.
(29) Tennessee, $400,000.
(30) Illinois, $400,000.
(31) Oklahoma, $390,000.
(32) Alabama, $300,000.
(33) Delaware, $290,000.
(34) Mississippi, $250,000.
(35) Kansas, $210,000.
(36) Arkansas, $210,000.
(37) Missouri, $210,000.
(38) Connecticut, $180,000.
(39) Utah, $140,000.
(40) Montana, $140,000.
(41) New Hampshire, $120,000.
(42) Nevada, $120,000.
(43) Vermont, $120,000.
(44) Iowa, $100,000.
(45) West Virginia, $90,000.
(46) Wyoming, $70,000.
(47) Kentucky, $60,000.
(48) South Dakota, $40,000.
(49) Rhode Island, $40,000.
(50) Alaska, $20,000.

(c) SPECIALTY CROP PRIORITY.—As a condition on the receipt of a grant under this section, a State shall agree to give priority to the support of specialty crops in the use of the grant funds.

(d) SPECIALTY CROP DEFINED.—In this section, the term ''specialty crop'' means any agricultural crop, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco.

SEC. 8. COMMODITY ASSISTANCE PROGRAM.

The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to each of the several States to be used by the States to cover direct and indirect costs related to the processing, transportation, and distribution of commodities to eligible recipient agencies. The grants shall be allocated to States in the manner provided under section 204(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)).

SEC. 9. TECHNICAL CORRECTION REGARDING INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) CONDITIONS ON PAYMENTS TO STATE.—Subsection (b) of section 1121 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277 (7 U.S.C. 1421 note), and as amended by section 754 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–387; 114 Stat. 1549A–42), is amended to read as follows:

''(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State—

''(1) contributes $5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2002 (or as soon as administratively practical thereafter), to provide compensation to cotton producers as provided in such subsection;

''(2) requires the recipient of a payment from the indemnity fund to repay the State, for deposit in the indemnity fund, the amount of any duplicate payment the recipient otherwise recovers for such loss of cotton, or the loss of proceeds from the sale of cotton, up to the amount of the payment from the indemnity fund; and

''(3) agrees to deposit in the indemnity fund the proceeds of any bond collected by the State for the benefit of recipients of payments from the indemnity fund, to the extent of such payments.''

(b) ADDITIONAL DISBURSEMENTS FROM THE INDEMNITY FUND.—Subsection (d) of such section is amended to read as follows:

''(d) ADDITIONAL DISBURSEMENT TO COTTON GINNERS.—The State of Georgia shall use funds remaining in the indemnity fund, after the provision of compensation to cotton producers in Georgia under subsection (a) (including cotton producers who file a contingent claim, as defined and provided in section 5.1 of chapter 19 of title 2 of the Official Code of Georgia), to compensate cotton ginners (as defined and provided in such section) that—

''(1) incurred a loss as the result of—

''(A) the business failure of any cotton buyer doing business in Georgia; or

''(B) the failure or refusal of any such cotton buyer to pay the contracted price that had been agreed upon by the ginner and the buyer for cotton grown in Georgia on or after January 1, 1997, and had been purchased or contracted by the ginner from cotton producers in Georgia;

''(2) paid cotton producers the amount which the cotton ginner had agreed to pay for such cotton received from such cotton producers in Georgia; and

''(3) satisfy the procedural requirements and deadlines specified in chapter 19 of title 2 of the Official Code of Georgia applicable to cotton ginner claims''.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking. ''Upon the establishment of the indemnity fund, and not later than October 1, 1999, the'' and inserting ''The''.

SEC. 10. INCREASE IN PAYMENT LIMITATIONS REGARDING LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive for one or more contract commodities and oilseeds under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) during the 2001 crop year may not exceed $150,000.

SEC. 11. TIMING OF, AND LIMITATION ON, EXPENDITURES.

(a) DEADLINE FOR EXPENDITURES.—All expenditures required by this Act shall be made not later than September 30, 2001. Any funds made available by this Act and remaining unexpended by October 1, 2001, shall be deemed to be unexpendable, and the authority provided by this Act to expend such funds is rescinded effective on that date.

(b) TOTAL AMOUNT OF EXPENDITURES.—The total amount expended under this Act may not exceed $5,500,000,000. If the payments required by this Act would result in expenditures in excess of such amount, the Secretary shall reduce such payments on a pro rata basis as necessary to ensure that such expenditures do not exceed such amount.

SEC. 12. REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this Act and the amendments made by this Act. The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), this bill shall become effective on the date of enactment.

(2) EXCEPTION.—Section (3) shall become effective one day after the date of enactment.

SA 1280. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 20, line 5, strike ''2000 crop year'' and insert ''2000 and 2001 crop years.''

On page 20, line 23, strike ''2000 crop of apples and producers of that crop'' and insert ''2000 and 2001 crops of apples and producers of those crops.''

SA 1281. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the

continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 9, line 7, strike ''$16,940,000'' and insert ''$10,940,000.''

On page 10, line 3, strike ''$220,000,000'' and insert ''$226,000,000.''

SA 1282. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 7, line 4, strike ''$55,210,000'' and insert ''$50,210,000.''

On page 10, line 3, strike ''$220,000,000'' and insert ''$225,000,000.''

SA 1283. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 4, line 3, strike ''$500,000,000'' and insert ''$460,000,000.''

On page 24, line 24, strike ''$40,000,000'' and insert ''$80,000,000.''

SA 1284. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 4, line 3, strike ''$500,000,000'' and insert ''$450,000,000.''

On page 10, line 3, strike ''$220,000,000'' and insert ''$270,000,000.''

SA 1285. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 21, line 19, strike ''1 year'' and insert ''2 years.''

SA 1286. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 20, line 16, strike ''5,000,000'' and insert ''10,000,000.''

SA 1287. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 4, line 3, strike ''$500,000,000'' and insert ''$480,000,000.''

On page 29, line 14, strike ''$20,000,000'' and insert ''$40,000,0000.''

SA 1288. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural procedures; which was ordered to lie on the table; as follows:

On page 4, line 3, strike ''$500,000,000'' and insert ''$420,000,000.''

On page 24, line 24, strike ''$40,000,000'' and insert ''$120,000,000.''

SA 1289. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural procedures; which was ordered to lie on the table; as follows:

On page 4, line 3, strike ''$500,000,000'' and insert ''$450,000,000.''

On page 20, line 3, strike ''$150,000,000'' and insert ''$200,000,000.''

SA 1290. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural procedures; which was ordered to lie on the table; as follows:

On page 4, line 3, strike ''$500,000,000'' and insert ''$400,000,000.''

On page 20, line 3, strike ''$150,000,000'' and insert ''$250,000,000.''

SA 1291. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural procedures; which was ordered to lie on the table; as follows:

On page 45, after line 25, insert the following:

SEC. 604. SUDDEN OAK DEATH SYNDROME CONTROL.

(a) RESEARCH, MONITORING, AND TREATMENT OF SUDDEN OAK DEATH SYNDROME.—

(1) IN GENERAL.—The Secretary of Agriculture shall carry out a sudden oak death syndrome research, monitoring, and treatment program to develop methods to control, manage, or eradicate sudden oak death syndrome from oak trees on both public and private land.

(2) RESEARCH, MONITORING, AND TREATMENT ACTIVITIES.—In carrying out the program under paragraph (1), the Secretary may—

(A) conduct open space, roadside, and aerial surveys;

(B) provide monitoring technique workshops;

(C) develop baseline information on the distribution, condition, and mortality rates of oaks in California and the Pacific Northwest;

(D) maintain a geographic information system database;

(E) conduct research activities, including research on forest pathology, Phytophthora ecology, forest insects associated with oak decline, urban forestry, arboriculture, forest ecology, fire management, silviculture, landscape ecology, and epidemiology;

(F) evaluate the susceptibility of oaks and other vulnerable species throughout the United States; and

(G) develop and apply treatments.

(b) MANAGEMENT, REGULATION, AND FIRE PREVENTION.—

(1) IN GENERAL.—The Secretary shall conduct sudden oak death syndrome management, regulation, and fire prevention activities to reduce the threat of fire and fallen trees killed by sudden oak death syndrome.

(2) MANAGEMENT, REGULATION, AND FIRE PREVENTION ACTIVITIES.—In carrying out paragraph (1), the Secretary may—

(A) conduct hazard tree assessments;

(B) provide grants to local units of government for hazard tree removal, disposal and recycling, assessment and management of restoration and mitigation projects, green waste treatment facilities, reforestation, resistant tree breeding, and exotic weed control;

(C) increase and improve firefighting and emergency response capabilities in areas where fire hazard has increased due to oak die-off;

(D) treat vegetation to prevent fire, and assessment of fire risk, in areas heavily infected with sudden oak death syndrome;

(E) conduct national surveys and inspections of—

(i) commercial rhododendron and blueberry nurseries; and

(ii) native rhododendron and huckleberry plants;

(F) provide for monitoring of oaks and other vulnerable species throughout the United States to ensure early detection; and

(G) provide diagnostic services.

(c) EDUCATION AND OUTREACH.—

(1) IN GENERAL.—The Secretary shall conduct education and outreach activities to make information available to the public on sudden death oak syndrome.

(2) EDUCATION AND OUTREACH ACTIVITIES.—In carrying out paragraph (1), the Secretary may—

(A) develop and distribute educational materials for homeowners, arborists, urban foresters, park managers, public works personnel, recreationists, nursery workers, landscapers, naturists, firefighting personnel, and other individuals, as the Secretary determines appropriate;

(B) design and maintain a website to provide information on sudden oak death syndrome; and

(C) provide financial and technical support to States, local governments, and nonprofit organizations providing information on sudden oak death syndrome.

(d) SUDDEN OAK DEATH SYNDROME ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish a Sudden Oak Death Syndrome Advisory Committee (referred to in this subsection as the ''Committee'') to assist the Secretary in carrying out this Act.

(B) MEMBERSHIP.—

(i) COMPOSITION.—The Committee shall consist of—

(I) 1 representative of the Animal and Plant Health Inspection Service, to be appointed by the Administrator of the Animal and Plant Health Inspection Service;

(II) 1 representative of the Forest Service, to be appointed by the Chief of the Forest Service;

(III) 1 representative of the Agricultural Research Service, to be appointed by the Administrator of the Agricultural Research Service;

(IV) 2 individuals appointed by the Secretary from each of the States affected by sudden oak death syndrome; and

(V) any individual, to be appointed by the Secretary, in consultation with the Governors of the affected States, that the Secretary determines—

(aa) has an interest or expertise in sudden oak death syndrome; and

(bb) would contribute to the Committee.

(ii) DATE OF APPOINTMENTS.—The appointment of a member of the Committee shall be made not later than 90 days after the date of enactment of this Act.

(C) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold the initial meeting of the Committee.

(2) DUTIES.—

(A) IMPLEMENTATION PLAN.—The Committee shall prepare a comprehensive implementation plan to address the management, control, and eradication of sudden oak death syndrome.

(B) REPORTS.—

(i) INTERIM REPORT.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit to Congress the implementation plan prepared under subparagraph (A).

(ii) FINAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Committee shall submit to Congress a report that contains—

(I) a summary of the activities of the Committee;

(II) an accounting of funds received and expended by the Committee; and

(III) findings and recommendations of the Committee.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2002 through 2007—

(1) to carry out subsection (a), $7,500,000, of which up to $1,500,000 shall be used for treatment;

(2) to carry out subsection (b), $6,000,000;

(3) to carry out subsection (c), $500,000; and

(4) to carry out subsection (d), $250,000.

SA 1292. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 45, after line 25, insert the following:

SEC. 604. SUDDEN OAK DEATH SYNDROME CONTROL.

(a) RESEARCH, MONITORING, AND TREATMENT OF SUDDEN OAK DEATH SYNDROME.—

(1) IN GENERAL.—The Secretary of Agriculture shall carry out a sudden oak death syndrome research, monitoring, and treatment program to develop methods to control, manage, or eradicate sudden oak death syndrome from oak trees on both public and private land.

(2) RESEARCH, MONITORING, AND TREATMENT ACTIVITIES.—In carrying out the program under paragraph (1), the Secretary may—

(A) conduct open space, roadside, and aerial surveys;

(B) provide monitoring technique workshops;

(C) develop baseline information on the distribution, condition, and mortality rates of oaks in California and the Pacific Northwest;

(D) maintain a geographic information system database;

(E) conduct research activities, including research on forest pathology, Phytophthora ecology, forest insects associated with oak decline, urban forestry, arboriculture, forest ecology, fire management, silviculture, landscape ecology, and epidemiology;

(F) evaluate the susceptibility of oaks and other vulnerable species throughout the United States; and

(G) develop and apply treatments.

(b) MANAGEMENT, REGULATION, AND FIRE PREVENTION.—

(1) IN GENERAL.—The Secretary shall conduct sudden oak death syndrome management, regulation, and fire prevention activities to reduce the threat of fire and fallen trees killed by sudden oak death syndrome.

(2) MANAGEMENT, REGULATION, AND FIRE PREVENTION ACTIVITIES.—In carrying out paragraph (1), the Secretary may—

(A) conduct hazard tree assessments;

(B) provide grants to local units of government for hazard tree removal, disposal and recycling, assessment and management of restoration and mitigation projects, green waste treatment facilities, reforestation, resistant tree breeding, and exotic weed control;

(C) increase and improve firefighting and emergency response capabilities in areas where fire hazard has increased due to oak die-off;

(D) treat vegetation to prevent fire, and assessment of fire risk, in areas heavily infected with sudden oak death syndrome;

(E) conduct national surveys and inspections of—

(i) commercial rhododendron and blueberry nurseries; and

(ii) native rhododendron and huckleberry plants;

(F) provide for monitoring of oaks and other vulnerable species throughout the United States to ensure early detection; and

(G) provide diagnostic services.

(c) EDUCATION AND OUTREACH.—

(1) IN GENERAL.—The Secretary shall conduct education and outreach activities to make information available to the public on sudden death oak syndrome.

(2) EDUCATION AND OUTREACH ACTIVITIES.—In carrying out paragraph (1), the Secretary may—

(A) develop and distribute educational materials for homeowners, arborists, urban foresters, park managers, public works personnel, recreationists, nursery workers, landscapers, naturists, firefighting personnel, and other individuals, as the Secretary determines appropriate;

(B) design and maintain a website to provide information on sudden oak death syndrome; and

(C) provide financial and technical support to States, local governments, and nonprofit organizations providing information on sudden oak death syndrome.

(d) SUDDEN OAK DEATH SYNDROME ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish a Sudden Oak Death Syndrome Advisory Committee (referred to in this subsection as the ''Committee'') to assist the Secretary in carrying out this Act.

(B) MEMBERSHIP.—

(i) COMPOSITION.—The Committee shall consist of—

(I) 1 representative of the Animal and Plant Health Inspection Service, to be appointed by the Administrator of the Animal and Plant Health Inspection Service;

(II) 1 representative of the Forest Service, to be appointed by the Chief of the Forest Service;

(III) 1 representative of the Agricultural Research Service, to be appointed by the Administrator of the Agricultural Research Service;

(IV) 2 individuals appointed by the Secretary from each of the States affected by sudden oak death syndrome; and

(V) any individual, to be appointed by the Secretary, in consultation with the Governors of the affected States, that the Secretary determines—

(aa) has an interest or expertise in sudden oak death syndrome; and

(bb) would contribute to the Committee.

(ii) DATE OF APPOINTMENTS.—The appointment of a member of the Committee shall be made not later than 90 days after the date of enactment of this Act.

(C) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold the initial meeting of the Committee.

(2) DUTIES.—

(A) IMPLEMENTATION PLAN.—The Committee shall prepare a comprehensive implementation plan to address the management, control, and eradication of sudden oak death syndrome.

(B) REPORTS.—

(i) INTERIM REPORT.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit to Congress the implementation plan prepared under subparagraph (A).

(ii) FINAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Committee shall submit to Congress a report that contains—

(I) a summary of the activities of the Committee;

(II) an accounting of funds received and expended by the Committee; and

(III) findings and recommendations of the Committee.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2002 through 2007—

(1) to carry out subsection (a), $7,500,000, of which up to $1,500,000 shall be used for treatment;

(2) to carry out subsection (b), $6,000,000;

(3) to carry out subsection (c), $500,000; and

(4) to carry out subsection (d), $250,000.

SA 1293. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 12, between lines 3 and 4, insert the following:

(e) NORTHEAST INTERSTATE DAIRY COMPACT.—Section 147(3) of the Agricultural Market Transition Act (7 U.S.C. 7256(3)) is amended by striking ''September 30, 2001'' and inserting ''the ending date applicable to milk under section 171(b)(1)''.

SA 1294. Ms. SNOWE (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 47, between lines 2 and 3, insert the following:

SEC. 7. . CORPORATE AVERAGE FUEL ECONOMY STANDARDS.

Section 320 of the Department of Transportation and Related Agencies Appropriations Act, 2001 (114 Stat. 1356, 1356A–28), is repealed.

SA 1295. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Emergency Agricultural Assistance Act of 2001''.

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

Sec. 1. Short title; table of contents.

TITLE I—MARKET LOSS ASSISTANCE

Sec. 101. Market loss assistance.

Sec. 102. Oilseeds.
Sec. 103. Peanuts.
Sec. 104. Sugar.
Sec. 105. Honey.
Sec. 106. Wool and mohair.
Sec. 107. Cottonseed.
Sec. 108. Commodity purchases.
Sec. 109. Loan deficiency payments.
Sec. 110. Milk.
Sec. 111. Pulse crops.
Sec. 112. Tobacco.
Sec. 113. Apples.

TITLE II—ADMINISTRATION

Sec. 201. Obligation period.
Sec. 202. Commodity Credit Corporation.
Sec. 203. Regulations.

TITLE I—MARKET LOSS ASSISTANCE

SEC. 101. MARKET LOSS ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall use funds of the Commodity Credit Corporation to provide assistance in the form of a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT AND MANNER.—In providing payments under this section, the Secretary shall—

(1) use the same contract payment rates as are used under section 802(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 1421 note; Public Law 106–78); and

(2) provide the payments in a manner that is consistent with section 802(c) of that Act.

SEC. 102. OILSEEDS.

(a) IN GENERAL.—The Secretary shall use $500,000,000 of funds of the Commodity Credit Corporation to make payments to producers of the 2001 crop of oilseeds that are eligible to obtain a marketing assistance loan under section 131 of the Agricultural Market Transition Act (7 U.S.C. 7231).

(b) COMPUTATION.—A payment to producers on a farm under this section for an oilseed shall be equal to the product obtained by multiplying—

(1) a payment rate determined by the Secretary;

(2) the acreage of the producers on the farm for the oilseed, as determined under subsection (c); and

(3) the yield of the producers on the farm for the oilseed, as determined under subsection (d).

(c) ACREAGE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the acreage of the producers on the farm for an oilseed under subsection (b)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 1998, 1999, or 2000 crop year, whichever is greatest, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late).

(2) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to an oilseed during the 2001 crop year but not the 1998, 1999, or 2000 crop year, the acreage of the producers for the oilseed under subsection (b)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 2001 crop year, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late).

(d) YIELD.—

(1) SOYBEANS.—Except as provided in paragraph (3), in the case of soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average county yield per harvested acre for each of the 1996 through 2000 crop years, excluding the crop year with the greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 1998, 1999, or 2000 crop year.

(2) OTHER OILSEEDS.—Except as provided in paragraph (3), in the case of oilseeds other than soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average national yield per harvested acre for each of the 1996 through 2000 crop years, excluding the crop year with the greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 1998, 1999, or 2000 crop year.

(3) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to an oilseed during the 2001 crop year but not the 1998, 1999, or 2000 crop year, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average county yield per harvested acre for each of the 1996 through 2000 crop years, excluding the crop year with the greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 2001 crop.

(4) DATA SOURCE.—To the maximum extent available, the Secretary shall use data provided by the National Agricultural Statistics Service to carry out this subsection.

SEC. 103. PEANUTS.

The Secretary shall use $55,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1421 note; Public Law 106–224) to producers of quota peanuts or additional peanuts for the 2000 crop year that received a payment under that section.

SEC. 104. SUGAR.

(a) MARKETING ASSESSMENT.—Section 156(f) of the Agricultural Market Transition Act (7 U.S.C. 7272(f)) shall not apply with respect to the 2001 crop of sugarcane and sugar beets.

(b) EMERGENCY FINANCIAL ASSISTANCE FOR 2000 CROP OF SUGAR BEETS.—Notwithstanding section 815(d)(1) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–56), in making payments under that section for quality losses for the 2000 crop of sugar beets of producers on a farm in an area covered by Manager's Bulletin MGR–01–010 issued by the Federal Crop Insurance Corporation on March 2, 2001—

(1) the Secretary shall calculate the amount of a quality loss, regardless of whether the sugar beets are processed, on an aggregate basis by cooperative;

(2) the Secretary shall make the quality loss payments to a cooperative for distribution to cooperative members; and

(3) the amount of a quality loss, regardless of whether the sugar beets are processed, shall be equal to the difference between—

(A) the per unit payment that the producers on the farm would have received for the crop from the cooperative if the crop had not suffered a quality loss; and

(B) the average per unit payment that the producers on the farm received from the cooperative for the affected sugar beets.

SEC. 105. HONEY.

(a) IN GENERAL.—The Secretary shall use funds of the Commodity Credit Corporation to make nonrecourse loans available to producers of the 2001 crop of honey on fair and reasonable terms and conditions, as determined by the Secretary.

(b) LOAN RATE.—The loan rate for a loan under subsection (a) for honey shall be equal to 85 percent of the simple average price received by producers of honey, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of honey, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

SEC. 106. WOOL AND MOHAIR.

(a) IN GENERAL.—The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–55), to producers of wool, and producers of mohair, for the 2000 marketing year that received a payment under that section.

(b) PAYMENT RATE.—The Secretary shall adjust the payment rate specified in that section to reflect the amount made available for payments under this section.

SEC. 107. COTTONSEED.

(a) FISCAL YEAR 2001.—The Secretary shall use $34,000,000 of funds of the Commodity Credit Corporation for fiscal year 2001 to provide assistance to producers and first handlers of the 2000 crop of cottonseed.

(b) FISCAL YEAR 2002.—The Secretary shall use $66,000,000 of funds of the Commodity Credit Corporation for fiscal year 2002 to provide assistance to producers and first handlers of the 2001 crop of cottonseed.

SEC. 108. COMMODITY PURCHASES.

(a) IN GENERAL.—The Secretary shall use $220,000,000 of funds of the Commodity Credit Corporation to purchase agricultural commodities, especially agricultural commodities that have experienced low prices during the 2000 or 2001 crop years, such as apples, apricots, asparagus, bell peppers, bison meat, black beans, black-eyed peas, blueberries (wild and cultivated), cabbage, cantaloupe, cauliflower, chickpeas, cranberries, cucumbers, dried plums, dry peas, eggplants, lemons, lentils, melons, onions, peaches (including freestone), pears, potatoes (summer and fall), pumpkins, raisins, raspberries, red tart cherries, snap beans, spinach, strawberries, sweet corn, tomatoes, and watermelons.

(b) GEOGRAPHIC DIVERSITY.—The Secretary is encouraged to purchase agricultural commodities under this section in a manner that reflects the geographic diversity of agricultural production in the United States.

(c) OTHER PURCHASES.—The Secretary shall ensure that purchases of agricultural commodities under this section are in addition to purchases by the Secretary under any other law.

(d) TRANSPORTATION AND DISTRIBUTION COSTS.—The Secretary may use not more than $20,000,000 of the funds made available under subsection (a) to provide assistance to States to cover costs incurred by the States in transporting and distributing agricultural commodities purchased under this section.

(e) PURCHASES FOR SCHOOL NUTRITION PROGRAMS.—The Secretary shall use not less than $55,000,000 of the funds made available under subsection (a) to purchase agricultural commodities of the type distributed under section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) for distribution to schools and service institutions in accordance with section 6(a) of that Act.

SEC. 109. LOAN DEFICIENCY PAYMENTS.

Section 135(a)(2) of the Agricultural Market Transition Act (7 U.S.C. 7235(a)(2)) is amended by striking ''2000 crop year'' and inserting ''each of the 2000 and 2001 crop years''.

SEC. 110. MILK.

(a) EXTENSION OF MILK PRICE SUPPORT PROGRAM.—Section 141 of the Agricultural Market Transition Act (7 U.S.C. 7251) is amended by striking ''2001'' each place it appears in subsections (b)(4) and (h) and inserting ''2002''.

(b) REPEAL OF RECOURSE LOAN PROGRAM FOR PROCESSORS.—Section 142 of the Agricultural Market Transition Act (7 U.S.C. 7252) is repealed.

SEC. 111. PULSE CROPS.

(a) IN GENERAL.—The Secretary shall use $20,000,000 of funds of the Commodity Credit Corporation to provide assistance in the form of a market loss assistance payment to owners and producers on a farm that grow dry peas, lentils, or chickpeas (collectively referred to in this section as a ''pulse crop'').

(b) COMPUTATION.—A payment to owners and producers on a farm under this section for a pulse crop shall be equal to the product obtained by multiplying—

(1) a payment rate determined by the Secretary; by

(2) the acreage of the producers on the farm for the pulse crop determined under subsection (c).

(c) ACREAGE.—

(1) IN GENERAL.—The acreage of the producers on the farm for a pulse crop under subsection (b)(2) shall be equal to the number of acres planted to the pulse crop by the owners and producers on the farm during the 1998, 1999, or 2000 crop year, whichever is greatest.

(2) BASIS.—For the purpose of paragraph (1), the number of acres planted to a pulse crop by the owners and producers on the farm for a crop year shall be based on (as determined by the Secretary)—

(A) the number of acres planted to the pulse crop for the crop year, as reported to the Secretary by the owners and producers on the farm, including any acreage that is included in reports that are filed late; or

(B) the number of acres planted to the pulse crop for the crop year for the purpose of the Federal crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

SEC. 112. TOBACCO.

(a) TOBACCO PAYMENTS.—

(1) DEFINITIONS.—In this subsection:

(A) ELIGIBLE PERSON.—The term ''eligible person'' means a person that—

(i) owns a farm for which, regardless of temporary transfers or undermarketings, a basic quota or allotment for eligible tobacco is established for the 2001 crop year under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.);

(ii) controls the farm from which, under the quota or allotment for the relevant period, eligible tobacco is marketed, could have been marketed, or can be marketed, taking into account temporary transfers; or

(iii) grows, could have grown, or can grow eligible tobacco that is marketed, could have been marketed, or can be marketed under the quota or allotment for the 2001 crop year, taking into account temporary transfers.

(B) ELIGIBLE TOBACCO.—The term ''eligible tobacco'' means each of the following kinds of tobacco:

(i) Flue-cured tobacco, comprising types 11, 12, 13, and 14.

(ii) Fire-cured tobacco, comprising types 21, 22, and 23.

(iii) Dark air-cured tobacco, comprising types 35 and 36.

(iv) Virginia sun-cured tobacco, comprising type 37.

(v) Burley tobacco, comprising type 31.

(vi) Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 54, and 55.

(2) PAYMENTS.—Not later than September 30, 2002, the Secretary shall use funds of the Commodity Credit Corporation to make payments under this subsection.

(3) POUNDAGE PAYMENT QUANTITIES.—For the purposes of this subsection, individual tobacco quotas and allotments shall be converted to poundage payment quantities as follows:

(A) FLUE-CURED AND BURLEY TOBACCO.—In the case of Flue-cured tobacco (types 11, 12, 13, and 14) and Burley tobacco (type 31), the poundage payment quantity shall equal the number of pounds of the basic poundage quota of the kind of tobacco, irrespective of temporary transfers or undermarketings, under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) for the 2001 crop year.

(B) OTHER KINDS OF ELIGIBLE TOBACCO.—In the case of each other kind of eligible tobacco, individual allotments shall be converted to poundage payment quantities by multiplying—

(i) the number of acres that may, irrespective of temporary transfers or undermarketings, be devoted, without penalty, to the production of the kind of tobacco under the allotment under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) for the 2001 crop year; by

(ii)(I) in the case of fire-cured tobacco (type 21), 1,630 pounds per acre;

(II) in the case of fire-cured tobacco (types 22 and 23), 2,601 pounds per acre;

(III) in the case of dark air-cured tobacco (types 35 and 36), 2,337 pounds per acre;

(IV) in the case of Virginia sun-cured tobacco (type 37), 1,512 pounds per acre; and

(V) in the case of cigar-filler and cigar-binder tobacco (types 42, 43, 44, 54, and 55), 2,165 pounds per acre.

(4) AVAILABLE PAYMENT AMOUNTS.—The available payment amount for pounds of a payment quantity under paragraph (2) shall be equal to—

(A) in the case of fire-cured tobacco (types 21, 22, and 23) and dark air-cured tobacco (types 35 and 36), 26 cents per pound; and

(B) in the case of each other kind of eligible tobacco not covered by subparagraph (A), 13 cents per pound.

(5) DIVISION OF PAYMENTS AMONG ELIGIBLE PERSONS.—

(A) IN GENERAL.—Payments available with respect to a pound of payment quantity, as determined under paragraph (4), shall be made available to eligible persons in accordance with this paragraph.

(B) FLUE-CURED AND CIGAR TOBACCO.—In the case of payments made available in a State under paragraph (2) for Flue-cured tobacco (types 11, 12, 13, and 14) and cigar-filler and cigar-binder tobacco (types 42, 43, 44, 54, and 55), the Secretary shall distribute (as determined by the Secretary)—

(i) 50 percent of the payments to eligible persons that are owners described in paragraph (1)(A)(i); and

(ii) 50 percent of the payments to eligible persons that are growers described in paragraph (1)(A)(iii).

(C) OTHER KINDS OF ELIGIBLE TOBACCO.—In the case of payments made available in a State under paragraph (2) for each other kind of eligible tobacco not covered by subparagraph (A), the Secretary shall distribute (as determined by the Secretary)—

(i) 33⅓ percent of the payments to eligible persons that are owners described in paragraph (1)(A)(i);

(ii) 33⅓ percent of the payments to eligible persons that are controllers described in paragraph (1)(A)(ii); and

(iii) 33⅓ percent of the payments to eligible persons that are growers described in paragraph (1)(A)(iii).

(6) STANDARDS.—In carrying out this subsection, the Secretary shall use, to the maximum extent practicable, the same standards for payments that were used for making payments under section 204(b) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1421 note; Public Law 106–224).

(7) JUDICIAL REVIEW.—A determination by the Secretary under this subsection shall not be subject to judicial review.

(b) GRADING OF PRICE-SUPPORT TOBACCO.—

(1) IN GENERAL.—Not later than November 30, 2001, the Secretary shall conduct a referendum among producers of each kind of tobacco that is eligible for price support under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) to determine whether the producers favor the mandatory grading of the tobacco by the Secretary.

(2) MANDATORY GRADING.—If the Secretary determines that mandatory grading of each kind of tobacco described in paragraph (1) is favored by a majority of the producers voting in the referendum, effective for the 2002 and subsequent marketing years, the Secretary shall ensure that all kinds of the tobacco are graded at the time of sale.

(3) JUDICIAL REVIEW.—A determination by the Secretary under this subsection shall not be subject to judicial review.

SEC. 113. APPLES.

(a) IN GENERAL.—The Secretary shall use $150,000,000 of funds of the Commodity Credit Corporation to make payments to apple producers to provide relief for the loss of markets during the 2000 crop year.

(b) PAYMENT QUANTITY.—

(1) IN GENERAL.—Subject to paragraph (2), the payment quantity of apples for which the producers on a farm are eligible for payments under this section shall be equal to the quantity of the 2000 crop of apples produced by the producers on the farm.

(2) MAXIMUM QUANTITY.—The payment quantity of apples for which the producers on a farm are eligible for payments under this section shall not exceed 5,000,000 pounds of apples produced on the farm.

(c) LIMITATIONS.—Subject to subsection (b)(2), the Secretary shall not establish a payment limitation, or gross income eligibility limitation, with respect to payments made under this section.

(d) APPLICABILITY.—This section applies only with respect to the 2000 crop of apples and producers of that crop.

TITLE II—ADMINISTRATION

SEC. 201. OBLIGATION PERIOD.

(a) FISCAL YEAR 2001.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out the following:

(1) Section 101.

(2) Section 107(a).

(b) FISCAL YEAR 2002.—

(1) IN GENERAL.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and, to the maximum extent practicable, expend funds during fiscal year 2002 to carry out title I (other than sections 101 and 107(a)).

(2) AVAILABILITY.—Funds described in paragraph (1) shall remain available until expended.

SEC. 202. COMMODITY CREDIT CORPORATION.

Except as otherwise provided in this Act, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this Act.

SEC. 203. REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.

(b) PROCEDURE.—The promulgation of the regulations and administration of the amendments made by this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SA 1296. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Emergency Agricultural Assistance Act of 2001''.

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

Sec. 1. Short title; table of contents.

TITLE I—MARKET LOSS ASSISTANCE

Sec. 101. Market loss assistance.
Sec. 102. Oilseeds.
Sec. 103. Peanuts.
Sec. 104. Sugar.
Sec. 105. Honey.
Sec. 106. Wool and mohair.
Sec. 107. Cottonseed.
Sec. 108. Commodity purchases.
Sec. 109. Loan deficiency payments.
Sec. 110. Milk.
Sec. 111. Pulse crops.
Sec. 112. Tobacco.
Sec. 113. Apples.

TITLE II—ADMINISTRATION

Sec. 201. Obligation period.
Sec. 202. Commodity Credit Corporation.
Sec. 203. Regulations.

TITLE I—MARKET LOSS ASSISTANCE

SEC. 101. MARKET LOSS ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall use funds of the Commodity Credit Corporation to provide assistance in the form of a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT AND MANNER.—In providing payments under this section, the Secretary shall—

(1) use the same contract payment rates as are used under section 802(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 1421 note; Public Law 106–78); and

(2) provide the payments in a manner that is consistent with section 802(c) of that Act.

SEC. 102. OILSEEDS.

(a) IN GENERAL.—The Secretary shall use $500,000,000 of funds of the Commodity Credit Corporation to make payments to producers of the 2001 crop of oilseeds that are eligible to obtain a marketing assistance loan under section 131 of the Agricultural Market Transition Act (7 U.S.C. 7231).

(b) COMPUTATION.—A payment to producers on a farm under this section for an oilseed shall be equal to the product obtained by multiplying—

(1) a payment rate determined by the Secretary;

(2) the acreage of the producers on the farm for the oilseed, as determined under subsection (c); and

(3) the yield of the producers on the farm for the oilseed, as determined under subsection (d).

(c) ACREAGE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the acreage of the producers on the farm for an oilseed under subsection (b)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 1998, 1999, or 2000 crop year, whichever is greatest, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late).

(2) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to an oilseed during the 2001 crop year but not the 1998, 1999, or 2000 crop year, the acreage of the producers for the oilseed under subsection (b)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 2001 crop year, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late).

(d) YIELD.—

(1) SOYBEANS.—Except as provided in paragraph (3), in the case of soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average county yield per harvested acre for each of the 1996 through 2000 crop years, excluding the crop year with the greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 1998, 1999, or 2000 crop year.

(2) OTHER OILSEEDS.—Except as provided in paragraph (3), in the case of oilseeds other than soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average national yield per harvested acre for each of the 1996 through 2000 crop years, excluding the crop year with the greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 1998, 1999, or 2000 crop year.

(3) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to an oilseed during the 2001 crop year but not the 1998, 1999, or 2000 crop year, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average county yield per harvested acre for each of the 1996 through 2000 crop years, excluding the crop year with the greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 2001 crop.

(4) DATA SOURCE.—To the maximum extent available, the Secretary shall use data provided by the National Agricultural Statistics Service to carry out this subsection.

SEC. 103. PEANUTS.

The Secretary shall use $55,210,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 204(a) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1421 note; Public Law 106–224) to producers of quota peanuts or additional peanuts for the 2000 crop year that received a payment under that section.

SEC. 104. SUGAR.

(a) MARKETING ASSESSMENT.—Section 156(f) of the Agricultural Market Transition Act (7 U.S.C. 7272(f)) shall not apply with respect to the 2001 crop of sugarcane and sugar beets.

(b) EMERGENCY FINANCIAL ASSISTANCE FOR 2000 CROP OF SUGAR BEETS.—Notwithstanding section 815(d)(1) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–56), in making payments under that section for quality losses for the 2000 crop of sugar beets of producers on a farm in an area covered by Manager's Bulletin MGR–01–010 issued by the Federal Crop Insurance Corporation on March 2, 2001—

(1) the Secretary shall calculate the amount of a quality loss, regardless of whether the sugar beets are processed, on an aggregate basis by cooperative;

(2) the Secretary shall make the quality loss payments to a cooperative for distribution to cooperative members; and

(3) the amount of a quality loss, regardless of whether the sugar beets are processed, shall be equal to the difference between—

(A) the per unit payment that the producers on the farm would have received for the crop from the cooperative if the crop had not suffered a quality loss; and

(B) the average per unit payment that the producers on the farm received from the cooperative for the affected sugar beets.

SEC. 105. HONEY.

(a) IN GENERAL.—The Secretary shall use funds of the Commodity Credit Corporation to make nonrecourse loans available to producers of the 2001 crop of honey on fair and reasonable terms and conditions, as determined by the Secretary.

(b) LOAN RATE.—The loan rate for a loan under subsection (a) for honey shall be equal to 85 percent of the simple average price received by producers of honey, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of honey, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

SEC. 106. WOOL AND MOHAIR.

(a) IN GENERAL.—The Secretary shall use $16,940,000 of funds of the Commodity Credit Corporation to provide a supplemental payment under section 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–55), to producers of wool, and producers of mohair, for the 2000 marketing year that received a payment under that section.

(b) PAYMENT RATE.—The Secretary shall adjust the payment rate specified in that section to reflect the amount made available for payments under this section.

SEC. 107. COTTONSEED.

(a) FISCAL YEAR 2001.—The Secretary shall use $34,000,000 of funds of the Commodity Credit Corporation for fiscal year 2001 to provide assistance to producers and first handlers of the 2000 crop of cottonseed.

(b) FISCAL YEAR 2002.—The Secretary shall use $66,000,000 of funds of the Commodity Credit Corporation for fiscal year 2002 to provide assistance to producers and first handlers of the 2001 crop of cottonseed.

SEC. 108. COMMODITY PURCHASES.

(a) IN GENERAL.—The Secretary shall use $220,000,000 of funds of the Commodity Credit Corporation to purchase agricultural commodities, especially agricultural commodities that have experienced low prices during the 2000 or 2001 crop years, such as apples, apricots, asparagus, bell peppers, bison meat, black beans, black-eyed peas, blueberries (wild and cultivated), cabbage, cantaloupe,

cauliflower, chickpeas, cranberries, cucumbers, dried plums, dry peas, eggplants, lemons, lentils, melons, onions, peaches (including freestone), pears, potatoes (summer and fall), pumpkins, raisins, raspberries, red tart cherries, snap beans, spinach, strawberries, sweet corn, tomatoes, and watermelons.

(b) GEOGRAPHIC DIVERSITY.—The Secretary is encouraged to purchase agricultural commodities under this section in a manner that reflects the geographic diversity of agricultural production in the United States.

(c) OTHER PURCHASES.—The Secretary shall ensure that purchases of agricultural commodities under this section are in addition to purchases by the Secretary under any other law.

(d) TRANSPORTATION AND DISTRIBUTION COSTS.—The Secretary may use not more than $20,000,000 of the funds made available under subsection (a) to provide assistance to States to cover costs incurred by the States in transporting and distributing agricultural commodities purchased under this section.

(e) PURCHASES FOR SCHOOL NUTRITION PROGRAMS.—The Secretary shall use not less than $55,000,000 of the funds made available under subsection (a) to purchase agricultural commodities of the type distributed under section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) for distribution to schools and service institutions in accordance with section 6(a) of that Act.

SEC. 109. LOAN DEFICIENCY PAYMENTS.

Section 135(a)(2) of the Agricultural Market Transition Act (7 U.S.C. 7235(a)(2)) is amended by striking ''2000 crop year'' and inserting ''each of the 2000 and 2001 crop years''.

SEC. 110. MILK.

(a) EXTENSION OF MILK PRICE SUPPORT PROGRAM.—Section 141 of the Agricultural Market Transition Act (7 U.S.C. 7251) is amended by striking ''2001'' each place it appears in subsections (b)(4) and (h) and inserting ''2002''.

(b) REPEAL OF RECOURSE LOAN PROGRAM FOR PROCESSORS.—Section 142 of the Agricultural Market Transition Act (7 U.S.C. 7252) is repealed.

SEC. 111. PULSE CROPS.

(a) IN GENERAL.—The Secretary shall use $20,000,000 of funds of the Commodity Credit Corporation to provide assistance in the form of a market loss assistance payment to owners and producers on a farm that grow dry peas, lentils, or chickpeas (collectively referred to in this section as a ''pulse crop'').

(b) COMPUTATION.—A payment to owners and producers on a farm under this section for a pulse crop shall be equal to the product obtained by multiplying—

(1) a payment rate determined by the Secretary; by

(2) the acreage of the producers on the farm for the pulse crop determined under subsection (c).

(c) ACREAGE.—

(1) IN GENERAL.—The acreage of the producers on the farm for a pulse crop under subsection (b)(2) shall be equal to the number of acres planted to the pulse crop by the owners and producers on the farm during the 1998, 1999, or 2000 crop year, whichever is greatest.

(2) BASIS.—For the purpose of paragraph (1), the number of acres planted to a pulse crop by the owners and producers on the farm for a crop year shall be based on (as determined by the Secretary)—

(A) the number of acres planted to the pulse crop for the crop year, as reported to the Secretary by the owners and producers on the farm, including any acreage that is included in reports that are filed late; or

(B) the number of acres planted to the pulse crop for the crop year for the purpose of the Federal crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

SEC. 112. TOBACCO.

(a) TOBACCO PAYMENTS.—

(1) DEFINITIONS.—In this subsection:

(A) ELIGIBLE PERSON.—The term ''eligible person'' means a person that—

(i) owns a farm for which, regardless of temporary transfers or undermarketings, a basic quota or allotment for eligible tobacco is established for the 2001 crop year under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.);

(ii) controls the farm from which, under the quota or allotment for the relevant period, eligible tobacco is marketed, could have been marketed, or can be marketed, taking into account temporary transfers; or

(iii) grows, could have grown, or can grow eligible tobacco that is marketed, could have been marketed, or can be marketed under the quota or allotment for the 2001 crop year, taking into account temporary transfers.

(B) ELIGIBLE TOBACCO.—The term ''eligible tobacco'' means each of the following kinds of tobacco:

(i) Flue-cured tobacco, comprising types 11, 12, 13, and 14.

(ii) Fire-cured tobacco, comprising types 21, 22, and 23.

(iii) Dark air-cured tobacco, comprising types 35 and 36.

(iv) Virginia sun-cured tobacco, comprising type 37.

(v) Burley tobacco, comprising type 31.

(vi) Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 54, and 55.

(2) PAYMENTS.—Not later than September 30, 2002, the Secretary shall use funds of the Commodity Credit Corporation to make payments under this subsection.

(3) POUNDAGE PAYMENT QUANTITIES.—For the purposes of this subsection, individual tobacco quotas and allotments shall be converted to poundage payment quantities as follows:

(A) FLUE-CURED AND BURLEY TOBACCO.—In the case of Flue-cured tobacco (types 11, 12, 13, and 14) and Burley tobacco (type 31), the poundage payment quantity shall equal the number of pounds of the basic poundage quota of the kind of tobacco, irrespective of temporary transfers or undermarketings, under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) for the 2001 crop year.

(B) OTHER KINDS OF ELIGIBLE TOBACCO.—In the case of each other kind of eligible tobacco, individual allotments shall be converted to poundage payment quantities by multiplying—

(i) the number of acres that may, irrespective of temporary transfers or undermarketings, be devoted, without penalty, to the production of the kind of tobacco under the allotment under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) for the 2001 crop year; by

(ii)(I) in the case of fire-cured tobacco (type 21), 1,630 pounds per acre;

(II) in the case of fire-cured tobacco (types 22 and 23), 2,601 pounds per acre;

(III) in the case of dark air-cured tobacco (types 35 and 36), 2,337 pounds per acre;

(IV) in the case of Virginia sun-cured tobacco (type 37), 1,512 pounds per acre; and

(V) in the case of cigar-filler and cigar-binder tobacco (types 42, 43, 44, 54, and 55), 2,165 pounds per acre.

(4) AVAILABLE PAYMENT AMOUNTS.—The available payment amount for pounds of a payment quantity under paragraph (2) shall be equal to—

(A) in the case of fire-cured tobacco (types 21, 22, and 23) and dark air-cured tobacco (types 35 and 36), 26 cents per pound; and

(B) in the case of each other kind of eligible tobacco not covered by subparagraph (A), 13 cents per pound.

(5) DIVISION OF PAYMENTS AMONG ELIGIBLE PERSONS.—

(A) IN GENERAL.—Payments available with respect to a pound of payment quantity, as determined under paragraph (4), shall be made available to eligible persons in accordance with this paragraph.

(B) FLUE-CURED AND CIGAR TOBACCO.—In the case of payments made available in a State under paragraph (2) for Flue-cured tobacco (types 11, 12, 13, and 14) and cigar-filler and cigar-binder tobacco (types 42, 43, 44, 54, and 55), the Secretary shall distribute (as determined by the Secretary)—

(i) 50 percent of the payments to eligible persons that are owners described in paragraph (1)(A)(i); and

(ii) 50 percent of the payments to eligible persons that are growers described in paragraph (1)(A)(iii).

(C) OTHER KINDS OF ELIGIBLE TOBACCO.—In the case of payments made available in a State under paragraph (2) for each other kind of eligible tobacco not covered by subparagraph (A), the Secretary shall distribute (as determined by the Secretary)—

(i) 33⅓ percent of the payments to eligible persons that are owners described in paragraph (1)(A)(i);

(ii) 33⅓ percent of the payments to eligible persons that are controllers described in paragraph (1)(A)(ii); and

(iii) 33⅓ percent of the payments to eligible persons that are growers described in paragraph (1)(A)(iii).

(6) STANDARDS.—In carrying out this subsection, the Secretary shall use, to the maximum extent practicable, the same standards for payments that were used for making payments under section 204(b) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1421 note; Public Law 106–224).

(7) JUDICIAL REVIEW.—A determination by the Secretary under this subsection shall not be subject to judicial review.

(b) GRADING OF PRICE-SUPPORT TOBACCO.—

(1) IN GENERAL.—Not later than November 30, 2001, the Secretary shall conduct a referendum among producers of each kind of tobacco that is eligible for price support under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) to determine whether the producers favor the mandatory grading of the tobacco by the Secretary.

(2) MANDATORY GRADING.—If the Secretary determines that mandatory grading of each kind of tobacco described in paragraph (1) is favored by a majority of the producers voting in the referendum, effective for the 2002 and subsequent marketing years, the Secretary shall ensure that all kinds of the tobacco are graded at the time of sale.

(3) JUDICIAL REVIEW.—A determination by the Secretary under this subsection shall not be subject to judicial review.

SEC. 113. APPLES.

(a) IN GENERAL.—The Secretary shall use $150,000,000 of funds of the Commodity Credit Corporation to make payments to apple producers to provide relief for the loss of markets during the 2000 crop year.

(b) PAYMENT QUANTITY.—

(1) IN GENERAL.—Subject to paragraph (2), the payment quantity of apples for which the producers on a farm are eligible for payments under this section shall be equal to the quantity of the 2000 crop of apples produced by the producers on the farm.

(2) MAXIMUM QUANTITY.—The payment quantity of apples for which the producers on a farm are eligible for payments under

this section shall not exceed 5,000,000 pounds of apples produced on the farm.

(c) LIMITATIONS.—Subject to subsection (b)(2), the Secretary shall not establish a payment limitation, or gross income eligibility limitation, with respect to payments made under this section.

(d) APPLICABILITY.—This section applies only with respect to the 2000 crop of apples and producers of that crop.

TITLE II—ADMINISTRATION

SEC. 201. OBLIGATION PERIOD.

(a) FISCAL YEAR 2001.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out the following:

(1) Section 101.

(2) Section 107(a).

(b) FISCAL YEAR 2002.—

(1) IN GENERAL.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and, to the maximum extent practicable, expend funds during fiscal year 2002 to carry out title I (other than sections 101 and 107(a)).

(2) AVAILABILITY.—Funds described in paragraph (1) shall remain available until expended.

SEC. 202. COMMODITY CREDIT CORPORATION.

Except as otherwise provided in this Act, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this Act.

SEC. 203. REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.

(b) PROCEDURE.—The promulgation of the regulations and administration of the amendments made by this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SA 1297. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike sections 1 and 2 and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall use funds of the Commodity Credit Corporation to provide assistance in the form of a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT AND MANNER.—In providing payments under this section, the Secretary shall—

(1) use the same contract payment rates as are used under section 802(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 1421 note; Public Law 106–78); and

(2) provide the payments in a manner that is consistent with section 802(c) of that Act.

SEC. 2. OILSEEDS.

(a) IN GENERAL.—The Secretary shall use $500,000,000 of funds of the Commodity Credit Corporation to make payments to producers of the 2001 crop of oilseeds that are eligible to obtain a marketing assistance loan under section 131 of the Agricultural Market Transition Act (7 U.S.C. 7231).

(b) COMPUTATION.—A payment to producers on a farm under this section for an oilseed shall be equal to the product obtained by multiplying—

(1) a payment rate determined by the Secretary;

(2) the acreage of the producers on the farm for the oilseed, as determined under subsection (c); and

(3) the yield of the producers on the farm for the oilseed, as determined under subsection (d).

(c) ACREAGE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the acreage of the producers on the farm for an oilseed under subsection (b)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 1998, 1999, or 2000 crop year, whichever is greatest, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late).

(2) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to an oilseed during the 2001 crop year but not the 1998, 1999, or 2000 crop year, the acreage of the producers for the oilseed under subsection (b)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 2001 crop year, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late).

(d) YIELD.—

(1) SOYBEANS.—Except as provided in paragraph (3), in the case of soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average county yield per harvested acre for each of the 1996 through 2000 crop years, excluding the crop year with the greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 1998, 1999, or 2000 crop year.

(2) OTHER OILSEEDS.—Except as provided in paragraph (3), in the case of oilseeds other than soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average national yield per harvested acre for each of the 1996 through 2000 crop years, excluding the crop year with the greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 1998, 1999, or 2000 crop year.

(3) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to an oilseed during the 2001 crop year but not the 1998, 1999, or 2000 crop year, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average county yield per harvested acre for each of the 1996 through 2000 crop years, excluding the crop year with the greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 2001 crop.

(4) DATA SOURCE.—To the maximum extent available, the Secretary shall use data provided by the National Agricultural Statistics Service to carry out this subsection.

(c) OBLIGATION PERIOD.—The Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out this section.

SEC. 11. OBLIGATION PERIOD.

(a) FISCAL YEAR 2001.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out this Act (other than section 2).

(b) FISCAL YEAR 2002.—

(1) IN GENERAL.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and, to the maximum extent practicable, expend funds during fiscal year 2002 to carry out section 2.

(2) AVAILABILITY.—Funds described in paragraph (1) shall remain available until expended.

SA 1298. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike section 11 and insert the following:

TITLE II—CONSERVATION

SEC. 201. CONSERVATION RESERVE PROGRAM.

(a) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), in addition to amounts made available under section 801 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–49), the Secretary shall use $44,000,000 of funds of the Commodity Credit Corporation to provide technical assistance under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(b) EXTENSION OF CONTRACTS.—Notwithstanding section 1231(e)(1) of the Food Security Act of 1985 (16 U.S.C. 3831(e)(1)), an owner or operator that has entered into a contract under the conservation reserve program that would otherwise expire during calendar year 2001 may extend the contract for 1 year.

(c) PAYMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), during the 2001 and 2002 calendar years, the Secretary shall include among practices that are eligible for payments under the conservation reserve program—

(A) the preservation of shallow water areas for wildlife;

(B) the establishment of permanent vegetative cover, such as contour grass strips and cross-wind trap strips; and

(C) the preservation of wellhead protection areas.

(2) OTHER PRACTICES.—The Secretary shall administer paragraph (1) in a manner that does not reduce the amount of payments made by the Secretary for other practices under the conservation reserve program.

(d) PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.—

(1) IN GENERAL.—Section 1231(h)(4)(B) of the Food Security Act of 1985 (16 U.S.C. 3831(h)(4)(B)) is amended by inserting ''(which may include emerging vegetation in water)'' after ''vegetative cover''.

(2) CONFORMING AMENDMENT.—Section 1232(a)(4) of the Food Security Act of 1985 (16

U.S.C. 3832(a)(4)) is amended by inserting ''(which may include emerging vegetation in water)'' after ''vegetative cover''.

SEC. 202. WETLANDS RESERVE PROGRAM.

(a) MAXIMUM ENROLLMENT.—Notwithstanding section 1237(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3837(b)(1)) and section 808 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–52), subject to subsection (b), the Secretary shall use $200,000,000 of funds of the Commodity Credit Corporation for enrollment of additional acres beginning in fiscal year 2002 in the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.).

(b) TECHNICAL ASSISTANCE; MONITORING AND MAINTENANCE EXPENSES.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary shall use—

(1) not less than $12,000,000, but not more than $15,000,000, to provide technical assistance under the wetlands reserve program; and

(2) not less than $8,000,000, but not more than $10,000,000, for monitoring and maintenance expenses incurred by the Secretary for land enrolled in the wetlands reserve program as of the date of enactment of this Act.

SEC. 203. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

In addition to amounts made available under section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841), the Secretary shall use $250,000,000 of funds of the Commodity Credit Corporation to carry out the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.).

SEC. 204. WILDLIFE HABITAT INCENTIVE PROGRAM.

In addition to amounts made available under section 387(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a(c)), the Secretary shall use $7,000,000 of funds of the Commodity Credit Corporation to carry out the Wildlife Habitat Incentive Program established under section 387 of that Act.

SEC. 205. FARMLAND PROTECTION PROGRAM.

(a) IN GENERAL.—In addition to amounts made available under section 388(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127) and section 211(a) of the Agricultural Risk Protection Act of 2000 (16 U.S.C. 3830 note; Public Law 106–224), the Secretary shall use $40,000,000 of funds of the Commodity Credit Corporation to make payments under the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 to—

(1) any agency of any State or local government, or federally recognized Indian tribe, including farmland protection boards and land resource councils established under State law; and

(2) any organization that—

(A) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clauses (i), (ii), and (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code;

(C) is described in section 509(a)(2) of that Code; or

(D) is described in section 509(a)(3) of that Code and is controlled by an organization described in section 509(a)(2) of that Code.

(b) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary may use not more than $3,000,000 to provide technical assistance under the farmland protection program.

SEC. 206. RISK MANAGEMENT CONSERVATION ASSISTANCE.

(a) IN GENERAL.—Notwithstanding sections 201 through 205, subject to subsection (d), of the amount of funds made available under this title (other than section 201(a)), the Secretary shall use $100,000,000 to address critical risk management needs (including such needs under programs specified in subsection (b)) in States that are described in section 522(c)(1)(A) of the Federal Crop Insurance Act (7 U.S.C. 1522(c)(1)(A)).

(b) MINIMUM AMOUNT.—Subject to subsection (d), the minimum amount each State described in subsection (a) shall receive under subsection (a) shall be $5,000,000.

(c) PROGRAMS.—For the purpose of subsection (a), the programs specified in this subsection are—

(1) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.);

(2) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.);

(3) the Wildlife Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a); and

(4) the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127).

(d) OTHER STATES.—The Secretary shall use any funds made available under subsection (a) that have not been obligated by June 1, 2002, to provide assistance under the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) in States that are not described in section 522(c)(1)(A) of the Federal Crop Insurance Act (7 U.S.C. 1522(c)(1)(A)).

TITLE III—ADMINISTRATION

SEC. 301. OBLIGATION PERIOD.

(a) FISCAL YEAR 2001.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out this Act (other than title II).

(b) FISCAL YEAR 2002.—

(1) IN GENERAL.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and, to the maximum extent practicable, expend funds during fiscal year 2002 to carry out title II.

(2) AVAILABILITY.—Funds described in paragraph (1) shall remain available until expended.

SEC. 302. COMMODITY CREDIT CORPORATION.

Except as otherwise provided in this Act, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this Act.

SA 1299. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike sections 1 and 2 and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall use funds of the Commodity Credit Corporation to provide assistance in the form of a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT AND MANNER.—In providing payments under this section, the Secretary shall—

(1) use the same contract payment rates as are used under section 802(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 1421 note; Public Law 106–78); and

(2) provide the payments in a manner that is consistent with section 802(c) of that Act.

SEC. 2. OILSEEDS.

(a) IN GENERAL.—The Secretary shall use $500,000,000 of funds of the Commodity Credit Corporation to make payments to producers of the 2001 crop of oilseeds that are eligible to obtain a marketing assistance loan under section 131 of the Agricultural Market Transition Act (7 U.S.C. 7231).

(b) COMPUTATION.—A payment to producers on a farm under this section for an oilseed shall be equal to the product obtained by multiplying—

(1) a payment rate determined by the Secretary;

(2) the acreage of the producers on the farm for the oilseed, as determined under subsection (c); and

(3) the yield of the producers on the farm for the oilseed, as determined under subsection (d).

(c) ACREAGE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the acreage of the producers on the farm for an oilseed under subsection (b)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 1998, 1999, or 2000 crop year, whichever is greatest, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late).

(2) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to an oilseed during the 2001 crop year but not the 1998, 1999, or 2000 crop year, the acreage of the producers for the oilseed under subsection (b)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 2001 crop year, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late).

(d) YIELD.—

(1) SOYBEANS.—Except as provided in paragraph (3), in the case of soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average county yield per harvested acre for each of the 1996 through 2000 crop years, excluding the crop year with the greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 1998, 1999, or 2000 crop year.

(2) OTHER OILSEEDS.—Except as provided in paragraph (3), in the case of oilseeds other than soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average national yield per harvested acre for each of the 1996 through 2000 crop years, excluding the crop year with the

greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 1998, 1999, or 2000 crop year.

(3) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to an oilseed during the 2001 crop year but not the 1998, 1999, or 2000 crop year, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average county yield per harvested acre for each of the 1996 through 2000 crop years, excluding the crop year with the greatest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 2001 crop.

(4) DATA SOURCE.—To the maximum extent available, the Secretary shall use data provided by the National Agricultural Statistics Service to carry out this subsection.

(c) OBLIGATION PERIOD.—The Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out this section.

Strike section 11 and insert the following:

SEC. 11. OBLIGATION PERIOD.

(a) FISCAL YEAR 2001.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out this Act (other than section 2).

(b) FISCAL YEAR 2002.—

(1) IN GENERAL.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and, to the maximum extent practicable, expend funds during fiscal year 2002 to carry out section 2.

(2) AVAILABILITY.—Funds described in paragraph (1) shall remain available until expended.

SA 1300. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246 to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike section 11 and insert the following:

TITLE II—CONSERVATION

SEC. 201. CONSERVATION RESERVE PROGRAM.

(a) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), in addition to amounts made available under section 801 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–49), the Secretary shall use $44,000,000 of funds of the Commodity Credit Corporation to provide technical assistance under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(b) EXTENSION OF CONTRACTS.—Notwithstanding section 1231(e)(1) of the Food Security Act of 1985 (16 U.S.C. 3831(e)(1)), an owner or operator that has entered into a contract under the conservation reserve program that would otherwise expire during calendar year 2001 may extend the contract for 1 year.

(c) PAYMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), during the 2001 and 2002 calendar years, the Secretary shall include among practices that are eligible for payments under the conservation reserve program—

(A) the preservation of shallow water areas for wildlife;

(B) the establishment of permanent vegetative cover, such as contour grass strips and cross-wind trap strips; and

(C) the preservation of wellhead protection areas.

(2) OTHER PRACTICES.—The Secretary shall administer paragraph (1) in a manner that does not reduce the amount of payments made by the Secretary for other practices under the conservation reserve program.

(d) PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.—

(1) IN GENERAL.—Section 1231(h)(4)(B) of the Food Security Act of 1985 (16 U.S.C. 3831(h)(4)(B)) is amended by inserting ''(which may include emerging vegetation in water)'' after ''vegetative cover''.

(2) CONFORMING AMENDMENT.—Section 1232(a)(4) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(4)) is amended by inserting ''(which may include emerging vegetation in water)'' after ''vegetative cover''.

SEC. 202. WETLANDS RESERVE PROGRAM.

(a) MAXIMUM ENROLLMENT.—Notwithstanding section 1237(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3837(b)(1)) and section 808 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–52), subject to subsection (b), the Secretary shall use $200,000,000 of funds of the Commodity Credit Corporation for enrollment of additional acres beginning in fiscal year 2002 in the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.).

(b) TECHNICAL ASSISTANCE; MONITORING AND MAINTENANCE EXPENSES.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary shall use—

(1) not less than $12,000,000, but not more than $15,000,000, to provide technical assistance under the wetlands reserve program; and

(2) not less than $8,000,000, but not more than $10,000,000, for monitoring and maintenance expenses incurred by the Secretary for land enrolled in the wetlands reserve program as of the date of enactment of this Act.

SEC. 203. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

In addition to amounts made available under section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841), the Secretary shall use $250,000,000 of funds of the Commodity Credit Corporation to carry out the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.).

SEC. 204. WILDLIFE HABITAT INCENTIVE PROGRAM.

In addition to amounts made available under section 387(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a(c)), the Secretary shall use $7,000,000 of funds of the Commodity Credit Corporation to carry out the Wildlife Habitat Incentive Program established under section 387 of that Act.

SEC. 205. FARMLAND PROTECTION PROGRAM.

(a) IN GENERAL.—In addition to amounts made available under section 388(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127) and section 211(a) of the Agricultural Risk Protection Act of 2000 (16 U.S.C. 3830 note; Public Law 106–224), the Secretary shall use $40,000,000 of funds of the Commodity Credit Corporation to make payments under the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 to—

(1) any agency of any State or local government, or federally recognized Indian tribe, including farmland protection boards and land resource councils established under State law; and

(2) any organization that—

(A) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clauses (i), (ii), and (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code;

(C) is described in section 509(a)(2) of that Code; or

(D) is described in section 509(a)(3) of that Code and is controlled by an organization described in section 509(a)(2) of that Code.

(b) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary may use not more than $3,000,000 to provide technical assistance under the farmland protection program.

SEC. 206. RISK MANAGEMENT CONSERVATION ASSISTANCE.

(a) IN GENERAL.—Notwithstanding sections 201 through 205, subject to subsection (d), of the amount of funds made available under this title (other than section 201(a)), the Secretary shall use $100,000,000 to address critical risk management needs (including such needs under programs specified in subsection (b)) in States that are described in section 522(c)(1)(A) of the Federal Crop Insurance Act (7 U.S.C. 1522(c)(1)(A)).

(b) MINIMUM AMOUNT.—Subject to subsection (d), the minimum amount each State described in subsection (a) shall receive under subsection (a) shall be $5,000,000.

(c) PROGRAMS.—For the purpose of subsection (a), the programs specified in this subsection are—

(1) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.);

(2) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.);

(3) the Wildlife Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a); and

(4) the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127).

(d) OTHER STATES.—The Secretary shall use any funds made available under subsection (a) that have not been obligated by June 1, 2002, to provide assistance under the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) in States that are not described in section 522(c)(1)(A) of the Federal Crop Insurance Act (7 U.S.C. 1522(c)(1)(A)).

TITLE III—ADMINISTRATION

SEC. 301. OBLIGATION PERIOD.

(a) FISCAL YEAR 2001.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out this Act (other than title II).

(b) FISCAL YEAR 2002.—

(1) IN GENERAL.—Except as otherwise provided in this Act, the Secretary and the

Commodity Credit Corporation shall obligate and, to the maximum extent practicable, expend funds during fiscal year 2002 to carry out title II.

(2) AVAILABILITY.—Funds described in paragraph (1) shall remain available until expended.

SEC. 302. COMMODITY CREDIT CORPORATION.

Except as otherwise provided in this Act, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this Act.

SA 1301. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers, which was ordered to lie on the table; as follows:

At the appropriate place insert:

For necessary expenses involved in making indemnity payments to qualified dairy farmers for milk or cows producing such milk and manufacturers, the Secretary of Agriculture through the Commodity Credit Corporation shall make available funds not exceeding $500,000,000.

SA 1302. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers, which was ordered to lie on the table; as follows:

Strike section 11 and insert the following:

TITLE II—CONSERVATION

SEC. 201. CONSERVATION RESERVE PROGRAM.

(a) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), in addition to amounts made available under section 801 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–49), the Secretary shall use $44,000,000 of funds of the Commodity Credit Corporation to provide technical assistance under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(b) EXTENSION OF CONTRACTS.—Notwithstanding section 1231(e)(1) of the Food Security Act of 1985 (16 U.S.C. 3831(e)(1)), an owner or operator that has entered into a contract under the conservation reserve program that would otherwise expire during calendar year 2001 may extend the contract for 1 year.

(c) PAYMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), during the 2001 and 2002 calendar years, the Secretary shall include among practices that are eligible for payments under the conservation reserve program—

(A) the preservation of shallow water areas for wildlife;

(B) the establishment of permanent vegetative cover, such as contour grass strips and cross-wind trap strips; and

(C) the preservation of wellhead protection areas.

(2) OTHER PRACTICES.—The Secretary shall administer paragraph (1) in a manner that does not reduce the amount of payments made by the Secretary for other practices under the conservation reserve program.

(d) PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.—

(1) IN GENERAL.—Section 1231(h)(4)(B) of the Food Security Act of 1985 (16 U.S.C. 3831(h)(4)(B)) is amended by inserting ''(which may include emerging vegetation in water)'' after ''vegetative cover''.

(2) CONFORMING AMENDMENT.—Section 1232(a)(4) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(4)) is amended by inserting ''(which may include emerging vegetation in water)'' after ''vegetative cover''.

SEC. 202. WETLANDS RESERVE PROGRAM.

(a) MAXIMUM ENROLLMENT.—Notwithstanding section 1237(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3837(b)(1)) and section 808 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–52), subject to subsection (b), the Secretary shall use $200,000,000 of funds of the Commodity Credit Corporation for enrollment of additional acres beginning in fiscal year 2002 in the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.).

(b) TECHNICAL ASSISTANCE; MONITORING AND MAINTENANCE EXPENSES.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary shall use—

(1) not less than $12,000,000, but not more than $15,000,000, to provide technical assistance under the wetlands reserve program; and

(2) not less than $8,000,000, but not more than $10,000,000, for monitoring and maintenance expenses incurred by the Secretary for land enrolled in the wetlands reserve program as of the date of enactment of this Act.

SEC. 203. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

In addition to amounts made available under section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841), the Secretary shall use $250,000,000 of funds of the Commodity Credit Corporation to carry out the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.).

SEC. 204. WILDLIFE HABITAT INCENTIVE PROGRAM.

In addition to amounts made available under section 387(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a(c)), the Secretary shall use $7,000,000 of funds of the Commodity Credit Corporation to carry out the Wildlife Habitat Incentive Program established under section 387 of that Act.

SEC. 205. FARMLAND PROTECTION PROGRAM.

(a) IN GENERAL.—In addition to amounts made available under section 388(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127) and section 211(a) of the Agricultural Risk Protection Act of 2000 (16 U.S.C. 3830 note; Public Law 106–224), the Secretary shall use $40,000,000 of funds of the Commodity Credit Corporation to make payments under the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 to—

(1) any agency of any State or local government, or federally recognized Indian tribe, including farmland protection boards and land resource councils established under State law; and

(2) any organization that—

(A) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clauses (i), (ii), and (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code;

(C) is described in section 509(a)(2) of that Code; or

(D) is described in section 509(a)(3) of that Code and is controlled by an organization described in section 509(a)(2) of that Code.

(b) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary may use not more than $3,000,000 to provide technical assistance under the farmland protection program.

TITLE III—ADMINISTRATION

SEC. 301. OBLIGATION PERIOD.

(a) FISCAL YEAR 2001.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out this Act (other than title II).

(b) FISCAL YEAR 2002.—

(1) IN GENERAL.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and, to the maximum extent practicable, expend funds during fiscal year 2002 to carry out title II.

(2) AVAILABILITY.—Funds described in paragraph (1) shall remain available until expended.

SEC. 302. COMMODITY CREDIT CORPORATION.

Except as otherwise provided in this Act, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this Act.

SA 1303. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike section 11 and insert the following:

TITLE II—CONSERVATION

SEC. 201. CONSERVATION RESERVE PROGRAM.

(a) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), in addition to amounts made available under section 801 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–49), the Secretary shall use $44,000,000 of funds of the Commodity Credit Corporation to provide technical assistance under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(b) EXTENSION OF CONTRACTS.—Notwithstanding section 1231(e)(1) of the Food Security Act of 1985 (16 U.S.C. 3831(e)(1)), an owner or operator that has entered into a contract under the conservation reserve program that would otherwise expire during calendar year 2001 may extend the contract for 1 year.

(c) PAYMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), during the 2001 and 2002 calendar years, the Secretary shall include among practices that are eligible for payments under the conservation reserve program—

(A) the preservation of shallow water areas for wildlife;

(B) the establishment of permanent vegetative cover, such as contour grass strips and cross-wind trap strips; and

(C) the preservation of wellhead protection areas.

(2) OTHER PRACTICES.—The Secretary shall administer paragraph (1) in a manner that does not reduce the amount of payments made by the Secretary for other practices under the conservation reserve program.

(d) PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.—

(1) IN GENERAL.—Section 1231(h)(4)(B) of the Food Security Act of 1985 (16 U.S.C. 3831(h)(4)(B)) is amended by inserting ''(which may include emerging vegetation in water)'' after ''vegetative cover''.

(2) CONFORMING AMENDMENT.—Section 1232(a)(4) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(4)) is amended by inserting ''(which may include emerging vegetation in water)'' after ''vegetative cover''.

SEC. 202. WETLANDS RESERVE PROGRAM.

(a) MAXIMUM ENROLLMENT.—Notwithstanding section 1237(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3837(b)(1)) and section 808 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (114 Stat. 1549, 1549A–52), subject to subsection (b), the Secretary shall use $200,000,000 of funds of the Commodity Credit Corporation for enrollment of additional acres beginning in fiscal year 2002 in the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.).

(b) TECHNICAL ASSISTANCE; MONITORING AND MAINTENANCE EXPENSES.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary shall use—

(1) not less than $12,000,000, but not more than $15,000,000, to provide technical assistance under the wetlands reserve program; and

(2) not less than $8,000,000, but not more than $10,000,000, for monitoring and maintenance expenses incurred by the Secretary for land enrolled in the wetlands reserve program as of the date of enactment of this Act.

SEC. 203. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

In addition to amounts made available under section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841), the Secretary shall use $250,000,000 of funds of the Commodity Credit Corporation to carry out the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.).

SEC. 204. WILDLIFE HABITAT INCENTIVE PROGRAM.

In addition to amounts made available under section 387(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a(c)), the Secretary shall use $7,000,000 of funds of the Commodity Credit Corporation to carry out the Wildlife Habitat Incentive Program established under section 387 of that Act.

SEC. 205. FARMLAND PROTECTION PROGRAM.

(a) IN GENERAL.—In addition to amounts made available under section 388(c) of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127) and section 211(a) of the Agricultural Risk Protection Act of 2000 (16 U.S.C. 3830 note; Public Law 106–224), the Secretary shall use $40,000,000 of funds of the Commodity Credit Corporation to make payments under the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 to—

(1) any agency of any State or local government, or federally recognized Indian tribe, including farmland protection boards and land resource councils established under State law; and

(2) any organization that—

(A) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clauses (i), (ii), and (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code;

(C) is described in section 509(a)(2) of that Code; or

(D) is described in section 509(a)(3) of that Code and is controlled by an organization described in section 509(a)(2) of that Code.

(b) TECHNICAL ASSISTANCE.—Notwithstanding section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i), of the funds made available under subsection (a), the Secretary may use not more than $3,000,000 to provide technical assistance under the farmland protection program.

TITLE III—ADMINISTRATION

SEC. 301. OBLIGATION PERIOD.

(a) FISCAL YEAR 2001.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out this Act (other than title II).

(b) FISCAL YEAR 2002.—

(1) IN GENERAL.—Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and, to the maximum extent practicable, expend funds during fiscal year 2002 to carry out title II.

(2) AVAILABILITY.—Funds described in paragraph (1) shall remain available until expended.

SEC. 302. COMMODITY CREDIT CORPORATION.

Except as otherwise provided in this Act, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this Act.

SA 1304. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike section 1 and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall use funds of the Commodity Credit Corporation to provide assistance in the form of a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT AND MANNER.—In providing payments under this section, the Secretary shall—

(1) use the same contract payment rates as are used under section 802(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 1421 note; Public Law 106–78); and

(2) provide the payments in a manner that is consistent with section 802(c) of that Act.

SA 1305. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike section 11 and insert the following:

SEC. 11. OBLIGATION PERIOD.

Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out this Act.

SA 1306. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike section 11 and insert the following:

SEC. 11. OBLIGATION PERIOD.

Except as otherwise provided in this Act, the Secretary and the Commodity Credit Corporation shall obligate and expend funds only during fiscal year 2001 to carry out this Act.

SA 1307. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike section 1 and insert the following:

SECTION 1. MARKET LOSS ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall use funds of the Commodity Credit Corporation to provide assistance in the form of a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2001 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT AND MANNER.—In providing payments under this section, the Secretary shall—

(1) use the same contract payment rates as are used under section 802(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 1421 note; Public Law 106–78); and

(2) provide the payments in a manner that is consistent with section 802(c) of that Act.

SA 1308. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 28, Line 14, add the Committee on Health, Education, Labor, and Pensions.

SA 1309. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 20, line 10, strike the words ''the quantity of the 2000 crop'' and replace with ''the highest quantity of any single crop year between 1999 and 2001.''

SA 1310. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2620, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry

independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 34, line 2, strike ''$60,000,000'' and insert ''$80,000,000''.

On Page 21, line 24 strike ''$615,000,000'' and insert ''$635,000,000''.

SA 1311. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION ON HUMAN CLONING.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

''CHAPTER 16—HUMAN CLONING

''Sec.
''301. Definitions.
''302. Prohibition on human cloning.

''§ 301. Definitions

''In this chapter:

''(1) HUMAN CLONING.—The term 'human cloning' means human asexual reproduction, accomplished by introducing the nuclear material of a human somatic cell into a fertilized or unfertilized oocyte whose nucleus has been removed or inactivated to produce a living organism (at any stage of development) with a human or predominantly human genetic constitution.

''(2) SOMATIC CELL.—The term 'somatic cell' means a diploid cell (having a complete set of chromosomes) obtained or derived from a living or deceased human body at any stage of development.

''§ 302. Prohibition on human cloning

''(a) IN GENERAL.—It shall be unlawful for any person or entity, public or private, in or affecting interstate commerce—

''(1) to perform or attempt to perform human cloning;

''(2) to participate in an attempt to perform human cloning; or

''(3) to ship or receive the product of human cloning for any purpose.

''(b) IMPORTATION.—It shall be unlawful for any person or entity, public or private, to import the product of human cloning for any purpose.

''(c) PENALTIES.—

''(1) IN GENERAL.—Any person or entity that is convicted of violating any provision of this section shall be fined under this section or imprisoned not more than 10 years, or both.

''(2) CIVIL PENALTY.—Any person or entity that is convicted of violating any provision of this section shall be subject to, in the case of a violation that involves the derivation of a pecuniary gain, a civil penalty of not less than $1,000,000 and not more than an amount equal to the amount of the gross gain multiplied by 2, if that amount is greater than $1,000,000.

''(d) SCIENTIFIC RESEARCH.—Nothing in this section shall restrict areas of scientific research not specifically prohibited by this section, including research in the use of nuclear transfer or other cloning techniques to produce molecules, DNA, cells other than human embryos, tissues, organs, plants, or animals other than humans.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 15 the following:

''16. Human Cloning ..... 301''.

SA 1312. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 20, strike lines 2 through 5 and insert the following:

(a) IN GENERAL.—The Secretary shall use $250,000,000 of funds of the Commodity Credit Corporation to make payments to apple producers to provide relief for the loss of markets during the 2000 crop year, of which $100,000,000 shall be derived by transfer from the amount authorized to be used for the purpose described in section 102(a).

SA 1313. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 20, line 16, strike ''5,000,000'' and insert ''10,000,000''.

SA 1314. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 10, lines 3 and 4, strike ''$220,000,000 of funds of the Commodity Credit Corporation'' and insert ''$270,000,000 of funds of the Commodity Credit Corporation (of which $50,000,000 shall be derived by transfer from the amount authorized to be used for the purpose described in section 102(a))''.

SA 1315. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Beginning on page 24, strike line 24 and all that follows through page 25, line 2, and insert the following: ''$80,000,000 of funds of the Commodity Credit Corporation to make payments under the farmland protection program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104–127), of which $40,000,000 shall be derived by transfer from the amount authorized to——''.

SA 1316. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 21, line 19, strike ''1 year'' and insert ''2 years''.

SA 1317. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 20, strike lines 5 through 24 and insert the following:

for the loss of markets during the 2000 and 2001 crop years.

(b) PAYMENT QUANTITY.—

(1) IN GENERAL.—Subject to paragraph (2), the payment quantity of apples for which the producers on a farm are eligible for payments under this section shall be equal to the quantity of the 2000 crop of apples produced by the producers on the farm.

(2) MAXIMUM QUANTITY.—The payment quantity of apples for which the producers on a farm are eligible for payments under this section shall not exceed 5,000,000 pounds of apples produced on the farm.

(c) LIMITATIONS.—Subject to subsection (b)(2), the Secretary shall not establish a payment limitation, or gross income eligibility limitation, with respect to payments made under this section.

(d) APPLICABILITY.—This section applies only with respect to the 2000 and 2001 crops of apples and producers of those crops.

SA 1318. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural procedures; which was ordered to lie on the table; as follows:

On page 4, line 3, strike ''$500,000,000'' and insert ''$100,000,000.''

SA 1319. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural procedures; which was ordered to lie on the table; as follows:

On page 9, line 19, strike ''$34,000,000'' and insert ''$3,400,000.''

SA 1320. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural procedures; which was ordered to lie on the table; as follows:

Beginning on page 13, line 19, strike all text through page 14, line 14, and insert the following in lieu thereof:

''ELIGIBLE PERSON.—The Term 'eligible person' means only residents of American Samoa.''

SA 1321. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural procedures; which was ordered to lie on the table; as follows:

On page 10, line 3, strike ''$220,000,000'' and insert ''$22,000,000.''

SA 1322. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural procedures; which was ordered to lie on the table; as follows:

On page 12, line 6, strike ''$20,000,000'' and insert ''$5,000,000.''

SA 1323. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural procedures; which was ordered to lie on the table; as follows:

On page 36, line 18, strike ''$18,000,000'' and insert ''$1,800,000.''

SA 1324. Mr. SCHUMER submitted an amendment intended to be proposed by

him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 43, line 24, strike ''$24,000,000'' and insert ''$2,400,000.''

SA 1325. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Beginning on page 7, line 3, strike all text beginning with ''SEC. 103. PEANUTS.'' through page 20, line 5, and insert the following in lieu thereof:

''SEC. 103. APPLES.

(a) IN GENERAL.—The Secretary shall use $300,000,000 of funds of the Commodity Credit Corporation to make payments to apple producers to provide relief for the loss of markets during the 2000 crop year.''

SA 1326. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 10, line 7, strike ''bison meat,''

SA 1327. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Beginning on page 10, line 15, through page 10, line 16, strike ''is encouraged to purchase'' and insert the following in lieu thereof: ''is required to purchase''.

SA 1328. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agriculture producers; which was ordered to lie on the table; as follows:

On page 7, line 4, strike ''$55,210,000'' and insert ''$15,000,000.''

SA 1329. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agriculture producers; which was ordered to lie on the table; as follows:

On page 9, line 7, strike ''$16,940,000'' and insert ''$5,000,000.''

SA 1330. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agriculture producers; which was ordered to lie on the table; as follows:

At the appropriate place add the following:

SEC. 802. REDUCTION IN AMOUNTS.

Notwithstanding any other provision of this Act, each amount provided by this Act (other than amounts provided under sections 101 and 107(a) and title II) is reduced by 7.1 percent.

SA 1331. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agriculture producers; which was ordered to lie on the table; as follows:

At the appropriate place add the following:

SEC. 802. REDUCTION IN AMOUNTS.

Notwithstanding any other provision of this Act, each amount provided by this Act (other than amounts provided under sections 101 and 107(a) and title II) is reduced by 7.1 percent.

SA 1332. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place add the following:

SEC. 1. The Secretary of Agriculture shall administer Dairy Market Mitigation Payments in the amount of $5000 to each United States dairy farmer producing milk as of the date of enactment.

SEC. 2. The Secretary of Agriculture shall make an additional Compact Adjustment Payment of $2500 to each dairy farmer who has sold milk into the Northeast Dairy Compact during the previous 1 year prior to enactment.

SEC. 3. The Secretary of Agriculture shall study and report, within six months of enactment, on the effectiveness of 7 USC 608(c), and issue recommendations for strengthening enforcement and increasing compliance.

SA 1333. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place add the following:

SEC. 1. The Secretary of Agriculture shall administer Dairy Market Mitigation Payments in the amount of $5000 to each United States dairy farmer producing milk as of the date of enactment.

SEC. 2. The Secretary of Agriculture shall make an additional Compact Adjustment Payment of $2500 to each dairy farmer who has sold milk into the Northeast Dairy Compact during the previous 1 year prior to enactment.

SEC. 3. The Secretary of Agriculture shall study and report, within six months of enactment, on the effectiveness of 7 USC 608(c), and issue recommendations for strengthening enforcement and increasing compliance.

SA 1334. Mr. TORRICELLI submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place insert:

The amount of $500,000,000 shall be made available for necessary expenses involved in making indemnity payments to dairy farmers in the states designated by the Secretary of Agriculture for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of: (1) presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer; or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968 (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $450,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of the farmers' willful failure to follow procedures prescribed by the Federal Government: *Provided further*, That this amount shall be transferred to the Commodity Credit Corporation: *Provided further*, That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit corporation for the purpose of making dairy indemnity disbursements.

SA 1335. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE VII—DAIRY CONSUMERS AND PRODUCERS PROTECTION

SEC. 701. NORTHEAST INTERSTATE DAIRY COMPACT.

Section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256) is amended—

(1) in the matter preceding paragraph (1), by striking ''States'' and all that follows through ''Vermont'' and inserting ''States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont'';

(2) by striking paragraphs (1), (3), and (7);

(3) in paragraph (2), by striking ''Class III-A'' and inserting ''Class IV'';

(4) by striking paragraph (4) and inserting the following:

''(4) ADDITIONAL STATE.—Ohio is the only additional State that may join the Northeast Interstate Dairy Compact.'';

(5) in paragraph (5), by striking ''the projected rate of increase'' and all that follows through ''Secretary'' and inserting ''the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code''; and

(6) by redesignating paragraphs (2), (4), (5), and (6) as paragraphs (1), (2), (3), and (4), respectively.

SEC. 702. SOUTHERN DAIRY COMPACT.

(a) IN GENERAL.—Congress consents to the Southern Dairy Compact entered into among the States of Alabama, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, and West Virginia, subject to the following conditions:

(1) LIMITATION OF MANUFACTURING PRICE REGULATION.—The Southern Dairy Compact Commission may not regulate Class II, Class

III, or Class IV milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937 (referred to in this section as a ''Federal milk marketing order'') unless Congress has first consented to and approved such authority by a law enacted after the date of enactment of this joint resolution.

(2) ADDITIONAL STATES.—Florida, Nebraska, and Texas are the only additional States that may join the Southern Dairy Compact, individually or otherwise.

(3) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year in which a Compact price regulation is in effect, the Southern Dairy Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

(4) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Southern Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Compact Commission and be compensated for that assistance.

(b) COMPACT.—The Southern Dairy Compact is substantially as follows:

''ARTICLE I. STATEMENT OF PURPOSE, FINDINGS AND DECLARATION OF POLICY

''§ 1. Statement of purpose, findings and declaration of policy

''The purpose of this compact is to recognize the interstate character of the southern dairy industry and the prerogative of the states under the United States Constitution to form an interstate commission for the southern region. The mission of the commission is to take such steps as are necessary to assure the continued viability of dairy farming in the south, and to assure consumers of an adequate, local supply of pure and wholesome milk.

''The participating states find and declare that the dairy industry is an essential agricultural activity of the south. Dairy farms, and associated suppliers, marketers, processors and retailers are an integral component of the region's economy. Their ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

''The participating states further find that dairy farms are essential and they are an integral part of the region's rural communities. The farms preserve land for agricultural purposes and provide needed economic stimuli for rural communities.

''In establishing their constitutional regulatory authority over the region's fluid milk market by this compact, the participating states declare their purpose that this compact neither displace the federal order system nor encourage the merging of federal orders. Specific provisions of the compact itself set forth this basic principle.

''Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the compact also contains a contingency provision should the federal order system be discontinued. In that event, the interstate commission is authorized to regulate the marketplace in replacement of the order system. This contingent authority does not anticipate such a change, however, and should not be so construed. It is only provided should developments in the market other than establishment of this compact result in discontinuance of the order system.

''By entering into this compact, the participating states affirm that their ability to regulate the price which southern dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the southern dairy industry, with all the associated benefits.

''Recent, dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the southern dairy region. Historically, individual state regulatory action had been an effective emergency remedy available to farmers confronting a distressed market. The federal order system, implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices paid to producers for raw milk, without preempting the power of states to regulate milk prices above the minimum levels so established.

''In today's regional dairy marketplace, cooperative, rather than individual state action is needed to more effectively address the market disarray. Under our constitutional system, properly authorized states acting cooperatively may exercise more power to regulate interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

''ARTICLE II. DEFINITIONS AND RULES OF CONSTRUCTION

''§ 2. Definitions

''For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

''(1) 'Class I milk' means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in subdivision (b) of section three.

''(2) 'Commission' means the Southern Dairy Compact Commission established by this compact.

''(3) 'Commission marketing order' means regulations adopted by the commission pursuant to sections nine and ten of this compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission. Such order may establish minimum prices for any or all classes of milk.

''(4) 'Compact' means this interstate compact.

''(5) 'Compact over-order price' means a minimum price required to be paid to producers for Class I milk established by the commission in regulations adopted pursuant to sections nine and ten of this compact, which is above the price established in federal marketing orders or by state farm price regulations in the regulated area. Such price may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission.

''(6) 'Milk' means the lacteral secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or any other process. The term is used in its broadest sense and may be further defined by the commission for regulatory purposes.

''(7) 'Partially regulated plant' means a milk plant not located in a regulated area but having Class I distribution within such area. Commission regulations may exempt plants having such distribution or receipts in amounts less than the limits defined therein.

''(8) 'Participating state' means a state which has become a party to this compact by the enactment of concurring legislation.

''(9) 'Pool plant' means any milk plant located in a regulated area.

''(10) 'Region' means the territorial limits of the states which are parties to this compact.

''(11) 'Regulated area' means any area within the region governed by and defined in regulations establishing a compact over-order price or commission marketing order.

''(12) 'State dairy regulation' means any state regulation of dairy prices, and associated assessments, whether by statute, marketing order or otherwise.

''§ 3. Rules of construction

''(a) This compact shall not be construed to displace existing federal milk marketing orders or state dairy regulation in the region but to supplement them. In the event some or all federal orders in the region are discontinued, the compact shall be construed to provide the commission the option to replace them with one or more commission marketing orders pursuant to this compact.

''(b) The compact shall be construed liberally in order to achieve the purposes and intent enunciated in section one. It is the intent of this compact to establish a basic structure by which the commission may achieve those purposes through the application, adaptation and development of the regulatory techniques historically associated with milk marketing and to afford the commission broad flexibility to devise regulatory mechanisms to achieve the purposes of this compact. In accordance with this intent, the technical terms which are associated with market order regulation and which have acquired commonly understood general meanings are not defined herein but the commission may further define the terms used in this compact and develop additional concepts and define additional terms as it may find appropriate to achieve its purposes.

''ARTICLE III. COMMISSION ESTABLISHED

''§ 4. Commission established

''There is hereby created a commission to administer the compact, composed of delegations from each state in the region. The commission shall be known as the Southern Dairy Compact Commission. A delegation shall include not less than three nor more than five persons. Each delegation shall include at least one dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, and one consumer representative. Delegation members shall be residents and voters of, and subject to such confirmation process as is provided for in the appointing state. Delegation members shall serve no more than three consecutive terms with no single term of more than four years, and be subject to removal for cause. In all other respects, delegation members shall serve in accordance with the laws of the state represented. The compensation, if any, of the members of a state delegation shall be determined and paid by each state, but their expenses shall be paid by the commission.

''§ 5. Voting requirements

''All actions taken by the commission, except for the establishment or termination of an over-order price or commission marketing order, and the adoption, amendment or rescission of the commission's by-laws, shall be by majority vote of the delegations present. Each state delegation shall be entitled to one vote in the conduct of the commission's affairs. Establishment or termination of an over-order price or commission marketing order shall require at least a two-thirds vote of the delegations present. The establishment of a regulated area which covers all or part of a participating state shall

require also the affirmative vote of that state's delegation. A majority of the delegations from the participating states shall constitute a quorum for the conduct of the commission's business.

"§ 6. Administration and management

''(a) The commission shall elect annually from among the members of the participating state delegations a chairperson, a vice-chairperson, and a treasurer. The commission shall appoint an executive director and fix his or her duties and compensation. The executive director shall serve at the pleasure of the commission, and together with the treasurer, shall be bonded in an amount determined by the commission. The commission may establish through its by-laws an executive committee composed of one member elected by each delegation.

''(b) The commission shall adopt by-laws for the conduct of its business by a two-thirds vote, and shall have the power by the same vote to amend and rescind these by-laws. The commission shall publish its by-laws in convenient form with the appropriate agency or officer in each of the participating states. The by-laws shall provide for appropriate notice to the delegations of all commission meetings and hearings and of the business to be transacted at such meetings or hearings. Notice also shall be given to other agencies or officers of participating states as provided by the laws of those states.

''(c) The commission shall file an annual report with the Secretary of Agriculture of the United States, and with each of the participating states by submitting copies to the governor, both houses of the legislature, and the head of the state department having responsibilities for agriculture.

''(d) In addition to the powers and duties elsewhere prescribed in this compact, the commission shall have the power:

''(1) To sue and be sued in any state or federal court;

''(2) To have a seal and alter the same at pleasure;

''(3) To acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or other similar manner, for its corporate purposes;

''(4) To borrow money and issue notes, to provide for the rights of the holders thereof and to pledge the revenue of the commission as security therefor, subject to the provisions of section eighteen of this compact;

''(5) To appoint such officers, agents, and employees as it may deem necessary, prescribe their powers, duties and qualifications; and

''(6) To create and abolish such offices, employments and positions as it deems necessary for the purposes of the compact and provide for the removal, term, tenure, compensation, fringe benefits, pension, and retirement rights of its officers and employees. The commission may also retain personal services on a contract basis.

"§ 7. Rulemaking power

''In addition to the power to promulgate a compact over-order price or commission marketing orders as provided by this compact, the commission is further empowered to make and enforce such additional rules and regulations as it deems necessary to implement any provisions of this compact, or to effectuate in any other respect the purposes of this compact.

"ARTICLE IV. POWERS OF THE COMMISSION

"§ 8. Powers to promote regulatory uniformity, simplicity, and interstate cooperation

''The commission is hereby empowered to:

''(1) Investigate or provide for investigations or research projects designed to review the existing laws and regulations of the participating states, to consider their administration and costs, to measure their impact on the production and marketing of milk and their effects on the shipment of milk and milk products within the region.

''(2) Study and recommend to the participating states joint or cooperative programs for the administration of the dairy marketing laws and regulations and to prepare estimates of cost savings and benefits of such programs.

''(3) Encourage the harmonious relationships between the various elements in the industry for the solution of their material problems. Conduct symposia or conferences designed to improve industry relations, or a better understanding of problems.

''(4) Prepare and release periodic reports on activities and results of the commission's efforts to the participating states.

''(5) Review the existing marketing system for milk and milk products and recommend changes in the existing structure for assembly and distribution of milk which may assist, improve or promote more efficient assembly and distribution of milk.

''(6) Investigate costs and charges for producing, hauling, handling, processing, distributing, selling and for all other services performed with respect to milk.

''(7) Examine current economic forces affecting producers, probable trends in production and consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers, and the need for an emergency order to relieve critical conditions on dairy farms.

"§ 9. Equitable farm prices

''(a) The powers granted in this section and section ten shall apply only to the establishment of a compact over-order price, so long as federal milk marketing orders remain in effect in the region. In the event that any or all such orders are terminated, this article shall authorize the commission to establish one or more commission marketing orders, as herein provided, in the region or parts thereof as defined in the order.

''(b) A compact over-order price established pursuant to this section shall apply only to Class I milk. Such compact over-order price shall not exceed one dollar and fifty cents per gallon at Atlanta, Ga., however, this compact over-order price shall be adjusted upward or downward at other locations in the region to reflect differences in minimum federal order prices. Beginning in nineteen hundred ninety, and using that year as a base, the foregoing one dollar fifty cents per gallon maximum shall be adjusted annually by the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the appropriate class price established pursuant to the applicable federal order or state dairy regulation and the value of unregulated milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to such adjustments as the commission may prescribe in regulations.

''(c) A commission marketing order shall apply to all classes and uses of milk.

''(d) The commission is hereby empowered to establish a compact over-order price for milk to be paid by pool plants and partially regulated plants. The commission is also empowered to establish a compact over-order price to be paid by all other handlers receiving milk from producers located in a regulated area. This price shall be established either as a compact over-order price or by one or more commission marketing orders. Whenever such a price has been established by either type of regulation, the legal obligation to pay such price shall be determined solely by the terms and purpose of the regulation without regard to the situs of the transfer of title, possession or any other factors not related to the purposes of the regulation and this compact. Producer-handlers as defined in an applicable federal market order shall not be subject to a compact over-order price. The commission shall provide for similar treatment of producer-handlers under commission marketing orders.

''(e) In determining the price, the commission shall consider the balance between production and consumption of milk and milk products in the regulated area, the costs of production including, but not limited to the price of feed, the cost of labor including the reasonable value of the producer's own labor and management, machinery expense, and interest expense, the prevailing price for milk outside the regulated area, the purchasing power of the public and the price necessary to yield a reasonable return to the producer and distributor.

''(f) When establishing a compact over-order price, the commission shall take such other action as is necessary and feasible to help ensure that the over-order price does not cause or compensate producers so as to generate local production of milk in excess of those quantities necessary to assure consumers of an adequate supply for fluid purposes.

''(g) The commission shall whenever possible enter into agreements with state or federal agencies for exchange of information or services for the purpose of reducing regulatory burden and cost of administering the compact. The commission may reimburse other agencies for the reasonable cost of providing these services.

"§ 10. Optional provisions for pricing order

''Regulations establishing a compact over-order price or a commission marketing order may contain, but shall not be limited to any of the following:

''(1) Provisions classifying milk in accordance with the form in which or purpose for which it is used, or creating a flat pricing program.

''(2) With respect to a commission marketing order only, provisions establishing or providing a method for establishing separate minimum prices for each use classification prescribed by the commission, or a single minimum price for milk purchased from producers or associations of producers.

''(3) With respect to an over-order minimum price, provisions establishing or providing a method for establishing such minimum price for Class I milk.

''(4) Provisions for establishing either an over-order price or a commission marketing order may make use of any reasonable method for establishing such price or prices including flat pricing and formula pricing. Provision may also be made for location adjustments, zone differentials and for competitive credits with respect to regulated handlers who market outside the regulated area.

''(5) Provisions for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered, or for the payment of producers delivering milk to the same handler of uniform prices for all milk delivered by them.

''(A) With respect to regulations establishing a compact over-order price, the commission may establish one equalization pool within the regulated area for the sole purpose of equalizing returns to producers throughout the regulated area.

''(B) With respect to any commission marketing order, as defined in section two, subdivision three, which replaces one or more terminated federal orders or state dairy regulations, the marketing area of now separate state or federal orders shall not be merged without the affirmative consent of each state, voting through its delegation, which is partly or wholly included within any such new marketing area.

''(6) Provisions requiring persons who bring Class I milk into the regulated area to make compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a compact over-order price or commission marketing order. No such provisions shall discriminate against milk producers outside the regulated area. The provisions for compensatory payments may require payment of the difference between the Class I price required to be paid for such milk in the state of production by a federal milk marketing order or state dairy regulation and the Class I price established by the compact over-order price or commission marketing order.

''(7) Provisions specially governing the pricing and pooling of milk handled by partially regulated plants.

''(8) Provisions requiring that the account of any person regulated under the compact over-order price shall be adjusted for any payments made to or received by such persons with respect to a producer settlement fund of any federal or state milk marketing order or other state dairy regulation within the regulated area.

''(9) Provision requiring the payment by handlers of an assessment to cover the costs of the administration and enforcement of such order pursuant to Article VII, Section 18(a).

''(10) Provisions for reimbursement to participants of the Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966.

''(11) Other provisions and requirements as the commission may find are necessary or appropriate to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum prices to producers.

"ARTICLE V. RULEMAKING PROCEDURE

"§ 11. Rulemaking procedure

''Before promulgation of any regulations establishing a compact over-order price or commission marketing order, including any provision with respect to milk supply under subsection 9(f), or amendment thereof, as provided in Article IV, the commission shall conduct an informal rulemaking proceeding to provide interested persons with an opportunity to present data and views. Such rulemaking proceeding shall be governed by section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553). In addition, the commission shall, to the extent practicable, publish notice of rulemaking proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a compact over-order price or a commission marketing order and thereafter before any amendment with regard to prices or assessments, the commission shall hold a public hearing. The commission may commence a rulemaking proceeding on its own initiative or may in its sole discretion act upon the petition of any person including individual milk producers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

"§ 12. Findings and referendum

''(a) In addition to the concise general statement of basis and purpose required by section 4(b) of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553(c)), the commission shall make findings of fact with respect to:

''(1) Whether the public interest will be served by the establishment of minimum milk prices to dairy farmers under Article IV.

''(2) What level of prices will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

''(3) Whether the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

''(4) Whether the terms of the proposed regional order or amendment are approved by producers as provided in section thirteen.

"§ 13. Producer referendum

''(a) For the purpose of ascertaining whether the issuance or amendment of regulations establishing a compact over-order price or a commission marketing order, including any provision with respect to milk supply under subsection 9(f), is approved by producers, the commission shall conduct a referendum among producers. The referendum shall be held in a timely manner, as determined by regulation of the commission. The terms and conditions of the proposed order or amendment shall be described by the commission in the ballot used in the conduct of the referendum, but the nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto.

''(b) An order or amendment shall be deemed approved by producers if the commission determines that it is approved by at least two-thirds of the voting producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which would be regulated under the proposed order or amendment.

''(c) For purposes of any referendum, the commission shall consider the approval or disapproval by any cooperative association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the Capper–Volstead Act, bona fide engaged in marketing milk, or in rendering services for or advancing the interests of producers of such commodity, as the approval or disapproval of the producers who are members or stockholders in, or under contract with, such cooperative association of producers, except as provided in subdivision (1) hereof and subject to the provisions of subdivision (2) through (5) hereof.

''(1) No cooperative which has been formed to act as a common marketing agency for both cooperatives and individual producers shall be qualified to block vote for either.

''(2) Any cooperative which is qualified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote. The notice shall be given in a timely manner as established, and in the form prescribed, by the commission.

''(3) Any producer may obtain a ballot from the commission in order to register approval or disapproval of the proposed order.

''(4) A producer who is a member of a cooperative which has provided notice of its intent to approve or not to approve a proposed order, and who obtains a ballot and with such ballot expresses his approval or disapproval of the proposed order, shall notify the commission as to the name of the cooperative of which he or she is a member, and the commission shall remove such producer's name from the list certified by such cooperative with its corporate vote.

''(5) In order to insure that all milk producers are informed regarding the proposed order, the commission shall notify all milk producers that an order is being considered and that each producer may register his approval or disapproval with the commission either directly or through his or her cooperative.

"§ 14. Termination of over-order price or marketing order

''(a) The commission shall terminate any regulations establishing an over-order price or commission marketing order issued under this article whenever it finds that such order or price obstructs or does not tend to effectuate the declared policy of this compact.

''(b) The commission shall terminate any regulations establishing an over-order price or a commission marketing order issued under this article whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which is regulated by such order; but such termination shall be effective only if announced on or before such date as may be specified in such marketing agreement or order.

''(c) The termination or suspension of any order or provision thereof, shall not be considered an order within the meaning of this article and shall require no hearing, but shall comply with the requirements for informal rulemaking prescribed by section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553).

"ARTICLE VI. ENFORCEMENT

"§ 15. Records; reports; access to premises

''(a) The commission may by rule and regulation prescribe record keeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this compact, the commission is authorized to examine the books and records of any regulated person relating to his or her milk business and for that purpose, the commission's properly designated officers, employees, or agents shall have full access during normal business hours to the premises and records of all regulated persons.

''(b) Information furnished to or acquired by the commission officers, employees, or its agents pursuant to this section shall be confidential and not subject to disclosure except to the extent that the commission deems disclosure to be necessary in any administrative or judicial proceeding involving the administration or enforcement of this compact, an over-order price, a compact marketing order, or other regulations of the commission. The commission may promulgate regulations further defining the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit (i) the issuance of general statements based upon the reports of a number of handlers, which do not identify the information furnished by any person, or (ii) the publication by direction of the commission of the name of any person violating any regulation of the commission, together with a statement of the particular provisions violated by such person.

''(c) No officer, employee, or agent of the commission shall intentionally disclose information, by inference or otherwise, which is made confidential pursuant to this section. Any person violating the provisions of this section shall, upon conviction, be subject to a fine of not more than one thousand dollars or to imprisonment for not more

than one year, or to both, and shall be removed from office. The commission shall refer any allegation of a violation of this section to the appropriate state enforcement authority or United States Attorney.

"§ 16. Subpoena; hearings and judicial review

''(a) The commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas throughout all signatory states to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

''(b) Any handler subject to an order may file a written petition with the commission stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the commission. After such hearing, the commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

''(c) The district courts of the United States in any district in which such handler is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within thirty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the commission by delivering to it a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the commission with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subdivision shall not impede, hinder, or delay the commission from obtaining relief pursuant to section seventeen. Any proceedings brought pursuant to section seventeen, except where brought by way of counterclaim in proceedings instituted pursuant to this section, shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this section.

"§ 17. Enforcement with respect to handlers

''(a) Any violation by a handler of the provisions of regulations establishing an over-order price or a commission marketing order, or other regulations adopted pursuant to this compact shall:

''(1) Constitute a violation of the laws of each of the signatory states. Such violation shall render the violator subject to a civil penalty in an amount as may be prescribed by the laws of each of the participating states, recoverable in any state or federal court of competent jurisdiction. Each day such violation continues shall constitute a separate violation.

''(2) Constitute grounds for the revocation of license or permit to engage in the milk business under the applicable laws of the participating states.

''(b) With respect to handlers, the commission shall enforce the provisions of this compact, regulations establishing an over-order price, a commission marketing order or other regulations adopted hereunder by:

''(1) Commencing an action for legal or equitable relief brought in the name of the commission of any state or federal court of competent jurisdiction; or

''(2) Referral to the state agency for enforcement by judicial or administrative remedy with the agreement of the appropriate state agency of a participating state.

''(c) With respect to handlers, the commission may bring an action for injunction to enforce the provisions of this compact or the order or regulations adopted thereunder without being compelled to allege or prove that an adequate remedy of law does not exist.

"ARTICLE VII. FINANCE

"§ 18. Finance of start-up and regular costs

''(a) To provide for its start-up costs, the commission may borrow money pursuant to its general power under section six, subdivision (d), paragraph four. In order to finance the costs of administration and enforcement of this compact, including payback of start-up costs, the commission is hereby empowered to collect an assessment from each handler who purchases milk from producers within the region. If imposed, this assessment shall be collected on a monthly basis for up to one year from the date the commission convenes, in an amount not to exceed $.015 per hundredweight of milk purchased from producers during the period of the assessment. The initial assessment may apply to the projected purchases of handlers for the two-month period following the date the commission convenes. In addition, if regulations establishing an over-order price or a compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the commission's ongoing operating expenses.

''(b) The commission shall not pledge the credit of any participating state or of the United States. Notes issued by the commission and all other financial obligations incurred by it, shall be its sole responsibility and no participating state or the United States shall be liable therefor.

"§ 19. Audit and accounts

''(a) The commission shall keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

''(b) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the participating states and by any persons authorized by the commission.

''(c) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any participating state or of the United States.

"ARTICLE VIII. ENTRY INTO FORCE; ADDITIONAL MEMBERS AND WITHDRAWAL

"§ 20. Entry into force; additional members

''The compact shall enter into force effective when enacted into law by any three states of the group of states composed of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia and when the consent of Congress has been obtained.

"§ 21. Withdrawal from compact

''Any participating state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after notice in writing of the withdrawal is given to the commission and the governors of all other participating states. No withdrawal shall affect any liability already incurred by or chargeable to a participating state prior to the time of such withdrawal.

"§ 22. Severability

''If any part or provision of this compact is adjudged invalid by any court, such judgment shall be confined in its operation to the part or provision directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact. In the event Congress consents to this compact subject to conditions, said conditions shall not impair the validity of this compact when said conditions are accepted by three or more compacting states. A compacting state may accept the conditions of Congress by implementation of this compact.''.

SEC. 703. PACIFIC NORTHWEST DAIRY COMPACT.

Congress consents to a Pacific Northwest Dairy Compact proposed for the States of California, Oregon, and Washington, subject to the following conditions:

(1) TEXT.—The text of the Pacific Northwest Dairy Compact shall be identical to the text of the Southern Dairy Compact, except as follows:

(A) References to ''south'', ''southern'', and ''Southern'' shall be changed to ''Pacific Northwest''.

(B) In section 9(b), the reference to ''Atlanta, Georgia'' shall be changed to ''Seattle, Washington''.

(C) In section 20, the reference to ''any three'' and all that follows shall be changed to ''California, Oregon, and Washington.''.

(2) LIMITATION OF MANUFACTURING PRICE REGULATION.—The Dairy Compact Commission established to administer the Pacific Northwest Dairy Compact (referred to in this section as the ''Commission'') may not regulate Class II, Class III, or Class IV milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937 (referred to in this section as a ''Federal milk marketing order'').

(3) EFFECTIVE DATE.—Congressional consent under this section takes effect on the date (not later than 3 year after the date of enactment of this Act) on which the Pacific Northwest Dairy Compact is entered into by the second of the 3 States specified in the matter preceding paragraph (1).

(4) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year in which a price regulation is in effect under the Pacific Northwest Dairy Compact, the Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

(5) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Commission and be compensated for that assistance.

SEC. 704. INTERMOUNTAIN DAIRY COMPACT.

Congress consents to an Intermountain Dairy Compact proposed for the States of Colorado, Nevada, and Utah, subject to the following conditions:

(1) TEXT.—The text of the Intermountain Dairy Compact shall be identical to the text of the Southern Dairy Compact, except as follows:

(A) In section 1, the references to ''southern'' and ''south'' shall be changed to ''Intermountain'' and ''Intermountain region'', respectively.

(B) References to ''Southern'' shall be changed to ''Intermountain ''.

(C) In section 9(b), the reference to ''Atlanta, Georgia'' shall be changed to ''Salt Lake City, Utah''.

(D) In section 20, the reference to ''any three'' and all that follows shall be changed to ''Colorado, Nevada, and Utah.''.

(2) LIMITATION OF MANUFACTURING PRICE REGULATION.—The Dairy Compact Commission established to administer the Intermountain Dairy Compact (referred to in this section as the ''Commission'') may not regulate Class II, Class III, or Class IV milk used for manufacturing purposes or any other milk, other than Class I, or fluid milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937 (referred to in this section as a ''Federal milk marketing order'').

(3) EFFECTIVE DATE.—Congressional consent under this section takes effect on the date (not later than 3 year after the date of enactment of this Act) on which the Intermountain Dairy Compact is entered into by the second of the 3 States specified in the matter preceding paragraph (1).

(4) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year in which a price regulation is in effect under the Intermountain Dairy Compact, the Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the operation of the Compact price regulation during the fiscal year, as determined by the Secretary (in consultation with the Commission) using notice and comment procedures provided in section 553 of title 5, United States Code.

(5) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Commission, the Administrator of the applicable Federal milk marketing order shall provide technical assistance to the Commission and be compensated for that assistance.

SA 1336. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill H.R. 2620, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. RELEASE OF HOME PROGRAM FUNDS.

Notwithstanding the requirement regarding commitment of funds in the first sentence of section 288(b) of the HOME Investment Partnerships Act (42 U.S.C. 12838(b)), the Secretary of Housing and Urban Development (in this section referred to as the ''Secretary'') shall approve the release of funds under that section to the Arkansas Development Finance Authority (in this section referred to as the ''ADFA'') for projects, if—

(1) funds were committed to those projects on or before June 12, 2001;

(2) those projects had not been completed as of June 12, 2001;

(3) the ADFA has fully carried out its responsibilities as described in section 288(a); and

(4) the Secretary has approved the certification that meets the requirements of section 288(c) with respect to those projects.

SA 1337. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill H.R. 2620, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. TORNADO SHELTERS GRANTS.

(a) CDBG ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(A) in paragraph (22), by striking ''and'' at the end;

(B) in paragraph (23), by striking the period at the end and inserting a semicolon;

(C) in paragraph (24), by striking ''and'' at the end;

(D) in paragraph (25), by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following:

''(26) the construction or improvement of tornado- or storm-safe shelters for manufactured housing parks and residents of other manufactured housing, the acquisition of real property for sites for such shelters, and the provision of assistance (including loans and grants) to nonprofit or for-profit entities (including owners of such parks) for such construction, improvement, or acquisition, except that a shelter assisted with amounts made available pursuant to this paragraph—

''(A) shall be located in a neighborhood consisting predominantly of persons of low- and moderate-income; and

''(B) may not be made available exclusively for use of the residents of a particular manufactured housing park or of other manufactured housing, but shall generally serve the residents of the area in which it is located.''.

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to any amounts otherwise made available for grants under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), there is authorized to be appropriated for assistance only for activities pursuant to section 105(a)(26) of that Act, as added by this section, $50,000,000 for fiscal year 2002.

(b) USE OF AMERICAN PRODUCTS.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available for the activities authorized under the amendments made by this section should be American-made.

(2) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available for the activities authorized under the amendments made by this section, the Secretary of Housing and Urban Development, to the greatest extent practicable, shall provide to that entity a notice describing the statement made in paragraph (1) by the Congress.

SA 1338. Ms. MIKULSKI (for herself and Mr. BOND) proposed an amendment to amendment SA 1214 submitted by Ms. MIKULSKI and intended to be proposed to the bill (H.R. 2620) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002; and for other purposes; as follows:

At the end of Section 214, add the following:

Public Housing Authorities in Iowa that are a part of a city government shall not be required to comply with section 2(b) of the United States Housing Act of 1937, as amended, regarding the requirement that a public housing agency shall contain not less than one member who is directly assisted by the public housing authority during fiscal year 2002.

On page 62, between lines 13 and 14, insert the following:

SEC. 218. ENDOWMENT FUNDS.

Of the amounts appropriated in the Consolidated Appropriations Act, 2001 (Public Law 106–554), for the operation of an historical archive at the University of South Carolina, Department of Archives, South Carolina, such funds shall be available to the University of South Carolina to fund an endowment for the operation of an historical archive at the University of South Carolina, Department of Archives, South Carolina, without fiscal year limitation.

At the appropriate place, insert the following:

SEC. ___. HAWAIIAN HOMELANDS.

Section 247 of the National Housing Act (12 U.S.C. 1715z–12) is amended—

(1) in subsection (d), by striking paragraphs (1) and (2) and inserting the following:

''(1) NATIVE HAWAIIAN.—The term 'native Hawaiian' means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands before January 1, 1778, or, in the case of an individual who is awarded an interest in a lease of Hawaiian home lands through transfer or succession, such lower percentage as may be established for such transfer or succession under section 208 or 209 of the Hawaiian Homes Commission Act of 1920 (42 Stat. 111), or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 5).

''(2) HAWAIIAN HOME LANDS.—The term 'Hawaiian home lands' means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act of 1920 (42 Stat. 110), or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 5).''; and

(2) by adding at the end the following:

''(e) CERTIFICATION OF ELIGIBILITY FOR EXISTING LESSEES.—Possession of a lease of Hawaiian home lands issued under section 207(a) of the Hawaiian Homes Commission Act of 1920 (42 Stat. 110), shall be sufficient to certify eligibility to receive a mortgage under this subchapter.''.

At the appropriate place insert the following:

SEC. ___. RELEASE OF HOME PROGRAM FUNDS.

Notwithstanding the requirement regarding commitment of funds in the first sentence of section 288(b) of the HOME Investment Partnerships Act (42 U.S.C. 12838(b)), the Secretary of Housing and Urban Development (in this section referred to as the ''Secretary'') shall approve the release of funds under that section to the Arkansas Development Finance Authority (in this section referred to as the ''ADFA'') for projects, if—

(1) funds were committed to those projects on or before June 12, 2001;

(2) those projects had not been completed as of June 12, 2001;

(3) the ADFA has fully carried out its responsibilities as described in section 288(a); and

(4) the Secretary has approved the certification that meets the requirements of section 288(c) with respect to those projects.

On page 18, after line 20, add the following:

SEC. 110. (a) STUDY OF VISCOSUPPLEMENTATION.—The Secretary of Veterans Affairs shall carry out a study of the benefits and costs of using viscosupplementation as a means of treating degenerative knee diseases in veterans instead of, or as a means of delaying, knee replacement. The study shall consider the benefits and costs of the procedure for veterans and the effect of the use of the procedure on the provision of medical care by the Department of Veterans Affairs.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study carried out under subsection (a). The report shall set forth the results of the study, and include such other information regarding the study, including recommendations as a result of the study, as the Secretary considers appropriate.

(c) FUNDING.—The Secretary shall carry out the study under subsection (a) using amounts available to the Secretary under this title under the heading ''MEDICAL AND PROSTHETIC RESEARCH''.

At the appropriate place insert the following:

SEC. . Notwithstanding any other provision of law with respect to this or any other fiscal year, the Housing Authority of Baltimore City may use the remaining balance of the grant award of $20,000,000 made to such authority for development efforts at Hollander Ridge in Baltimore, Maryland with funds appropriated for fiscal year 1996 under the heading ''Public Housing Demolition, Site Revitalization, and Replacement Housing Grants'' for the rehabilitation of the Claremont Homes project and for the provision of affordable housing in areas within the City of Baltimore either (1) designated by the partial consent decree in Thompson v. HUD as non-impacted census tracts or (2) designated by said authority as either strong neighborhoods experiencing private investment or dynamic growth areas where public and/or private commercial or residential investment is occurring.

At the appropriate place insert the following:

SEC. ____. DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

(a) IN GENERAL.—Any entity that receives funds pursuant to this Act, and discriminates in the sale or rental of housing against any person because the person is, or is perceived to be, a victim of domestic violence, dating violence, sexual assault, or stalking, including because the person has contacted or received assistance or services from law enforcement related to the violence, shall be considered to be discriminating against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with the sale or rental, because of sex under section 804(b) of the Civil Rights Act of 1968 (42 U.S.C. 3604(b)).

(b) DEFINITIONS.—In this section:

(1) COURSE OF CONDUCT.—The term ''course of conduct'' means a course of repeatedly maintaining a visual or physical proximity to a person or conveying verbal or written threats, including threats conveyed through electronic communications, or threats implied by conduct.

(2) DATING VIOLENCE.—The term ''dating violence'' has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(3) DOMESTIC VIOLENCE.—The term ''domestic violence'' has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(4) ELECTRONIC COMMUNICATIONS.—The term ''electronic communications'' includes communications via telephone, mobile phone, computer, e-mail, video recorder, fax machine, telex, or pager.

(5) PARENT; SON OR DAUGHTER.—The terms ''parent'' and ''son or daughter'' have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(6) REPEATEDLY.—The term ''repeatedly'' means on 2 or more occasions.

(7) SEXUAL ASSAULT.—The term ''sexual assault'' has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(8) STALKING.—The term ''stalking'' means engaging in a course of conduct directed at a specific person that would cause a reasonable person to suffer substantial emotional distress or to fear bodily injury, sexual assault, or death to the person, or the person's spouse, parent, or son or daughter, or any other person who regularly resides in the person's household, if the conduct causes the specific person to have such distress or fear.

At the appropriate place, insert:

SEC. . NASA FUNDED PROPULSION TESTING.—NASA shall ensure that rocket propulsion testing funded by this Act is assigned to testing facilities by the Rocket Propulsion Test Management Board in accordance with current baseline roles. Assignments will be made to maximize the benefit of Federal government investments and shall include considerations such as facility cost, capability, availability, and personnel experience.

At the appropriate place in title III, insert the following:

SEC. . EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

From amounts available to the National Science Foundation under this act, a total of $115,000,000 may be available to carry out the Experimental Program to Stimulate Competitive Research (EPSCoR), which includes $25 million in co-funding.

On page 27, line 20, insert after the colon the following: ''*Provided*, That the Secretary of Housing and Urban Development (Secretary) may provide technical and financial assistance to the Turtle Mountain Band of Chippewa for emergency housing, housing assistance, and other assistance to address the mold problem at the Turtle Mountain Indian Reservation; *Provided further*, That the Secretary shall work with the Turtle Mountain Band of Chippewa, the Federal Emergency Management Agency, the Indian Health Service, the Bureau of Indian Affairs, and other appropriate federal agencies in developing a plan to maximize federal resources to address the emergency housing needs and related problems.:''.

At the appropriate place, insert the following:

SEC. . (a) ELIGIBILITY OF NORTH DAKOTA VETERANS CEMETERY FOR AID REGARDING VETERANS CEMETERIES.—The Secretary of Veterans Affairs shall treat the North Dakota Veterans Cemetery, Mandan, North Dakota, as a veterans' cemetery owned by the State of North Dakota for purposes of making grants to States in expanding or improving veterans' cemeteries under section 2408 of title 38, United States Code.

(a) APPLICABILITY.—This section shall take effect on the date of enactment of this Act, and shall apply with respect to grants under section 2408 of title 38, United States Code, that occur on or after that date.

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available in this Act for 'Medical care' appropriations of the Department of Veterans Affairs may be obligated for the realignment of the health care delivery system in Veterans Integrated Service Network 12 (VISN 12) until 60 days after the Secretary of Veterans Affairs certifies that the Department has: (1) consulted with veterans organizations, medical school affiliates, employee representatives, State veterans and health associations, and other interested parties with respect to the realignment plan to be implemented; and (2) made available to the Congress and the public information from the consultations regarding possible impacts on the accessibility of veterans health care services to affected veterans.

On page 34, line 2, strike out ''$60,000,000'' and insert in lieu thereof: ''$70,000,000''.

On page 47, line 20, strike out ''$1,097,257,000'' and insert in lieu thereof: ''$1,087,257,000''.

SEC. 4. ____. SENSE OF THE SENATE CONCERNING THE STATE WATER POLLUTION CONTROL REVOLVING FUND.

(a) FINDINGS.—Congress finds that—

(1) funds from the drinking water State revolving fund established under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) are allocated on the basis of an infrastructure needs survey conducted by the Administrator of the Environmental Protection Agency, in accordance with the Safe Drinking Water Act Amendments of 1996 (Public Law 104–182);

(2) the needs-based allocation of that fund was enacted by Congress and is seen as a fair and reasonable basis for allocation of funds under a revolving fund of this type;

(3) the Administrator of the Environmental Protection Agency also conducts a wastewater infrastructure needs survey that should serve as the basis for allocation of the State water pollution control revolving fund established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.);

(4) the current allocation formula for the State water pollution control revolving fund is so inequitable that it results in some States receiving funding in an amount up to 7 times as much as States with approximately similar populations, in terms of percentage of need met; and

(5) the Senate has proven unwilling to address that inequity in an appropriations bill, citing the necessity of addressing new allocation formulas only in authorization bills.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Environment and Public Works of the Senate should be prepared to enact authorizing legislation (including an equitable, needs-based formula) for the State water pollution control revolving fund as soon as practicable after the Senate returns from recess in September.

SA 1339. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, strike all on lines 12 through 14.

SA 1340. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike section 702.

SA 1341. Mr. FEINGOLD submitted an amendment intended to be proposed

by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike section 703.

SA 1342. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

Strike section 704.

SA 1343. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246 to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, strike ''(1),''.

SA 1344. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, strike '', (3), and (7)'' and insert ''and (3)''.

SA 1345. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 5, strike ''New York''.

SA 1346. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 5, strike ''Pennsylvania''.

SA 1347. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 3, line 4, strike ''Kentucky''.

SA 1348. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246 to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 3, line 5, strike ''Oklahoma''.

SA 1349. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 3, line 6, strike ''Virginia''.

SA 1350. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246 to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 3, line 22, strike ''Texas''.

SA 1351. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 35, line 17, strike ''California''.

SA 1352. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 35, line 17, strike ''Oregon''.

SA 1353. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 35, line 18, strike ''Washington''.

SA 1354. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 3, 2001.'''

SA 1355. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 4, 2001.'''

SA 1356. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 5, 2001.'''

SA 1357. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 6, 2001.'''

SA 1358. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 7, 2001.'''

SA 1359. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 8, 2001.'''

SA 1360. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 9, 2001.'''

SA 1361. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 10, 2001.'''

SA 1362. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 11, 2001.'''

SA 1363. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 12, 2001.'''

SA 1364. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 13, 2001.'''

SA 1365. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 14, 2001.'''

SA 1366. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 15, 2001.'''

SA 1367. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 16, 2001.'''

SA 1368. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 17, 2001.'''

SA 1369. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 18, 2001.'''

SA 1370. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 18, 2001.'''

SA 1371. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 20, 2001.'''

SA 1372. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 21, 2001.'''

SA 1373. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 22, 2001.'''

SA 1374. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 23, 2001.'''

SA 1375. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 24, 2001.'''

SA 1376. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 25, 2001.'''

SA 1377. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 26, 2001.'''

SA 1378. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 27, 2001.'''

SA 1379. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 28, 2001.'''

SA 1380. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 29, 2001.'''

SA 1381. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 30, 2001.'''

SA 1382. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on August 31, 2001.'''

SA 1383. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 1, 2001.'''

SA 1384. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 2, 2001.'''

SA 1385. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 3, 2001.'''

SA 1386. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 4, 2001.'''

SA 1387. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 5, 2001.'''

SA 1388. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 7, 2001.'''

SA 1389. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 8, 2001.'''

SA 1390. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 9, 2001.'''

SA 1391. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 11, 2001.'''

SA 1392. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 12, 2001.'''

SA 1393. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 13, 2001.'''

SA 1394. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 14, 2001.'''

SA 1395. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 15, 2001.'''

SA 1396. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 16, 2001.'''

SA 1397. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 17, 2001.'''

SA 1398. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 18, 2001.'''

SA 1399. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 19, 2001.'''

SA 1400. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 20, 2001.'''

SA 1401. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 21, 2001.'''

SA 1402. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 22, 2001.'''

SA 1403. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 23, 2001.'''

SA 1404. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 24, 2001.'''

SA 1405. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 25, 2001.'''

SA 1406. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 26, 2001.'''

SA 1407. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 27, 2001.'''

SA 1408. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 28, 2001.'''

SA 1409. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 29, 2001.'''

SA 1410. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 2, line 7, insert before the semicolon the following: '', and inserting in lieu of paragraph (3) the following:

'''(3) DURATION.—

'''Consent for the Northeast Interstate Dairy Compact shall terminate on September 30, 2001.'''

SA 1411. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 30, 2001.''

SA 1412. Mr. FEINGOLD submitted an amendment intended to be proposed

by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 29, 2001.''

SA 1413. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 28, 2001.''

SA 1414. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 27, 2001.''

SA 1415. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 26, 2001.''

SA 1416. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 25, 2001.''

SA 1417. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 24, 2001.''

SA 1418. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 23, 2001.''

SA 1419. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 22, 2001.''

SA 1420. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 21, 2001.''

SA 1421. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 20, 2001.''

SA 1422. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 19, 2001.''

SA 1423. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 18, 2001.''

SA 1424. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 17, 2001.''

SA 1425. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 16, 2001.''

SA 1426. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 15, 2001.''

SA 1427. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 14, 2001.''

SA 1428. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 13, 2001.''

SA 1429. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 12, 2001.''

SA 1430. Mr. FEINGOLD submitted an amendment intended to be proposed

by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 11, 2001.''

SA 1431. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 10, 2001.''

SA 1432. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 9, 2001.''

SA 1433. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 8, 2001.''

SA 1434. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 7, 2001.''

SA 1435. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 6, 2001.''

SA 1436. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 5, 2001.''

SA 1437. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 4, 2001.''

SA 1438. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 3, 2001.''

SA 1439. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 2, 2001.''

SA 1440. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on September 1, 2001.''

SA 1441. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 31, 2001.''

SA 1442. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 30, 2001.''

SA 1443. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 29, 2001.''

SA 1444. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 28, 2001.''

SA 1445. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 27, 2001.''

SA 1446. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 26, 2001.''

SA 1447. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 25, 2001.''

SA 1448. Mr. FEINGOLD submitted an amendment intended to be proposed

by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 24, 2001.''

SA 1449. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 23, 2001.''

SA 1450. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 22, 2001.''

SA 1451. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 21, 2001.''

SA 1452. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 20, 2001.''

SA 1453. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 19, 2001.''

SA 1454. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 18, 2001.''

SA 1455. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 17, 2001.''

SA 1456. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 16, 2001.''

SA 1457. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 15, 2001.''

SA 1458. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 14, 2001.''

SA 1459. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 13, 2001.''

SA 1460. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 12, 2001.''

SA 1461. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 11, 2001.''

SA 1462. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 10, 2001.''

SA 1463. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 9, 2001.''

SA 1464. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 8, 2001.''

SA 1465. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 7, 2001.''

SA 1466. Mr. FEINGOLD submitted an amendment intended to be proposed

by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 6, 2001.''

SA 1467. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 5, 2001.''

SA 1468. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 4, 2001.''

SA 1469. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, insert the following:

''Notwithstanding any other provision of this act or any other act, consent for all interstate dairy compacts under this act shall terminate on August 3, 2001.''

SA 1470. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers; which was ordered to lie on the table; as follows:

On page 12, between lines 3 and 4, insert the following:

(c) DAIRY MARKET MITIGATION PAYMENTS.—

(1) IN GENERAL.—The Secretary shall use such funds of the Commodity Credit Corporation as are necessary to make a payment, in an amount equal to $5,000, to the producers on each farm that, as of the date of enactment of this Act, is engaged in the commercial production of milk in the United States, as determined by the Secretary.

(2) COMPACT ADJUSTMENT PAYMENTS.—The Secretary shall use such funds of the Commodity Credit Corporation as are necessary to make a payment, in an amount equal to $2,500, to the producers on each farm that, during the 1-year period ending on the date of enactment of this Act, was engaged in the commercial production of milk in an area covered by the Northeast Interstate Dairy Compact described in section 147 of the Agricultural Market Transition Act (7 U.S.C. 7256), as determined by the Secretary.

(3) STUDY.—

(A) IN GENERAL.—The Secretary shall conduct a study of—

(i) the effectiveness of Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937; and

(ii) methods of strengthening enforcement of, and improving compliance with, Federal milk marketing orders.

(B) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study, including any recommendations for strengthening enforcement of, and improving compliance with, Federal milk marketing orders.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, August 2, 2001. The purpose of this Hearing will be to discuss rural economic development issues for the next Federal farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, August 2, 2001, at 9:30 a.m., on pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation and the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Thursday, August 2, at 2:30 p.m., to conduct a joint oversight hearing. The committees will receive testimony on the National Academy of Sciences report on fuel economy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, August 2, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this business meeting is to continue consideration of energy policy legislation, if necessary.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, August 2, at 10 a.m., to conduct a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open executive session during the session of the Senate on Thursday, August 2, 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, August 2, 2001, at 9:30 a.m., for a business meeting to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on the nomination of John Lester Henshaw, of Missouri, to be an Assistant Secretary of Labor, Occupational Safety and Health Administration during the session of the Senate on Thursday, August 2, 2001, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, August 2, 2001, at 10 a.m., in Dirksen Building room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on August 2, 2001, at 9 a.m., to hold a markup to consider the following legislation: S. 565, the ''Equal Protection of Voting Rights Act of 2001''; an original resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library; S.J. Res. 19 and 20, providing for the reappointment of Anne d'Harnoncourt and the appointment of Roger W. Sant, respectively, as Smithsonian Institution citizen regents; and other legislative and administrative matters ready for consideration at the time of the markup.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet

during the session of the Senate on Thursday, August 2, 2001, for a hearing on the nominations of John A. Gauss to be Assistant Secretary of Veterans Affairs for Information and Technology, and Claude M. Kicklighter to be Assistant Secretary of Veterans Affairs for Policy and Planning, followed by a markup on pending legislation.

Committee Print of S. 739, the proposed ''Heather French Henry Homeless Veterans Assistance Act.''

Committee Print of S. 1088, the proposed ''Veterans' Benefits Improvement Act of 2001.''

Committee Print of S. 1090, the proposed ''Veterans' Compensation Cost-of-Living Adjustment Act of 2001.''

Committee Print of S. 1188, the proposed ''Department of Veterans Affairs Medical Programs Enhancement Act of 2001.''

The meeting will take place in room 418 of the Russell Senate Office Building at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs be authorized to meet during the session of the Senate on Thursday, August 2, 2001, to conduct a hearing on ''Comprehensive Deposit Insurance Reform: Responses to the FDIC Recommendations For Reform.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, August 2, 2001, at 2:15 p.m., in open session to receive testimony on installation programs, military construction programs, and family housing programs, in review of the Defense authorization request for fiscal year 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mrs. LINCOLN. Madame President, I ask unanimous consent that the privilege of the floor be granted to one of my staff members, Matt Fryar.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

On August 1, 2001, the Senate amended and passed H.R. 2299, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2299) entitled ''An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, $67,349,000: Provided, That not to exceed $60,000 shall be for allocation within the Department for official reception and representation expenses as the Secretary may determine: Provided further, That notwithstanding any other provision of law, there may be credited to this appropriation up to $2,500,000 in funds received in user fees.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $8,500,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, development activities, and making grants, to remain available until expended, $15,592,000.

TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

Necessary expenses for operating costs and capital outlays of the Transportation Administrative Service Center, not to exceed $125,323,000, shall be paid from appropriations made available to the Department of Transportation: Provided, That such services shall be provided on a competitive basis to entities within the Department of Transportation: Provided further, That the above limitation on operating expenses shall not apply to non-DOT entities: Provided further, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Transportation Administrative Service Center without the approval of the agency modal administrator: Provided further, That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of guaranteed loans, $500,000, as authorized by 49 U.S.C. 332: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $18,367,000. In addition, for administrative expenses to carry out the guaranteed loan program, $400,000.

MINORITY BUSINESS OUTREACH

For necessary expenses of Minority Business Resource Center outreach activities, $3,000,000, of which $2,635,000 shall remain available until September 30, 2003: Provided, That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed five passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare, $3,427,588,000, of which $695,000,000 shall be available for defense-related activities including drug interdiction; and of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund: Provided, That none of the funds appropriated in this or any other Act shall be available for pay for administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation: Provided further, That of the amounts made available under this heading, not less than $13,541,000 shall be used solely to increase staffing at Search and Rescue stations, surf stations and command centers, increase the training and experience level of individuals serving in said stations through targeted retention efforts, revised personnel policies and expanded training programs, and to modernize and improve the quantity and quality of personal safety equipment, including survival suits, for personnel assigned to said stations: Provided further, That the Department of Transportation Inspector General shall audit and certify to the House and Senate Committees on Appropriations that the funding described in the preceding proviso is being used solely to supplement and not supplant the Coast Guard's level of effort in this area in fiscal year 2001.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $669,323,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund; of which $79,640,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment, to remain available until September 30, 2006; $12,500,000 shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 2004; $97,921,000 shall be available for other equipment, to remain available until September 30, 2004; $88,862,000 shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 2004; $65,200,000 shall be available for personnel compensation and benefits and related costs, to remain available until September 30, 2003; and $325,200,000 for the Integrated Deepwater Systems program, to remain available until September 30, 2006: Provided, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and made available only for the National Distress and Response System Modernization program, to remain available for obligation until September 30, 2004: Provided further, That none of the funds provided under this heading may be obligated or expended for the Integrated Deepwater Systems (IDS) system integration contract until the Secretary or Deputy Secretary of Transportation and the Director, Office of Management and Budget jointly certify to the House and Senate Committees on Appropriations that funding for the IDS program for fiscal years 2003 through 2007, funding for the National Distress and Response System Modernization program to allow for full deployment of said system by 2006, and funding for other essential Search and Rescue procurements, are fully funded in the Coast Guard Capital Investment Plan and within the Office of Management and Budget's budgetary projections for the Coast Guard for those years: Provided further, That none of the funds provided under this heading may be obligated or expended for the Integrated Deepwater Systems (IDS) integration contract until the Secretary or Deputy Secretary of Transportation, and the

Director, Office of Management and Budget jointly approve a contingency procurement strategy for the recapitalization of assets and capabilities envisioned in the IDS: Provided further, That upon initial submission to the Congress of the fiscal year 2003 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the United States Coast Guard which includes funding for each budget line item for fiscal years 2003 through 2007, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget: Provided further, That the amount herein appropriated shall be reduced by $100,000 per day for each day after initial submission of the President's budget that the plan has not been submitted to the Congress: Provided further, That the Director, Office of Management and Budget shall submit the budget request for the IDS integration contract delineating sub-headings as follows: systems integrator, ship construction, aircraft, equipment, and communications, providing specific assets and costs under each sub-heading.

(RESCISSIONS)

Of the amounts made available under this heading in Public Laws 105–277, 106–69, and 106–346, $8,700,000 are rescinded.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $16,927,000, to remain available until expended.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $15,466,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses under the National Defense Authorization Act, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), $876,346,000.

RESERVE TRAINING

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses of the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, $83,194,000: Provided, That no more than $25,800,000 of funds made available under this heading may be transferred to Coast Guard ''Operating expenses'' or otherwise made available to reimburse the Coast Guard for financial support of the Coast Guard Reserve: Provided further, That none of the funds in this Act may be used by the Coast Guard to assess direct charges on the Coast Guard Reserves for items or activities which were not so charged during fiscal year 1997.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $21,722,000, to remain available until expended, of which $3,492,000 shall be derived from the Oil Spill Liability Trust Fund: Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities, the operation (including leasing) and maintenance of aircraft, subsidizing the cost of aeronautical charts and maps sold to the public, lease or purchase of passenger motor vehicles for replacement only, in addition to amounts made available by Public Law 104–264, $6,916,000,000, of which $5,777,219,000 shall be derived from the Airport and Airway Trust Fund: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: Provided further, That of the funds appropriated under this heading, not less than $6,000,000 shall be for the contract tower cost-sharing program: Provided further, That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: Provided further, That none of the funds in this Act shall be available for new applicants for the second career training program: Provided further, That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: Provided further, That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this heading; to be derived from the Airport and Airway Trust Fund, $2,914,000,000, of which $2,536,900,000 shall remain available until September 30, 2004, and of which $377,100,000 shall remain available until September 30, 2002: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: Provided further, That upon initial submission to the Congress of the fiscal year 2003 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the Federal Aviation Administration which includes funding for each budget line item for fiscal years 2003 through 2007, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget: Provided further, That the amount herein appropriated shall be reduced by $100,000 per day for each day after initial submission of the President's budget that the plan has not been submitted to the Congress.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, $195,808,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2004: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations; for administration of such programs and of programs under section 40117 of such title; and for inspection activities and administration of airport safety programs, including those related to airport operating certificates under section 44706 of title 49, United States Code, $1,800,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: Provided, That none of the funds under this heading shall be available for the planning or execution of programs the obligations for which are in excess of $3,300,000,000 in fiscal year 2002, notwithstanding section 47117(h) of title 49, United States Code: Provided further, That notwithstanding any other provision of law, not more than $64,597,000 of funds limited under this heading shall be obligated for administration: Provided further, That of the funds under this heading, not more than $10,000,000 may be available to carry out the Essential Air Service program under subchapter II of chapter 417 of title 49 U.S.C., pursuant to section 41742(a) of such title.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the unobligated balances authorized under 49 U.S.C. 48103, as amended, $301,720,000 are rescinded.

SMALL COMMUNITY AIR SERVICE DEVELOPMENT

For necessary expenses to carry out the Small Community Air Service Development Pilot Program under section 41743 of title 49 U.S.C., $20,000,000, to remain available until expended.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to 49 U.S.C. 44307, and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program for aviation insurance activities under chapter 443 of title 49, United States Code.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Necessary expenses for administration and operation of the Federal Highway Administration, not to exceed $316,521,000, of which $25,000,000 shall be available to the National Scenic Byways program, $500,000 shall be for the Kalispell, Montana Bypass Project, and the remainder shall be paid in accordance with law from

appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: Provided, That of the funds available under section 104(a) of title 23, United States Code: $7,500,000 shall be available for ''Child Passenger Protection Education Grants'' under section 2003(b) of Public Law 105–178, as amended; $7,000,000 shall be available for motor carrier safety research; $375,000 shall be available for a traffic project for Auburn University; and $11,000,000 shall be available for the motor carrier crash data improvement program, the commercial driver's license improvement program, and the motor carrier 24-hour telephone hotline.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of $31,919,103,000 for Federal-aid highways and highway safety construction programs for fiscal year 2002: Provided, That within the $31,919,103,000 obligation limitation on Federal-aid highways and highway safety construction programs, not more than $447,500,000 shall be available for the implementation or execution of programs for transportation research (sections 502, 503, 504, 506, 507, and 508 of title 23, United States Code, as amended; section 5505 of title 49, United States Code, as amended; and sections 5112 and 5204–5209 of Public Law 105–178) for fiscal year 2002: Provided further, That within the $225,000,000 obligation limitation on Intelligent Transportation Systems, the following sums shall be made available for Intelligent Transportation System projects that are designed to achieve the goals and purposes set forth in section 5203 of the Intelligent Transportation Systems Act of 1998 (subtitle C of title V of Public Law 105–178; 112 Stat. 453; 23 U.S.C. 502 note) in the following specified areas:

Indiana Statewide, $1,500,000;
Southeast Corridor, Colorado, $9,900,000;
Jackson Metropolitan, Mississippi, $1,000,000;
Harrison County, Mississippi, $1,000,000;
Indiana, SAFE–T, $3,000,000;
Maine Statewide (Rural), $1,000,000;
Atlanta Metropolitan GRTA, Georgia, $1,000,000;
Moscow, Idaho, $2,000,000;
Washington Metropolitan Region, $4,000,000;
Travel Network, South Dakota, $3,200,000;
Central Ohio, $3,000,000;
Delaware Statewide, $4,000,000;
Santa Teresa, New Mexico, $1,500,000;
Fargo, North Dakota, $1,500,000;
Illinois Statewide, $3,750,000;
Forsyth, Guilford Counties, North Carolina, $2,000,000;
Durham, Wake Counties, North Carolina, $1,000,000;
Chattanooga, Tennessee, $2,380,000;
Nebraska Statewide, $5,000,000;
South Carolina Statewide, $7,000,000;
Texas Statewide, $4,000,000;
Hawaii Statewide, $1,750,000;
Wisconsin Statewide, $2,000,000;
Arizona Statewide EMS, $1,000,000;
Vermont Statewide (Rural), $1,500,000;
Rutland, Vermont, $1,200,000;
Detroit, Michigan (Airport), $4,500,000;
Macomb, Michigan (border crossing), $2,000,000;
Sacramento, California, $6,000,000;
Lexington, Kentucky, $1,500,000;
Maryland Statewide, $2,000,000;
Clark County, Washington, $1,000,000;
Washington Statewide, $6,000,000;
Southern Nevada (bus), $2,200,000;
Santa Anita, California, $1,000,000;
Las Vegas, Nevada, $3,000,000;
North Greenbush, New York, $2,000,000;
New York, New Jersey, Connecticut (TRANSCOM), $7,000,000;
Crash Notification, Alabama, $2,500,000;
Philadelphia, Pennsylvania (Drexel), $3,000,000;
Pennsylvania Statewide (Turnpike), $1,000,000;
Alaska Statewide, $3,000,000;
St. Louis, Missouri, $1,500,000;
Wisconsin Communications Network, $620,000: Provided further, That, notwithstanding any other provision of law, funds authorized under section 110 of title 23, United States Code, for fiscal year 2002 shall be apportioned to the States in accordance with the distribution set forth in section 110(b)(4)(A) and (B) of title 23, United States Code, except that before such apportionments are made, $35,565,651 shall be set aside for the program authorized under section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century, as amended, and section 204 of title 23, United States Code; $31,815,091 shall be set aside for the program authorized under section 1101(a)(8)(B) of the Transportation Equity Act for the 21st Century, as amended, and section 204 of title 23, United States Code; $21,339,391 shall be set aside for the program authorized under section 1101(a)(8)(C) of the Transportation Equity Act for the 21st Century, as amended, and section 204 of title 23, United States Code; $2,586,593 shall be set aside for the program authorized under section 1101(a)(8)(D) of the Transportation Equity Act for the 21st Century, as amended, and section 204 of title 23, United States Code; $4,989,367 shall be set aside for the program authorized under section 129(c) of title 23, United States Code, and section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991, as amended; $230,681,878 shall be set aside for the programs authorized under sections 1118 and 1119 of the Transportation Equity Act for the 21st Century, as amended; $3,348,128 shall be set aside for the program authorized under section 1101(a)(11) of the Transportation Equity Act for the 21st Century, as amended and section 162 of title 23, United States Code; $13,129,913 shall be set aside for the program authorized under section 118(c) of title 23, United States Code; $13,129,913 shall be set aside for the program authorized under section 144(g) of title 23, United States Code; $55,000,000 shall be set aside for the program authorized under section 1221 of the Transportation Equity Act for the 21st Century, as amended; $100,000,000 shall be set aside to carry out a matching grant program to promote access to alternative methods of transportation; $45,000,000 shall be set aside to carry out a pilot program that promotes innovative transportation solutions for people with disabilities; and $23,896,000 shall be set aside and transferred to the Federal Motor Carrier Safety Administration as authorized by section 102 of Public Law 106–159: Provided further, That, of the funds to be apportioned to each State under section 110 for fiscal year 2002, the Secretary shall ensure that such funds are apportioned for the programs authorized under sections 1101(a)(1), 1101(a)(2), 1101(a)(3), 1101(a)(4), and 1101(a)(5) of the Transportation Equity Act for the 21st Century, as amended, in the same ratio that each State is apportioned funds for such programs in fiscal year 2002 but for this section.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursement for sums expended pursuant to the provisions of 23 U.S.C. 308, $30,000,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

For necessary expenses for the Appalachian Development Highway System as authorized under Section 1069(y) of Public Law 102–240, as amended, $350,000,000, to remain available until expended.

STATE INFRASTRUCTURE BANKS

(RESCISSION)

Of the funds made available for State Infrastructure Banks in Public Law 104–205, $5,750,000 are rescinded.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

MOTOR CARRIER SAFETY

LIMITATION ON ADMINISTRATIVE EXPENSES

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for administration of motor carrier safety programs and motor carrier safety research, pursuant to section 104(a)(1)(B) of title 23, United States Code, not to exceed $105,000,000 shall be paid in accordance with law from appropriations made available by this Act and from any available take-down balances to the Federal Motor Carrier Safety Administration, together with advances and reimbursements received by the Federal Motor Carrier Safety Administration, of which $5,000,000 is for the motor carrier safety operations program: Provided, That such amounts shall be available to carry out the functions and operations of the Federal Motor Carrier Safety Administration.

(RESCISSION)

Of the unobligated balances authorized under 23 U.S.C. 104(a)(1)(B), $6,665,342 are rescinded.

NATIONAL MOTOR CARRIER SAFETY PROGRAM

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(INCLUDING RESCISSION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred in carrying out 49 U.S.C. 31102, 31106 and 31309, $204,837,000, to be derived from the Highway Trust Fund and to remain available until expended: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $183,059,000 for ''Motor Carrier Safety Grants'', and ''Information Systems'': Provided further, That notwithstanding any other provision of law, of the $22,837,000 provided under 23 U.S.C. 110, $18,000,000 shall be for border State grants and $4,837,000 shall be for State commercial driver's license program improvements.

Of the unobligated balances authorized under 49 U.S.C. 31102, 31106, and 31309, $2,332,546 are rescinded.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary, with respect to traffic and highway safety under chapter 301 of title 49, United States Code, and part C of subtitle VI of title 49, United States Code, $132,000,000 of which $96,360,000 shall remain available until September 30, 2004: Provided, That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect.

OPERATIONS AND RESEARCH

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(INCLUDING RESCISSION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 403, to remain available until expended, $72,000,000, to be

derived from the Highway Trust Fund: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2002, are in excess of $72,000,000 for programs authorized under 23 U.S.C. 403.

Of the unobligated balances authorized under 23 U.S.C. 403, $1,516,000 are rescinded.

NATIONAL DRIVER REGISTER

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to the National Driver Register under chapter 303 of title 49, United States Code, $2,000,000, to be derived from the Highway Trust Fund, and to remain available until expended.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(INCLUDING RESCISSION OF CONTRACT AUTHORIZATION)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 405, 410, and 411 to remain available until expended, $223,000,000, to be derived from the Highway Trust Fund: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2002, are in excess of $223,000,000 for programs authorized under 23 U.S.C. 402, 405, 410, and 411 of which $160,000,000 shall be for ''Highway Safety Programs'' under 23 U.S.C. 402, $15,000,000 shall be for ''Occupant Protection Incentive Grants'' under 23 U.S.C. 405, $38,000,000 shall be for ''Alcohol-Impaired Driving Countermeasures Grants'' under 23 U.S.C. 410, and $10,000,000 shall be for the ''State Highway Safety Data Grants'' under 23 U.S.C. 411: Provided further, That none of these funds shall be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: Provided further, That not to exceed $8,000,000 of the funds made available for section 402, not to exceed $750,000 of the funds made available for section 405, not to exceed $1,900,000 of the funds made available for section 410, and not to exceed $500,000 of the funds made available for section 411 shall be available to NHTSA for administering highway safety grants under chapter 4 of title 23, United States Code: Provided further, That not to exceed $500,000 of the funds made available for section 410 ''Alcohol-Impaired Driving Countermeasures Grants'' shall be available for technical assistance to the States.

Of the unobligated balances authorized under 23 U.S.C. 402, 405, 410, and 411, $468,600 are rescinded.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $111,357,000, of which $6,159,000 shall remain available until expended: Provided, That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: Provided further, That such additional sums as may be necessary for payment on the first deed of trust may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $30,325,000, to remain available until expended.

RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: Provided, That pursuant to section 502 of such Act, as amended, no new direct loans or loan guarantee commitments shall be made using Federal funds for the credit risk premium during fiscal year 2002.

NEXT GENERATION HIGH-SPEED RAIL

For necessary expenses for the Next Generation High-Speed Rail program as authorized under 49 U.S.C. 26101 and 26102, $40,000,000, to remain available until expended.

ALASKA RAILROAD REHABILITATION

To enable the Secretary of Transportation to make grants to the Alaska Railroad, $20,000,000 shall be for capital rehabilitation and improvements benefiting its passenger operations, to remain available until expended.

NATIONAL RAIL DEVELOPMENT AND REHABILITATION

To enable the Secretary to make grants and enter into contracts for the development and rehabilitation of freight and passenger rail infrastructure, $12,000,000, to remain available until expended.

CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a), $521,476,000, to remain available until expended.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, $13,400,000: Provided, That no more than $67,000,000 of budget authority shall be available for these purposes: Provided further, That of the funds in this Act available for execution of contracts under section 5327(c) of title 49, United States Code, $2,000,000 shall be reimbursed to the Department of Transportation's Office of Inspector General for costs associated with audits and investigations of transit-related issues, including reviews of new fixed guideway systems: Provided further, That not to exceed $2,600,000 for the National Transit Database shall remain available until expended.

FORMULA GRANTS

For necessary expenses to carry out 49 U.S.C. 5307, 5308, 5310, 5311, 5327, and section 3038 of Public Law 105–178, $718,400,000, to remain available until expended: Provided, That no more than $3,592,000,000 of budget authority shall be available for these purposes: Provided further, That, notwithstanding any other provision of law, of the funds provided under this heading, $5,000,000 shall be available for grants for the costs of planning, delivery, and temporary use of transit vehicles for special transportation needs and construction of temporary transportation facilities for the VIII Paralympiad for the Disabled, to be held in Salt Lake City, Utah: Provided further, That in allocating the funds designated in the preceding proviso, the Secretary shall make grants only to the Utah Department of Transportation, and such grants shall not be subject to any local share requirement or limitation on operating assistance under this Act or the Federal Transit Act, as amended: Provided further, That notwithstanding section 3008 of Public Law 105–78, $3,350,000 of the funds to carry out 49 U.S.C. 5308 shall be transferred to and merged with funding provided for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities under ''Federal Transit Administration, Capital investment grants''.

UNIVERSITY TRANSPORTATION RESEARCH

For necessary expenses to carry out 49 U.S.C. 5505, $1,200,000, to remain available until expended: Provided, That no more than $6,000,000 of budget authority shall be available for these purposes.

TRANSIT PLANNING AND RESEARCH

For necessary expenses to carry out 49 U.S.C. 5303, 5304, 5305, 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, $23,000,000, to remain available until expended: Provided, That no more than $116,000,000 of budget authority shall be available for these purposes: Provided further, That $5,250,000 is available to provide rural transportation assistance (49 U.S.C. 5311(b)(2)), $4,000,000 is available to carry out programs under the National Transit Institute (49 U.S.C. 5315), $8,250,000 is available to carry out transit cooperative research programs (49 U.S.C. 5313(a)), $55,422,400 is available for metropolitan planning (49 U.S.C. 5303, 5304, and 5305), $11,577,600 is available for State planning (49 U.S.C. 5313(b)); and $31,500,000 is available for the national planning and research program (49 U.S.C. 5314).

TRUST FUND SHARE OF EXPENSES

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out 49 U.S.C. 5303–5308, 5310–5315, 5317(b), 5322, 5327, 5334, 5505, and sections 3037 and 3038 of Public Law 105–178, $5,397,800,000, to remain available until expended, and to be derived from the Mass Transit Account of the Highway Trust Fund: Provided, That $2,873,600,000 shall be paid to the Federal Transit Administration's formula grants account: Provided further, That $93,000,000 shall be paid to the Federal Transit Administration's transit planning and research account: Provided further, That $53,600,000 shall be paid to the Federal Transit Administration's administrative expenses account: Provided further, That $4,800,000 shall be paid to the Federal Transit Administration's university transportation research account: Provided further, That $100,000,000 shall be paid to the Federal Transit Administration's job access and reverse commute grants program: Provided further, That $2,272,800,000 shall be paid to the Federal Transit Administration's capital investment grants account.

CAPITAL INVESTMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out 49 U.S.C. 5308, 5309, 5318, and 5327, $668,200,000, to remain available until expended: Provided, That no more than $2,941,000,000 of budget authority shall be available for these purposes: Provided further, That notwithstanding any other provision of law, there shall be available for fixed guideway modernization, $1,136,400,000; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, $568,200,000 together with $3,350,000 transferred from ''Federal Transit Administration, Formula grants'' to allow the Secretary to make a grant of $350,000 to Alameda Contra Costa County Transit District, California and a grant of $6,000,000 for Central Oklahoma Transit facilities and there shall be available for new fixed

guideway systems $1,236,400,000, to be available for transit new starts; to be available as follows:

$192,492 for Denver, Colorado, Southwest corridor light rail transit project;

$3,000,000 for Northeast Indianapolis downtown corridor project;

$3,000,000 for Northern Indiana South Shore commuter rail project;

$15,000,000 for Salt Lake City, Utah, CBD to University light rail transit project;

$6,000,000 for Salt Lake City, Utah, University Medical Center light rail transit extension project;

$2,000,000 for Salt Lake City, Utah, Ogden-Provo commuter rail project;

$4,000,000 for Wilmington, Delaware, Transit Corridor project;

$500,000 for Yosemite Area Regional Transportation System project;

$60,000,000 for Denver, Colorado, Southeast corridor light rail transit project;

$10,000,000 for Kansas City, Missouri, Central Corridor Light Rail transit project;

$25,000,000 for Atlanta, Georgia, MARTA extension project;

$2,000,000 for Maine Marine Highway development project;

$151,069,771 for New Jersey, Hudson-Bergen light rail transit project;

$20,000,000 for Newark-Elizabeth, New Jersey, rail link project;

$3,000,000 for New Jersey Urban Core Newark Penn Station improvements project;

$7,000,000 for Cleveland, Ohio, Euclid corridor extension project;

$2,000,000 for Albuquerque, New Mexico, light rail project;

$35,000,000 for Chicago, Illinois, Douglas branch reconstruction project;

$5,000,000 for Chicago, Illinois, Ravenswood line extension project;

$24,223,268 for St. Louis, Missouri, Metrolink St. Clair extension project;

$30,000,000 for Chicago, Illinois, Metra North central, South West, Union Pacific commuter project;

$10,000,000 for Charlotte, North Carolina, South corridor light rail transit project;

$9,000,000 for Raleigh, North Carolina, Triangle transit project;

$65,000,000 for San Diego, California, Mission Valley East light rail transit extension project;

$10,000,000 for Los Angeles, California, East Side corridor light rail transit project;

$80,605,331 for San Francisco, California, BART extension project;

$9,289,557 for Los Angeles, California, North Hollywood extension project;

$5,000,000 for Stockton, California, Altamont commuter rail project;

$113,336 for San Jose, California, Tasman West, light rail transit project;

$6,000,000 for Nashville, Tennessee, Commuter rail project;

$19,170,000 for Memphis, Tennessee, Medical Center rail extension project;

$150,000 for Des Moines, Iowa, DSM bus feasibility project;

$100,000 for Macro Vision Pioneer, Iowa, light rail feasibility project;

$3,500,000 for Sioux City, Iowa, light rail project;

$300,000 for Dubuque, Iowa, light rail feasibility project;

$2,000,000 for Charleston, South Carolina, Monobeam project;

$5,000,000 for Anderson County, South Carolina, transit system project;

$70,000,000 for Dallas, Texas, North central light rail transit extension project;

$25,000,000 for Houston, Texas, Metro advanced transit plan project;

$4,000,000 for Fort Worth, Texas, Trinity railway express project;

$12,000,000 for Honolulu, Hawaii, Bus rapid transit project;

$10,631,245 for Boston, Massachusetts, South Boston Piers transitway project;

$1,000,000 for Boston, Massachusetts, Urban ring transit project;

$4,000,000 for Kenosha-Racine, Milwaukee Wisconsin, commuter rail extension project;

$23,000,000 for New Orleans, Louisiana, Canal Street car line project;

$7,000,000 for New Orleans, Louisiana, Airport CBD commuter rail project;

$3,000,000 for Burlington, Vermont, Burlington to Middlebury rail line project;

$1,000,000 for Detroit, Michigan, light rail airport link project;

$1,500,000 for Grand Rapids, Michigan, ITP metro area, major corridor project;

$500,000 for Iowa, Metrolink light rail feasibility project;

$6,000,000 for Fairfield, Connecticut, Commuter rail project;

$4,000,000 for Stamford, Connecticut, Urban transitway project;

$3,000,000 for Little Rock, Arkansas, River rail project;

$14,000,000 for Maryland, MARC commuter rail improvements projects;

$3,000,000 for Baltimore, Maryland rail transit project;

$60,000,000 for Largo, Maryland, metrorail extension project;

$18,110,000 for Baltimore, Maryland, central light rail transit double track project;

$24,500,000 for Puget Sound, Washington, Sounder commuter rail project;

$30,000,000 for Fort Lauderdale, Florida, Tri-County commuter rail project;

$8,000,000 for Pawtucket-TF Green, Rhode Island, commuter rail and maintenance facility project;

$1,500,000 for Johnson County, Kansas, commuter rail project;

$20,000,000 for Long Island Railroad, New York, east side access project;

$3,000,000 for New York, New York, Second Avenue subway project;

$4,000,000 for Birmingham, Alabama, transit corridor project;

$5,000,000 for Nashua, New Hampshire-Lowell, Massachusetts, commuter rail project;

$10,000,000 for Pittsburgh, Pennsylvania, North Shore connector light rail extension project;

$13,000,000 for Philadelphia, Pennsylvania, Schuykill Valley metro project;

$3,000,000 for Philadelphia, Pennsylvania, Cross County metro project;

$20,000,000 for Pittsburgh, Pennsylvania, stage II light rail transit reconstruction project;

$2,500,000 for Scranton, Pennsylvania, rail service to New York City project;

$2,500,000 for Wasilla, Alaska, alternate route project;

$1,000,000 for Ohio, Central Ohio North Corridor rail (COTA) project;

$4,000,000 for Virginia, VRE station improvements project;

$50,000,000 for Twin Cities, Minnesota, Hiawatha Corridor light rail transit project;

$70,000,000 for Portland, Oregon, Interstate MAX light rail transit extension project;

$50,149,000 for San Juan, Tren Urbano project;

$10,296,000 for Alaska and Hawaii Ferry projects.

JOB ACCESS AND REVERSE COMMUTE GRANTS

Notwithstanding section 3037(l)(3) of Public Law 105–178, as amended, for necessary expenses to carry out section 3037 of the Federal Transit Act of 1998, $25,000,000, to remain available until expended: Provided, That no more than $125,000,000 of budget authority shall be available for these purposes: Provided further, That up to $250,000 of the funds provided under this heading may be used by the Federal Transit Administration for technical assistance and support and performance reviews of the Job Access and Reverse Commute Grants program.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operations and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $13,345,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, $41,993,000, of which $645,000 shall be derived from the Pipeline Safety Fund, and of which $5,434,000 shall remain available until September 30, 2004: Provided, That up to $1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: Provided further, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

(OIL SPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $58,750,000, of which $11,472,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2003; of which $47,278,000 shall be derived from the Pipeline Safety Fund, of which $30,828,000 shall remain available until September 30, 2004.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), $200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2004: Provided, That not more than $14,300,000 shall be made available for obligation in fiscal year 2002 from amounts made available by 49 U.S.C. 5116(i) and 5127(d): Provided further, That none of the funds made available by 49 U.S.C. 5116(i) and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $50,614,000: Provided, That the Inspector General shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3) to investigate allegations of fraud, including false statements to the government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the Department: Provided further, That the funds made available under this heading shall be used to investigate, pursuant to section 41712 of title 49, United States Code: (1) unfair

or deceptive practices and unfair methods of competition by domestic and foreign air carriers and ticket agents; and (2) the compliance of domestic and foreign air carriers with respect to item (1) of this proviso.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, $18,457,000: Provided, That notwithstanding any other provision of law, not to exceed $950,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: Provided further, That the sum herein appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2002, to result in a final appropriation from the general fund estimated at no more than $17,507,000.

BUREAU OF TRANSPORTATION STATISTICS

OFFICE OF AIRLINE INFORMATION

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses of the Office of Airline Information, under chapter 111 of title 49, United States Code, $3,760,000, to be derived from the Airport and Airway Trust Fund as authorized by Section 103(b) of Public Law 106–181.

TITLE II

RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $5,015,000: Provided, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–15; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902) $70,000,000, of which not to exceed $2,000 may be used for official reception and representation expenses.

TITLE III—GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefore, as authorized by law (5 U.S.C. 5901–5902).

SEC. 302. Such sums as may be necessary for fiscal year 2002 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 303. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 304. None of the funds in this Act shall be available for salaries and expenses of more than 98 political and Presidential appointees in the Department of Transportation.

SEC. 305. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 306. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 307. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 308. (a) No recipient of funds made available in this Act shall disseminate personal information (as defined in 18 U.S.C. 2725(3)) obtained by a State department of motor vehicles in connection with a motor vehicle record as defined in 18 U.S.C. 2725(1), except as provided in 18 U.S.C. 2721 for a use permitted under 18 U.S.C. 2721.

(b) Notwithstanding subsection (a), the Secretary shall not withhold funds provided in this Act for any grantee if a State is in noncompliance with this provision.

SEC. 309. (a) For fiscal year 2002, the Secretary of Transportation shall—

(1) not distribute from the obligation limitation for Federal-aid Highways amounts authorized for administrative expenses and programs funded from the administrative takedown authorized by section 104(a)(1)(A) of title 23, United States Code, for the highway use tax evasion program, amounts provided under section 110 of title 23, United States Code, and for the Bureau of Transportation Statistics;

(2) not distribute an amount from the obligation limitation for Federal-aid Highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety programs for the previous fiscal year the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation limitation for Federal-aid Highways less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation limitation for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) of section 117 of title 23, United States Code (relating to high priority projects program), section 201 of the Appalachian Regional Development Act of 1965, the Woodrow Wilson Memorial Bridge Authority Act of 1995, and $2,000,000,000 for such fiscal year under section 105 of title 23, United States Code (relating to minimum guarantee) so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, $2,000,000,000) for such fiscal year;

(5) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

(6) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highways and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(b) EXCEPTIONS FROM OBLIGATION LIMITATION.—The obligation limitation for Federal-aid Highways shall not apply to obligations: (1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1978; (3) under section 9 of the Federal-Aid Highway Act of 1981; (4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982; (5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987; (6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991; (7) under section 157 of title 23, United States Code, as in effect on the day before the date of the enactment of the Transportation Equity Act for the 21st Century; and (8) under section 105 of title 23, United States Code (but, only in an amount equal to $639,000,000 for such fiscal year).

(c) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (a), the Secretary shall after August 1 for such fiscal year revise a distribution of the obligation limitation made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code, section 160 (as in effect on the day before the enactment of the Transportation Equity Act for the 21st Century) of title 23, United States Code, and under section 1015 of the Intermodal Surface Transportation Act of 1991 (105 Stat. 1943–1945).

(d) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—The obligation limitation shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years.

(e) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds: (1) that are authorized to be appropriated for such fiscal year for Federal-aid highways programs (other than the program under section 160 of title 23, United States Code) and for carrying out subchapter I of chapter 311 of title 49, United States Code, and highway-related programs under chapter 4 of title 23, United States Code; and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such

fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (a)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(f) SPECIAL RULE.—Obligation limitation distributed for a fiscal year under subsection (a)(4) of this section for a section set forth in subsection (a)(4) shall remain available until used and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

SEC. 310. The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation.

SEC. 311. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 312. None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 313. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant. The Federal Aviation Administration shall accept such equipment, which shall thereafter be operated and maintained by FAA in accordance with agency criteria.

SEC. 314. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under ''Federal Transit Administration, Capital investment grants'' for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2004, and other recoveries, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 315. The Secretary of Transportation shall, in cooperation with the Federal Aviation Administrator, encourage a locally developed and executed plan between the State of Illinois, the City of Chicago, and affected communities for the purpose of modernizing O'Hare International Airport, addressing traffic congestion along the Northwest Corridor including western airport access, increasing commercial air service at the Gary-Chicago Airport, increasing commercial air service at the Greater Rockford Airport, preserving and utilizing existing Chicago-area reliever and general aviation airports, and moving forward with a third Chicago-area airport. If such a plan cannot be developed and executed by said parties, the Secretary and the Administrator shall work with Congress to enact a federal solution to address the aviation capacity crisis in the Chicago area, including northwest Indiana.

SEC. 316. Notwithstanding any other provision of law, any funds appropriated before October 1, 2001, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 317. None of the funds in this Act may be used to compensate in excess of 335 technical staff-years under the federally funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 2002.

SEC. 318. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's ''Federal-Aid Highways'' account, the Federal Transit Administration's ''Transit Planning and Research'' account, and to the Federal Railroad Administration's ''Safety and Operations'' account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 319. Effective on the date of enactment of this Act, of the funds made available under section 1101(a)(12) of Public Law 105–178, as amended, $9,231,000 are rescinded.

SEC. 320. Beginning in fiscal year 2002 and thereafter, the Secretary may use up to 1 percent of the amounts made available to carry out 49 U.S.C. 5309 for oversight activities under 49 U.S.C. 5327.

SEC. 321. Funds made available for Alaska or Hawaii ferry boats or ferry terminal facilities pursuant to 49 U.S.C. 5309(m)(2)(B) may be used to construct new vessels and facilities, or to improve existing vessels and facilities, including both the passenger and vehicle-related elements of such vessels and facilities, and for repair facilities: Provided, That not more than $3,000,000 of the funds made available pursuant to 49 U.S.C. 5309(m)(2)(B) may be used by the State of Hawaii to initiate and operate a passenger ferryboat services demonstration project to test the viability of different intra-island and inter-island ferry routes.

SEC. 322. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: Provided, That such funds shall be subject to the obligation limitation for Federal-aid highways and highway safety construction.

SEC. 323. Section 3030(a) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended by adding at the end, the following line: ''Washington County—Wilsonville to Beaverton commuter rail.''.

SEC. 324. Section 3030(b) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended by adding at the end the following: ''Detroit, Michigan Metropolitan Airport rail project.''.

SEC. 325. None of the funds in this Act may be obligated or expended for employee training which: (a) does not meet identified needs for knowledge, skills and abilities bearing directly upon the performance of official duties; (b) contains elements likely to induce high levels of emotional response or psychological stress in some participants; (c) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluations; (d) contains any methods or content associated with religious or quasi-religious belief systems or ''new age'' belief systems as defined in Equal Employment Opportunity Commission Notice N–915.022, dated September 2, 1988; (e) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace; or (f) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV-positive employees.

SEC. 326. None of the funds in this Act shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegraph, telephone, letter, printed or written material, radio, television, video presentation, electronic communications, or other device, intended or designed to influence in any manner a Member of Congress or of a State legislature to favor or oppose by vote or otherwise, any legislation or appropriation by Congress or a State legislature after the introduction of any bill or resolution in Congress proposing such legislation or appropriation, or after the introduction of any bill or resolution in a State legislature proposing such legislation or appropriation: Provided, That this shall not prevent officers or employees of the Department of Transportation or related agencies funded in this Act from communicating to Members of Congress or to Congress, on the request of any Member, or to members of State legislature, or to a State legislature, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of business.

SEC. 327. (a) IN GENERAL.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF THE CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 328. Notwithstanding any other provision of law, the Commandant of the United States Coast Guard shall maintain an onboard staffing level at the Coast Guard Yard in Curtis Bay, Maryland of not less than 530 full time equivalent civilian employees: Provided, That the Commandant may reconfigure his vessel maintenance schedule and new construction projects to maximize employment at the Coast Guard Yard.

SEC. 329. Rebates, refunds, incentive payments, minor fees and other funds received by the Department from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department and allocated to elements of the Department using fair and equitable criteria and such funds shall be available until December 31, 2002.

SEC. 330. For necessary expenses of the Amtrak Reform Council authorized under section 203 of Public Law 105–134, $420,000, to remain available until September 30, 2003.

SEC. 331. In addition to amounts otherwise made available under this Act, to enable the Secretary of Transportation to make grants for surface transportation projects, $20,000,000, of which $4,000,000 shall be only for the Charleston International Airport, South Carolina parking facility project; $2,000,000 shall be only for the Caraway Overpass Project in Jonesboro, Arkansas; $1,000,000 shall be only for the Moorhead, Minnesota Southeast Main Rail relocation project; $1,500,000 shall be only for the Interstate Route 295 and Commercial Street connector in Portland, Maine; and $500,000 shall be only

for the Calais, Maine Downeast Heritage Center, access, parking, and pedestrian improvements, to remain available until expended.

SEC. 332. Section 648 of title 14, United States Code, is amended by striking the words ''or such similar Coast Guard industrial establishments''; and inserting after the words ''Coast Guard Yard'': ''and other Coast Guard specialized facilities''. This paragraph is now labeled ''(a)'' and a new paragraph ''(b)'' is added to read as follows:

''(b) For providing support to the Department of Defense, the Coast Guard Yard and other Coast Guard specialized facilities designated by the Commandant shall qualify as components of the Department of Defense for competition and workload assignment purposes. In addition, for purposes of entering into joint public-private partnerships and other cooperative arrangements for the performance of work, the Coast Guard Yard and other Coast Guard specialized facilities may enter into agreements or other arrangements, receive and retain funds from and pay funds to such public and private entities, and may accept contributions of funds, materials, services, and the use of facilities from such entities. Amounts received under this subsection may be credited to appropriate Coast Guard accounts for fiscal year 2002 and for each fiscal year thereafter.''.

SEC. 333. None of the funds in this Act may be used to make a grant unless the Secretary of Transportation notifies the House and Senate Committees on Appropriations not less than three full business days before any discretionary grant award, letter of intent, or full funding grant agreement totaling $1,000,000 or more is announced by the department or its modal administrations from: (1) any discretionary grant program of the Federal Highway Administration other than the emergency relief program; (2) the airport improvement program of the Federal Aviation Administration; or (3) any program of the Federal Transit Administration other than the formula grants and fixed guideway modernization programs: Provided, That no notification shall involve funds that are not available for obligation.

SEC. 334. INCREASE IN MOTOR CARRIER FUNDING. (a) IN GENERAL.—Notwithstanding any other provision of law, whenever an allocation is made of the sums authorized to be appropriated for expenditure on the Federal lands highway program, and whenever an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, the Interstate maintenance program, the bridge program, the Appalachian development highway system, and the minimum guarantee program, the Secretary of Transportation shall deduct a sum in such amount not to exceed two-fifths of 1 percent of all sums so made available, as the Secretary determines necessary, to administer the provisions of law to be financed from appropriations for motor carrier safety programs and motor carrier safety research. The sum so deducted shall remain available until expended.

(b) EFFECT.—Any deduction by the Secretary of Transportation in accordance with this paragraph shall be deemed to be a deduction under section 104(a)(1)(B) of title 23, United States Code.

SEC. 335. For an airport project that the Administrator of the Federal Aviation Administration (FAA) determines will add critical airport capacity to the national air transportation system, the Administrator is authorized to accept funds from an airport sponsor, including entitlement funds provided under the ''Grants-in-Aid for Airports'' program, for the FAA to hire additional staff or obtain the services of consultants: Provided, That the Administrator is authorized to accept and utilize such funds only for the purpose of facilitating the timely processing, review, and completion of environmental activities associated with such project.

SEC. 336. None of the funds made available in this Act may be used to further any efforts toward developing a new regional airport for southeast Louisiana until a comprehensive plan is submitted by a commission of stakeholders to the Administrator of the Federal Aviation Administration and that plan, as approved by the Administrator, is submitted to and approved by the Senate Committee on Appropriations and the House Committee on Appropriations.

SEC. 337. Section 8335(a) of title 5, United States Code, is amended by inserting the following before the period in the first sentence: ''if the controller qualifies for an immediate annuity at that time. If not eligible for an immediate annuity upon reaching age 56, the controller may work until the last day of the month in which the controller becomes eligible for a retirement annuity unless the Secretary determines that such action would compromise safety''.

SEC. 338. Notwithstanding any other provision of law, States may use funds provided in this Act under Section 402 of Title 23, United States Code, to produce and place highway safety public service messages in television, radio, cinema and print media, and on the Internet in accordance with guidance issued by the Secretary of Transportation: Provided, That any State that uses funds for such public service messages shall submit to the Secretary a report describing and assessing the effectiveness of the messages: Provided further, That $15,000,000 designated for innovative grant funds under Section 157 of Title 23, United States Code shall be used for national television and radio advertising to support the national law enforcement mobilizations conducted in all 50 states, aimed at increasing safety belt and child safety seat use and controlling drunk driving.

SEC. 339. Section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note) is amended—

(1) in the subsection heading, by inserting ''OVER-THE-ROAD BUSES AND'' before ''PUBLIC''; and

(2) in paragraph (1), by striking ''to any vehicle which'' and inserting the following: ''to—

''(A) any over-the-road bus, as that term is defined in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C § 12181); or

''(B) any vehicle that''.

SEC. 340. None of the funds in this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Federal Aviation Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to air traffic control, air navigation or weather reporting. The prohibition of funds in this section does not apply to negotiations between the Agency and airport sponsors to achieve agreement on ''below-market'' rates for these items or to grant assurances that require airport sponsors to provide land without cost to the FAA for air traffic control facilities.

SEC. 341. None of the funds provided in this Act or prior Appropriations Acts for Coast Guard ''Acquisition, construction, and improvements'' shall be available after the fifteenth day of any quarter of any fiscal year, unless the Commandant of the Coast Guard first submits a quarterly report to the House and Senate Committees on Appropriations on all major Coast Guard acquisition projects including projects executed for the Coast Guard by the United States Navy and vessel traffic service projects: Provided, That such reports shall include an acquisition schedule, estimated current and year funding requirements, and a schedule of anticipated obligations and outlays for each major acquisition project: Provided further, That such reports shall rate on a relative scale the cost risk, schedule risk, and technical risk associated with each acquisition project and include a table detailing unobligated balances to date and anticipated unobligated balances at the close of the fiscal year and the close of the following fiscal year should the Administration's pending budget request for the acquisition, construction, and improvements account be fully funded: Provided further, That such reports shall also provide abbreviated information on the status of shore facility construction and renovation projects: Provided further, That all information submitted in such reports shall be current as of the last day of the preceding quarter.

SEC. 342. Funds provided in this Act for the Transportation Administrative Service Center (TASC) shall be reduced by $37,000,000, which limits fiscal year 2002 TASC obligational authority for elements of the Department of Transportation funded in this Act to no more than $88,323,000: Provided, That such reductions from the budget request shall be allocated by the Department of Transportation to each appropriations account in proportion to the amount included in each account for the Transportation Administrative Service Center.

SEC. 343. SAFETY OF CROSS-BORDER TRUCKING BETWEEN UNITED STATES AND MEXICO. No funds limited or appropriated in this Act may be obligated or expended for the review or processing of an application by a Mexican motor carrier for authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border until—

(1) the Federal Motor Carrier Safety Administration—

(A) performs a full safety compliance review of the carrier consistent with the safety fitness evaluation procedures set forth in part 385 of title 49, Code of Federal Regulations, and gives the carrier a satisfactory rating before granting conditional and, again, before granting permanent authority to any such carrier;

(B) requires that any such safety compliance review take place onsite at the Mexican motor carrier's facilities;

(C) requires Federal and State inspectors to verify electronically the status and validity of the license of each driver of a Mexican motor carrier commercial vehicle crossing the border;

(D) gives a distinctive Department of Transportation number to each Mexican motor carrier operating beyond the commercial zone to assist inspectors in enforcing motor carrier safety regulations including hours-of-service rules under part 395 of title 49, Code of Federal Regulations;

(E) requires—

(i) inspections of all commercial vehicles of Mexican motor carriers authorized, or seeking authority, to operate beyond United States municipalities and commercial zones on the United States-Mexico border that do not display a valid Commercial Vehicle Safety Alliance inspection decal, by certified Federal inspectors, or by State inspectors whose operations are funded in part or in whole by Federal funds, in accordance with the requirements for a Level I Inspection under the criteria of the North American Standard Inspection (as defined in section 350.105 of title 49, Code of Federal Regulations), including examination of the driver, vehicle exterior and vehicle under-carriage, and

(ii) a Commercial Vehicle Safety Alliance decal to be affixed to each such commercial vehicle upon completion of the inspection required by clause (i) or a re-inspection if the vehicle has met the criteria for the Level I inspection when no component parts were hidden from view and no evidence of a defect was present, and

(iii) that any such decal, when affixed, expire at the end of a period of not more than 90 days, but

nothing in this paragraph shall be construed to preclude the Administration from requiring reinspection of a vehicle bearing a valid inspection decal or from requiring that such a decal be removed when a certified Federal or State inspector determines that such a vehicle has a safety violation subsequent to the inspection for which the decal was granted;

(F) requires State inspectors who detect violations of Federal motor carrier safety laws or regulations to enforce them or notify Federal authorities of such violations;

(G) equips all United States-Mexico border crossings with Weigh-In-Motion (WIM) systems as well as fixed scales suitable for enforcement action and requires that inspectors verify by either means the weight of each commercial vehicle entering the United States at such a crossing;

(H) the Federal Motor Carrier Safety Administration has implemented a policy to ensure that no Mexican motor carrier will be granted authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border unless that carrier provides proof of valid insurance with an insurance company licensed and based in the United States; and

(I) publishes in final form regulations—

(i) under section 210(b) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31144 nt.) that establish minimum requirements for motor carriers, including foreign motor carriers, to ensure they are knowledgeable about Federal safety standards, that include the administration of a proficiency examination;

(ii) under section 31148 of title 49, United States Code, that implement measures to improve training and provide for the certification of motor carrier safety auditors;

(iii) under sections 218(a) and (b) of that Act (49 U.S.C. 31133 nt.) establishing standards for the determination of the appropriate number of Federal and State motor carrier inspectors for the United States-Mexico border;

(iv) under section 219(d) of that Act (49 U.S.C. 14901 nt.) that prohibit foreign motor carriers from leasing vehicles to another carrier to transport products to the United States while the lessor is subject to a suspension, restriction, or limitation on its right to operate in the United States;

(v) under section 219(a) of that Act (49 U.S.C. 14901 nt.) that prohibit foreign motor carriers from operating in the United States that is found to have operated illegally in the United States; and

(vi) under which a commercial vehicle operated by a Mexican motor carrier may not enter the United States at a border crossing unless an inspector is on duty; and

(2) the Department of Transportation Inspector General certifies in writing that—

(A) all new inspector positions funded under this Act have been filled and the inspectors have been fully trained;

(B) each inspector conducting on-site safety compliance reviews in Mexico consistent with the safety fitness evaluation procedures set forth in part 385 of title 49, Code of Federal Regulations, is fully trained as a safety specialist;

(C) the requirement of subparagraph (B) has not been met by transferring experienced inspectors from other parts of the United States to the United States-Mexico border, undermining the level of inspection coverage and safety elsewhere in the United States;

(D) the Federal Motor Carrier Safety Administration has implemented a policy to ensure compliance with hours-of-service rules under part 395 of title 49, Code of Federal Regulations, by Mexican motor carriers seeking authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border;

(E) the information infrastructure of the Mexican government is sufficiently accurate, accessible, and integrated with that of U.S. law enforcement authorities to allow U.S. authorities to verify the status and validity of licenses, vehicle registrations, operating authority and insurance of Mexican motor carriers while operating in the United States, and that adequate telecommunications links exist at all United States-Mexico border crossings used by Mexican motor carrier commercial vehicles, and in all mobile enforcement units operating adjacent to the border, to ensure that licenses, vehicle registrations, operating authority and insurance information can be easily and quickly verified at border crossings or by mobile enforcement units;

(F) there is adequate capacity at each United States-Mexico border crossing used by Mexican motor carrier commercial vehicles to conduct a sufficient number of meaningful vehicle safety inspections and to accommodate vehicles placed out-of-service as a result of said inspections;

(G) there is an accessible database containing sufficiently comprehensive data to allow safety monitoring of all Mexican motor carriers that apply for authority to operate commercial vehicles beyond United States municipalities and commercial zones on the United States-Mexico border and the drivers of those vehicles; and

(H) measures are in place in Mexico, similar to those in place in the United States, to ensure the effective enforcement and monitoring of license revocation and licensing procedures.

For purposes of this section, the term ''Mexican motor carrier'' shall be defined as a Mexico-domiciled motor carrier operating beyond United States municipalities and commercial zones on the United States-Mexico border.

SEC. 344. Notwithstanding any other provision of law, for the purpose of calculating the non-federal contribution to the net project cost of the Regional Transportation Commission Resort Corridor Fixed Guideway Project in Clark County, Nevada, the Secretary of Transportation shall include all non-federal contributions (whether public or private) made on or after January 1, 2000 for engineering, final design, and construction of any element or phase of the project, including any fixed guideway project or segment connecting to that project, and also shall allow non-federal funds (whether public or private) expended on one element or phase of the project to be used to meet the non-federal share requirement of any element or phase of the project.

SEC. 345. Item 1348 of the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 306) is amended by striking ''Extend West Douglas Road'' and inserting ''Second Douglas Island Crossing''.

SEC. 346. Item 642 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 281), relating to Washington, is amended by striking ''Construct passenger ferry facility to serve Southworth, Seattle'' and inserting ''Passenger only ferry to serve Kitsap County-Seattle''.

Item 1793 in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 322), relating to Washington, is amended by striking ''Southworth Seattle Ferry'' and inserting ''Passenger only ferry to serve Kitsap County-Seattle''.

SEC. 347. Notwithstanding any other provision of law, historic covered bridges eligible for Federal assistance under section 1224 of the Transportation Equity Act for the 21st Century, as amended, may be funded from amounts set aside for the discretionary bridge program.

SEC. 348. (a) Item 143 in the table under the heading ''Capital Investment Grants'' in title I of the Department of Transportation and Related Agencies Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–456) is amended by striking ''Northern New Mexico park and ride facilities'' and inserting ''Northern New Mexico park and ride facilities and State of New Mexico, Buses and Bus-Related Facilities''.

(b) Item 167 in the table under the heading ''Capital Investment Grants'' in title I of the Department of Transportation and Related Agencies Appropriations Act, 2000 (Public Law 106–69; 113 Stat. 1006) is amended by striking ''Northern New Mexico Transit Express/Park and Ride buses'' and inserting ''Northern New Mexico park and ride facilities and State of New Mexico, Buses and Bus-Related Facilities''.

SEC. 349. Beginning in fiscal year 2002 and thereafter, notwithstanding 49 U.S.C. 41742, no essential air service subsidies shall be provided to communities in the United States (except Alaska) that are located fewer than 100 highway miles from the nearest large or medium hub airport, or fewer than 70 highway miles from the nearest small hub airport, or fewer than 50 highway miles from the nearest airport providing scheduled service with jet aircraft; or that require a rate of subsidy per passenger in excess of $200 unless such point is greater than 210 miles from the nearest large or medium hub airport.

SEC. 350. (a) FINDINGS.—Congress makes the following findings:

(1) The condition of highway, railway, and waterway infrastructure across the Nation varies widely and is in need of improvement and investment.

(2) Thousands of tons of hazardous chemicals, and a very small amount of high level radioactive material, is transported along the Nation's highways, railways, and waterways each year.

(3) The volume of hazardous chemical transport increased by over one-third in the last 25 years and is expected to continue to increase. Some propose significantly increasing radioactive material transport.

(4) Approximately 261,000 people were evacuated across the Nation because of rail-related accidental releases of hazardous chemicals between 1978 and 1995, and during that period industry reported 8 transportation accidents involving the small volume of high level radioactive waste transported during that period.

(5) The Federal Railroad Administration has significantly decreased railroad inspections and has allocated few resources since 1993 to assure the structural integrity of railroad bridges. Train derailments have increased by 18 percent over roughly the same period.

(6) The poor condition of highway, railway, and waterway infrastructure, increases in the volume of hazardous chemical transport, and proposed increases in radioactive material transport increase the risk of accidents involving such chemicals and materials.

(7) Measuring the risks of hazardous chemical or radioactive material accidents and preventing such accidents requires specific information concerning the condition and suitability of specific transportation routes contemplated for such transport to inform and enable investment in related infrastructure.

(8) Mitigating the impact of hazardous chemical and radioactive material transportation accidents requires skilled, localized, and well-equipped emergency response personnel along all specifically identified transportation routes.

(9) Accidents involving hazardous chemical or radioactive material transport pose threats to the public health and safety, the environment, and the economy.

(b) STUDY.—The Secretary of Transportation shall, in consultation with the Comptroller General of the United States, conduct a study of the hazards and risks to public health and safety, the environment, and the economy associated with the transportation of hazardous chemicals and radioactive material.

(c) MATTERS TO BE ADDRESSED.—The study under subsection (b) shall address the following matters:

(1) Whether the Federal Government conducts individualized and detailed evaluations and inspections of the condition and suitability of specific transportation routes for the current, and any anticipated or proposed, transport of hazardous chemicals and radioactive material, including whether resources and information are adequate to conduct such evaluations and inspections.

(2) The costs and time required to ensure adequate inspection of specific transportation routes and related infrastructure and to complete the infrastructure improvements necessary to ensure the safety of current, and any anticipated or proposed, hazardous chemical and radioactive material transport.

(3) Whether Federal, State, and local emergency preparedness personnel, emergency response personnel, and medical personnel are adequately trained and equipped to promptly respond to accidents along specific transportation routes for current, anticipated, or proposed hazardous chemical and radioactive material transport.

(4) The costs and time required to ensure that Federal, State, and local emergency preparedness personnel, emergency response personnel, and medical personnel are adequately trained and equipped to promptly respond to accidents along specific transportation routes for current, anticipated, or proposed hazardous chemical and radioactive material transport.

(5) The availability of, or requirements to establish, information collection and dissemination systems adequate to provide the public, in an accessible manner, with timely, complete, specific, and accurate information (including databases) concerning actual, proposed, or anticipated shipments by highway, railway, or waterway of hazardous chemicals and radioactive materials, including accidents involving the transportation of such chemicals and materials by those means.

(d) DEADLINE FOR COMPLETION.—The study under subsection (b) shall be completed not later than six months after the date of the enactment of this Act.

(e) REPORT.—Upon completion of the study under subsection (b), the Secretary shall submit to Congress a report on the study.

SEC. 351. (a) Of the funds appropriated by title I for the Federal Railroad Administration under the heading ''RAILROAD RESEARCH AND DEVELOPMENT'', up to $750,000 may be expended to pay 25 percent of the total cost of a comprehensive study to assess existing problems in the freight and passenger rail infrastructure in the vicinity of Baltimore, Maryland, that the Secretary of Transportation shall carry out through the Federal Railroad Administration in cooperation with, and with a total amount of equal funding contributed by, Norfolk-Southern Corporation, CSX Corporation, and the State of Maryland.

(b)(1) The study shall include an analysis of the condition, track, and clearance limitations and efficiency of the existing tunnels, bridges, and other railroad facilities owned or operated by CSX Corporation, Amtrak, and Norfolk-Southern Corporation in the Baltimore area.

(2) The study shall examine the benefits and costs of various alternatives for reducing congestion and improving safety and efficiency in the operations on the rail infrastructure in the vicinity of Baltimore, including such alternatives for improving operations as shared usage of track, and such alternatives for improving the rail infrastructure as possible improvements to existing tunnels, bridges, and other railroad facilities, or construction of new facilities.

(c) Not later than one year after the date of the enactment of this Act, the Secretary shall submit a report on the results of the study to Congress. The report shall include recommendations on the matters described in subsection (b)(2).

SEC. 352. PRIORITY HIGHWAY PROJECTS, GEORGIA. In selecting projects to carry out using funds apportioned under section 110 of title 23, United States Code, the State of Georgia shall give priority consideration to the following projects:

(1) Improving Johnson Ferry Road from the Chattahoochee River to Abernathy Road, including the bridge over the Chattahoochee River.

(2) Widening Abernathy Road from 2 to 4 lanes from Johnson Ferry Road to Roswell Road.

SEC. 353. SAFETY BELT USE LAW REQUIREMENTS. Section 355(a) of the National Highway System Designation Act of 1995 (109 Stat. 624) is amended by striking ''has achieved'' and all that follows and inserting the following: ''has achieved a safety belt use rate of not less than 50 percent.''.

SEC. 354. STUDY OF MISSISSIPPI RIVER BRIDGE IN MEMPHIS, TENNESSEE. Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall conduct a study and submit to Congress a report on the costs and benefits of constructing a third bridge across the Mississippi River in the Memphis, Tennessee, metropolitan area.

SEC. 355. (a) Congress makes the following findings:

(1) Section 345 of the National Highway System Designation Act of 1995 authorizes limited relief to drivers of certain types of commercial motor vehicles from certain restrictions on maximum driving time and on-duty time.

(2) Subsection (c) of that section requires the Secretary of Transportation to determine by rulemaking proceedings that the exemptions granted are not in the public interest and adversely affect the safety of commercial motor vehicles.

(3) Subsection (d) of that section requires the Secretary of Transportation to monitor the safety performance of drivers of commercial motor vehicles who are subject to an exemption under section 345 and report to Congress prior to the rulemaking proceedings.

(b) It is the sense of Congress that the Secretary of Transportation should not take any action that would diminish or revoke any exemption in effect on the date of the enactment of this Act for drivers of vehicles under section 345 of the National Highway System Designation Act of 1995 (Public Law 104–59; 109 Stat. 613; 49 U.S.C. 31136 note) unless the requirements of subsections (c) and (d) of such section are satisfied.

SEC. 356. Section 41703 of title 49, United States Code, is amended by adding at the end the following:

''(e) AIR CARGO VIA ALASKA.—For purposes of subsection (c) of this section, cargo taken on or off any aircraft at a place in Alaska in the course of transportation of that cargo by one or more air carriers or foreign air carriers in either direction between any place in the United States and a place not in the United States shall not be deemed to have broken its international journey, be taken on in, or be destined for Alaska.''.

SEC. 357. Point Retreat Light Station, including all property under lease as of June 1, 2000, is transferred to the Alaska Lighthouse Association.

SEC. 358. PRIORITY HIGHWAY PROJECTS, MINNESOTA. In selecting projects to carry out using funds apportioned under section 110 of title 23, United States Code, the State of Minnesota shall give priority consideration to the following projects:

(1) The Southeast Main and Rail Relocation Project in Moorhead, Minnesota.

(2) Improving access to and from I–35 W at Lake Street in Minneapolis, Minnesota.

SEC. 359. NOISE BARRIERS, GEORGIA. Notwithstanding any other provision of law, the Secretary of Transportation shall approve the use of funds apportioned under paragraphs (1) and (3) of section 104(b) of title 23, United States Code, for construction of Type II noise barriers—

(1) at the locations identified in section 358 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (113 Stat. 1027); and

(2) on the west side of Interstate Route 285 from Henderson Mill Road to Chamblee Tucker Road in DeKalb County, Georgia.

SEC. 360. The Secretary is directed to give priority consideration to applications for airport improvement grants for the Addison Airport in Addison, Texas, Pearson Airpark in Vancouver, Washington, Mobile Regional Airport in Mobile, Alabama, Marks Airport in Mississippi, Madison Airport in Mississippi, and Birmingham International Airport in Birmingham, Alabama.

SEC. 361. Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 449; 23 U.S.C. 502 note) is amended —

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (F), and (G), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph (C):

''(C) FOLLOW-ON DEPLOYMENT.—(i) After an intelligent transportation infrastructure system deployed in an initial deployment area pursuant to a contract entered into under the program under this paragraph has received system acceptance, the original contract that was competitively awarded by the Department of Transportation for the deployment of the system in that area shall be extended to provide for the system to be deployed in the follow-on deployment areas under the contract, using the same asset ownership, maintenance, fixed price contract, and revenue sharing model, and the same competitively selected consortium leader, as were used for the deployment in that initial deployment area under the program.

''(ii) If any one of the follow-on deployment areas does not commit, by July 1, 2002, to participate in the deployment of the system under the contract, then, upon application by any of the other follow-on deployment areas that have committed by that date to participate in the deployment of the system, the Secretary shall supplement the funds made available for any of the follow-on deployment areas submitting the applications by using for that purpose the funds not used for deployment of the system in the nonparticipating area. Costs paid out of funds provided in such a supplementation shall not be counted for the purpose of the limitation on maximum cost set forth in subparagraph (B).'';

(4) by inserting after subparagraph (D), as redesignated by paragraph (1), the following new subparagraph (E):

''(E) DEFINITIONS.—In this paragraph:

''(i) The term 'initial deployment area' means a metropolitan area referred to in the second sentence of subparagraph (A).

''(ii) The term 'follow-on deployment areas' means the metropolitan areas of Baltimore, Birmingham, Boston, Chicago, Cleveland, Dallas/Ft. Worth, Denver, Detroit, Houston, Indianapolis, Las Vegas, Los Angeles, Miami, New York/Northern New Jersey, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Salt Lake, San Diego, San Francisco, St. Louis, Seattle, Tampa, and Washington, District of Columbia.''; and

(5) in subparagraph (D), as redesignated by paragraph (1), by striking ''subparagraph (D)'' and inserting ''subparagraph (F)''.

This Act may be cited as the ''Department of Transportation and Related Agencies Appropriations Act, 2002''.

PROVIDING FOR THE ELECTION OF ALFONSO E. LENHARDT AS SERGEANT AT ARMS

Mr. DASCHLE. Madam President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 149) providing for the election of Alfonso E. Lenhardt as Sergeant at Arms and Doorkeeper of the Senate, effective September 4, 2001.

Mr. DASCHLE. Madam President, it is my honor to welcome Alfonso E. Lenhardt as Sergeant at Arms of the U.S. Senate.

In 1789, when the office was first established, the challenges of the job

were quite different than they are today. The Sergeant at Arms was given the responsibility for keeping a majority of members together long enough to organize and begin the business of government.

Today, the job has grown, and so has the office. The Sergeant at Arms is now the chief protocol and law enforcement officer of the Senate, as well as the administrative manager for many Senate support services. The Sergeant at Arms oversees the largest staff and budget in the U.S. Senate.

That expanded role demands expanded skills—in both law-enforcement and management.

In every position he has held, Al Lenhardt has demonstrated those skills as well as a solemn commitment to public service.

Al retired from the United States Army in 1997 as a Major General after over 31 years of domestic and international experience in national security and law enforcement programs. As Commanding General at the U.S. Army Recruiting Command in Ft. Knox, KY, he managed and directed over 13,000 people in over 1,800 separate locations.

Before the recruiting command, Al served as the senior military police officer in the Army, overseeing all Army police operations and security matters worldwide and managing a budget of over $300 million.

For the past four years, he has served as Executive Vice President and Chief Operating Officer of the Council on Foundations, a non-profit membership association of foundations and corporate philanthropic organizations.

Al Lenhardt is a versatile senior executive with the stature, the management experience and the law enforcement portfolio to make an outstanding Senate Sergeant at Arms. While Al Lenhardt may not be readily known to you because he has no prior connection to me or to the Senate, I think my colleagues will be impressed with the experience, the ability and the character of the man.

In the 212 year history of the Senate, Al Lenhardt will become the 35th person to serve as Sergeant at Arms, and the first African American to hold this position.

But more importantly, Al is clearly of the highest caliber and qualifications. The Senate will benefit greatly from his service and leadership. We all look forward to working with him in the months and years ahead.

Madam President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, without intervening action for debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 149) was agreed to.

(The text of S. Res. 149 is printed in today's RECORD under ''Statements on Submitted Resolutions.'')

UNANIMOUS CONSENT AGREEMENT—S. 1246

Mr. DASCHLE. Madam President, I ask unanimous consent that the cloture vote on the Agriculture supplemental authorization bill occur at 9:30 on Friday, August 3, with the mandatory quorum waived; further, that Senators have until 10 a.m. to file second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

(The remarks of Mr. BAUCUS and Mr. BYRD pertaining to the introduction of S. 1347 are located in today's RECORD under ''Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Arkansas.

EMERGENCY AGRICULTURE ASSISTANCE

Mrs. LINCOLN. Madam President, I am here on the floor out of a sense of frustration and I suppose a very deep sense of dedication, maybe because I am from a seventh-generation Arkansas farm family, maybe because I am a daughter of a farmer who I watched for many years toiling to ensure that he could provide a good upbringing, a good heritage to his family, working on that family farm.

Maybe it is because I have watched neighbors and family members who have had to give up a way of life and a profession, a piece of their heritage, because they were unsure of where their Government was going to be for them as family farmers. Or perhaps it is because they were inundated by so many things that were unpredictable, things they could not predict or control such as the weather or the economy or the fact that their Government could not make a decision as to whether the family farmer was important enough to support and to keep in business.

I am really here because, in the 11th hour, I still take my job very seriously. That job is to be here to fight hard, to do everything I can to support that American farmer and that farmer in Arkansas who has spent this entire year trying to put out a crop and wondering whether or not his or her Government was going to come through in the end with an emergency supplemental appropriation as we promised.

I am here to talk about agriculture and to talk about the rural economic crisis that we are on the verge of making even worse. Six years ago, Congress and the White House, the Republicans and the Democrats, stood toe to toe and dared each other to blink. Of course no one did, and all that happened is that the Federal Government shut down. FSA offices and other important Government offices around the country closed. Farmers could not get access to the services they needed. Seniors could not access the services they needed. People all around the country were knocking on Government doors that would not open. But up here in Washington, instead of sitting down and figuring out how to get those doors open, politicians only pointed fingers at each other. They were more concerned about laying blame on each other than finding a solution.

Here we are again. Now we find ourselves at another impasse, this time on an emergency assistance package for farmers that is profoundly crucial to the economic well-being of our farmers and our rural economies, an emergency assistance package we have been talking about since February. In February we started talking about the dire situation our farmers were in, that rural America was in dire straits because we had not addressed their needs, whether it was in trade or whether it was in how Government was going to provide them what they needed in order to be competitive and maintain themselves in a competitive way in the global marketplace.

Whether we are talking about the delta region of Arkansas and Mississippi or the prairies of the Dakotas or anywhere else for that matter, our rural economies are in deep trouble.

I don't think there is a single person in this body who would dispute that. Our farmers are hurting, and they are hurting badly. But, of course, they are not the only ones who are hurting. All of the small town institutions, businesses, and local banks were up here to talk to us back in February about what we do in extending these loans to these critical people in our communities. Do we give them a loan knowing their cost of production is going to be enormous because of energy and because of fertilizer input? Do we extend that loan knowing the prices are in the tank on commodities and have remained there and probably will remain there?

It is also hurting the suppliers, the corner grocery stores on Main Street, and the car dealers. They are all hurting because their viability depends on the health of the farm economy.

Colleagues, this crisis is real, and we are on the verge of making it much, much worse. If we don't get an emergency assistance package passed this week, these farmers and these small towns—very real people, many of whom happen to be related to me and to you—and these rural economies will have run out of time.

I am frustrated. I am outraged that we have been sitting in this Chamber all week without being able to come to agreement on an emergency package that we all agree our farmers need. The House passed a $5.5 billion emergency package, and they are saying, oh, just do what we did, and we can all go home. But that doesn't even meet the needs of the AMTA assistance payments that our farmers need to survive. The fact is, it doesn't even give them what they had prior to 1999.

Because of the Freedom to Farm Act, we have ratcheted down the payments

every year that the Government is willing to provide to help them compete in that global marketplace. What happened? We are coming now and asking them to take even less in that emergency assistance.

I don't blame Republicans and I don't blame Democrats. I blame all of us because we are all responsible if we are unable to come together because we are ready to go home or because we are tired and we don't want to do our job by coming together and getting a package approved and sending it out to rural America.

I plead with the President. He visited with Young Farmers of America the other day and talked about how agriculture and farmers are the soul of America. Let me tell you, they need us right now. They need us a lot.

It is our duty at this point not to be tired, not to go home, but to sit down with one another and talk about how we can come together to provide them what they need. It is no wonder that the citizens of this country are cynical about what goes on in Washington. Farmers have been out there toiling all year and for centuries—many centuries ago—to provide us with the safest, most abundant and affordable food supply in this world.

I think it certainly behooves us to stay a few extra hours to come up with something that is going to be the best possible job and the best possible package for our American farmers. They look for farm support and all they see is another showdown at the OK Corral. Only it isn't Congress. It is our farmers, and our rural economy, and the people who live in these communities who are in the line of fire. We need to put our guns back in our holsters, and we need to find some resolution to this impasse.

I, for one, am ready to stay here and do the job that the people of Arkansas sent me here to do; that is, to work out an agreement and come up with the solutions on behalf of those people who ensure that I and my children, and you and your children, have a safe, abundant, and affordable food supply day in and day out.

Thank you, Madam President. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, I thank my colleague and friend from Arkansas for the very poignant speech she just gave about the plight of agriculture in America. Senator LINCOLN has said it succinctly and with meaning and I think with a passion that she rightly has to fight for the people who live in our small towns and communities—our farmers. She is right. They are hurting. We have to pay attention.

We are operating under the failed Freedom to Farm bill that was passed back in 1996. Year after year we have had to come in and patch it up, fix it up, and put in supplemental payments to keep our farmers alive, to keep their heads above water.

It is another reason why in the new farm bill we have to make the changes necessary to get off of the old failed Freedom to Farm bill and to have a farm bill where we don't have to rely on a yearly basis on a fickle Congress or a President who says no.

We have come up with a bill out of our Agriculture Committee that would at least provide for our farmers the same payment they received last year to help keep them going. But, even with those payments, it won't make them whole because of the increased fuel prices and fertilizer prices and everything else.

I have heard from the administration that the reason they don't want the bill we reported out of the Committee is because they have seen net farm income go up this year. I am sorry. I don't know what figures they are looking at. I think what they are saying is last year our farm prices were at a 15-year low. Farm income is a little better than last year, but really the increase comes almost entirely from increased livestock prices—not grain prices. Prices are still in the basement. But the bill before us provides money to the crop farmers. They are the ones who are hurting. But the President said no, that he is going to veto the bill because he said farmers don't need that much money. Keep in mind that the bill is within our budget guidelines. We are doing exactly what the budget allows us to do, but the President says no, it is too much.

This is the difference. I have to point this out. In the fall of 1998, Congress passed emergency relief for farmers. It went to the White House. President Clinton vetoed it because it wasn't enough to help our farmers. We came back and added more money to keep our farmers alive and well.

This year the Senate passed a bill to provide sufficient support for our farmers. This President says no, he will veto it because it is too much. What a difference.

What do we have here that is costing extra money? We have the full level of market loss and oilseed payments that were in a similar package last year. We also have nutrition, rural economic development and conservation money. We have money for several conservation programs, including the Wetlands Reserve Program, the Wildlife Habitat Incentives Program, the Farmland Protection Program, the Environmental Quality Incentives Program.

Right now for the Wetlands Reserve Program we have a backlog of $568 million nationwide. Here are the top 10 States with the backlog: Arkansas, Iowa, California, Louisiana, Missouri, Florida, Minnesota, Illinois, Michigan, and Mississippi.

Our bill provides $200 million to cut that backlog down by over a third. It would enroll 150,000 acres in the Wetlands Reserve Program. The President says no. That is too much.

For the Wildlife Habitat Incentives Program, the backlog is $14 million. We have put in $7 million to cut it down by half. Again, the top 10 States are Oregon, Texas, Florida, West Virginia, Arkansas, Colorado, Maine, Michigan, Arkansas, and South Dakota. We had $7 million, and the President says no. That is too much.

The Farmland Protection Program is a program that provides some money for the state and local governments and non-profit groups so they can buy development easements from farmers to stop the urban sprawl. There is a $255 million backlog for FPP. The top 10 States are: California, New York, Maryland, Florida, Pennsylvania, Delaware, Kentucky, Michigan, New Jersey, and Massachusetts.

In that program, we put $40 million to help leverage money supplied by state and local governments, as well as non-profit groups—they are already doing it—to help buy easements to keep the land from being developed for non-agricultural purposes. The President says: No, that is too much money.

Finally, we have the Environmental Quality Incentives Program. The backlog is over $1.3 billion. We have $250 million in the bill, plus $200 million already in the law, which would help cut that down by about a third. Again, the top 10 States are: Texas, Oklahoma, Georgia, Arkansas, Kansas, Montana, Kentucky, Nebraska, Tennessee, and Virginia. We put $250 million in the bill. The President says: No, it is too much money.

It is not too much, in any case, to help save our soil and our water, to provide conservation money to farmers and ranchers in America who need the help and who need the support.

The Lugar substitute, that I guess we will be voting on, takes out all this conservation money. It provides zero dollars for conservation. It is rather sad that we are in this situation. We are trying to help farmers be good stewards and the President stands in the way.

As Senator LINCOLN said: Our farmers are good stewards of their land. They try to take good care of it. In many cases, these farmers are spending their own money, using their own equipment, spending their time—and all we are trying to do is give them some help and support. And the President has said: No, that is too much.

We will debate this more tomorrow. But tonight I wanted to just point out what we have in the bill, to try to help our farmers with conservation. Three of these programs will be put into jeopardy, and all will be underfunded. The Wetlands Reserve Program, the Wildlife Habitat Incentives Program and the Farmland Protection Program will all be put in jeopardy because we will not fund them if the Lugar amendment is adopted.

Finally, I have had a lot of conversations with people at the White House and OMB today. They want to spend only $5.5 billion. When I asked why, I got the answer: Because they want $5.5 billion.

I don't see any real reason for it because the budget does allow us to spend not only $5.5 billion in fiscal 2001, but $7.35 billion for fiscal 2002.

So what we are trying to do is what the budget allows us to do right now: get the money out to help our farmers now, get the conservation program funding out, and get money out to help some of our specialty crop producers around the country. And basically the President is saying, no.

I hope the Senate will persevere. I hope we will tell the President we have to fight for our farmers and our farm families; that we cannot, for no good reason fail to send the help they need. I have not heard one good reason from the White House why we should not put this money out to help save our farmers. I believe we have to, that we must, and I hope we do tomorrow.

Madam President, I yield the floor and the remainder of my time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I ask unanimous consent that the Senator from Alabama, Mr. SESSIONS, be allowed to speak for up to 15 minutes after I speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO KANSAS GOVERNOR JOAN FINNEY

Mr. BROWNBACK. Madam President, I rise today to pay tribute to a Kansan the Presiding Officer knew. She died as a result of complications associated with her fight with liver cancer—a lady who was the first female Governor of the State of Kansas, Joan Finney. She was a lady I had the privilege of serving with in State government.

I was Secretary of Agriculture under her for a brief period of time. She was a remarkable lady.

One of the tributes that was given to her yesterday, when the State paid their final respects to Governor Finney, was by Rev. Francis Krische, pastor of the Most Pure Heart of Mary Catholic Church, who stated to the mourners something about Governor Finney that probably captures the essence of Governor Finney, a beautiful woman. He said this about her: ''She knew how to be with people. This was one of the keys to her success.''

She really did know how to be with people. She had been elected treasurer in the State of Kansas for 4 terms. She was elected as the first female Governor in the State of Kansas from 1991 to 1995. She started out her career in politics serving a Member of this body, Senator Frank Carlson, whose seat I now occupy.

She worked for him for several years doing constituent work, which fit Governor Finney beautifully because she so loved to help people. She was beautiful about it. She was beautiful about working with people. I would be around her at different events, and it was always so amazing to me the depth of her knowledge of the people she would see whom she knew. She knew the family members. She knew something about what was happening in their families. I sometimes thought she knew all of the people of Kansas.

She was really a beautiful lady. I think the depth of her caring was such a key characteristic of hers. To learn and know about an individual is how much she cared about the people she was working for and serving, whether it was as a caseworker for Senator Carlson or whether it was as State treasurer or whether it was as Governor of the State of Kansas.

The Democrat Party, in its annual meeting this year in Topeka, adopted a resolution regarding Governor Finney and stated this about her: ''She was truly one of Kansas' most adored native daughters. And she was.'' She was adored by the people.

She felt that the people's view was the correct one, even though she might disagree with it. She would go ahead and proceed forward with that view, whatever it might be. She was, in that sense, a populist in the best sense of the word: It was to represent the people. And the people's will was paramount in politics.

She had a deep heart. She really cared for the people who she served. And you could see, this was not something that was a practiced skill of hers, where she would work, for example, at learning people's names. It was written in her heart. She knew these people in her heart. She cared for them. While many people would have had disagreements on different policy issues, they would never disagree with the heart of Joan Finney because it was one of those pure hearts.

She played the harp for a number of people. She played it professionally. It was a gift that she used frequently when asked. It was something I think that also helped to express just the inside of who this beautiful woman was. She was somebody who really played beautifully and played purely in the game of life.

So as people say their prayers tonight, I hope they remember Joan Finney, as well as her husband Spencer, who is still alive, although mourning, obviously, the death of his spouse. I hope they will remember her. And I can guarantee she would remember them.

I yield the floor.

Mr. ROBERTS. Madam President, on Wednesday, Kansans paid their final respects to Governor Finney and I join with my colleague Senator BROWNBACK in expressing our state's condolences to the Finney family.

While Senate business kept me from attending her funeral in Topeka, I want to share with my colleagues her success in Kansas government and politics. Although Joan and I belonged to different political parties, she put those differences aside when it came to work together for the State of Kansas.

Governor Finney was a straight shooter, never ducking behind guarded words. Some believe that her direct nature hurt her politically in the State Capitol, but Kansans appreciated this quality. In an interview with the Topeka Capital Journal she said, ''I believe the people should be supreme in all things . . . Even if you don't agree and the majority want a certain issue and believe in a certain issue, I accept that and I will stand by the people.''

Governor Finney is a key figure in Kansas' strong tradition of electing women to various offices. She served as State Treasurer for four consecutive terms and then was elected as the first female governor serving from 1991 to 1995. She will be remembered for her dedication and hardwork for all Kansans throughout her life.

During his sermon, Reverend Francis Krische, pastor of the Most Pure Heart of Mary Catholic Church reminded mourners that ''She knew how to be with people. This was one of the keys to her success''.

Madam President, it is painful when God calls home a friend and colleague, but her memory will continue to remind us of our commitment to our constituents and family.

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama is recognized for 15 minutes.

(The remarks of Mr. SESSIONS pertaining to the introduction of S. 1346 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

ORDER AUTHORIZING APPOINTMENTS

Mr. REID. Madam President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR REFERRAL OF NOMINATION

Mr. REID. Madam President, I ask unanimous consent that the order I submit to the Senate be considered with respect to referral of the nomination of the Assistant Secretary of the Army for Civil Works for the 107th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

The order reads as follows:

Ordered that, when the nomination for the Assistant Secretary of the Army for Civil Works is received by the Senate, it be referred to the Committee on Armed Services, provided that when the Committee on Armed Services reports the nomination, it be referred to the Committee on Environment and Public Works for a period of 20 days of session, provided further that if the Committee

on Environment and Public Works does not report the nomination within those 20 days, the Committee be discharged from further consideration of the nomination and the nomination be placed on the calendar.

MEASURE READ THE FIRST TIME—H.R. 2505

Mr. REID. Madam President, I understand H.R. 2505 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2505) to amend title 18, United States Code, to prohibit human cloning.

Mr. REID. Madam President, I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

Daily Digest

HIGHLIGHTS

Senate passed VA–HUD and Independent Agencies Appropriations Act.

House Committee ordered reported the Budget Responsibility and Efficiency Act.

The House passed H.R. 2563, Bipartisan Patient Protection Act.

Senate

Chamber Action

Routine Proceedings, pages S8629–S8848

Measures Introduced: Forty-six bills and three resolutions were introduced, as follows: S. 1302–1347, and S. Res. 147–149. **Pages S8703–05**

Measures Reported:

H.R. 93, to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers.

H.R. 364, to designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office".

H.R. 821, to designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building".

H.R. 1183, to designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the "G. Elliot Hagan Post Office Building".

H.R. 1753, to designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building".

H.R. 2043, to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building".

H.R. 2133, to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education, with amendments.

S. Res. 138, designating the month of September as "National Prostate Cancer Awareness Month", with amendments.

S. Res. 143, expressing the sense of the Senate regarding the development of educational programs on veterans' contributions to the country and the designation of the week of November 11 through November 17, 2001, as "National Veterans Awareness Week".

S. Res. 145, recognizing the 4,500,000 immigrants helped by the Hebrew Immigrant Aid Society.

S. Res. 146, designating August 4, 2001, as "Louis Armstrong Day".

S. 271, to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers.

S. 356, to establish a National Commission on the Bicentennial of the Louisiana Purchase, with an amendment in the nature of a substitute.

S. 737, to designate the facility of the United States Postal Service located at 811 South Main Street in Yerington, Nevada, as the "Joseph E. Dini, Jr. Post Office".

S. 970, to designate the facility of the United States Postal Service located at 39 Tremont Street, Paris Hill, Maine, as the "Horatio King Post Office Building."

S. 985, to designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the "G. Elliot Hagan Post Office Building".

S. 1026, to designate the United States Post Office located at 60 Third Avenue in Long Branch, New Jersey, as the "Pat King Post Office Building".

S. 1046, to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education, with amendments.

S. 1144, to amend title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.) to reauthorize the Federal Emergency Management Food and Shelter Program.

S. 1181, to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the ''Elwood Haynes 'Bud' Hillis Post Office Building''.

S. 1198, to reauthorize Franchise Fund Pilot Programs.

S.J. Res. 19, providing for the reappointment of Anne d'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution.

S.J. Res. 20, providing for the appointment of Roger W. Sant as a citizen regent of the Board of Regents of the Smithsonian Institution.

Pages S8702–03

Measures Passed:

VA–HUD and Independent Agencies Appropriations Act: By 94 yeas to 5 nays (Vote No. 269), Senate passed H.R. 2620, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2002, after taking action on the following amendments proposed thereto: **Pages S8629–76**

Adopted:

Nelson (FL.) Amendment No. 1228 (to Amendment No. 1214), to direct the Administrator of the Environmental Protection Agency to report to Congress on the safety of children's playground equipment. **Pages S8630–33**

Mikulski/Bond Amendment No. 1338 (to Amendment No. 1214), to make certain revisions and improvements to the bill. **Pages S8665–66**

Mikulski/Bond Amendment No. 1214, in the nature of a substitute. **Pages S8629–66**

Rejected:

Kyl Modified Amendment No. 1229 (to Amendment No. 1214), to specify the manner of allocation of funds made available for grants for the construction of wastewater and water treatment facilities and groundwater protection infrastructure. (By 58 yeas to 41 nays (Vote No. 266), Senate tabled the amendment.) **Pages S8635–43, S8645–46, S8653–55**

Schumer Amendment No. 1231 (to Amendment No. 1214), to make drug elimination grants for low-income housing available for the BuyBack America program. (By 65 yeas to 33 nays (Vote No. 267), Senate tabled the amendment.)

Pages S8643–45, S8647–53, S8655–56

McCain Modified Amendment No. 1226 (to Amendment No. 1214), to reduce by $5,000,000 amounts available for certain projects funded by the Community Development Fund of the Department of Housing and Urban Development and make the amount available for veterans claims adjudication. (By 69 yeas to 30 nays (Vote No. 268), Senate tabled the amendment.) **Pages S8646–47, S8656–65**

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint conferees on the part of the Senate: Senators Mikulski, Leahy, Harkin, Byrd, Kohl, Johnson, Hollings, Inouye, Bond, Burns, Shelby, Craig, Domenici, DeWine, and Stevens.

Page S8676

Election of Senate Sergeant at Arms: Senate agreed to S. Res. 149, providing for the election of Alfonso E. Lenhardt as the Sergeant at Arms and Doorkeeper of the Senate, effective September 4, 2001. **Pages S8844–45**

Emergency Agriculture Assistance Act: A unanimous-consent agreement was reached providing that the vote on the cloture motion on S. 1246, to respond to the continuing economic crisis adversely affecting American agricultural producers, occur at 9:30 a.m., on Friday, August 3, 2001, and that all second-degree amendments to the bill be filed prior to 10 a.m. **Page S8845**

Authority to Make Appointments: A unanimous-consent agreement was reached providing that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate. **Page S8847**

Permanent Standing Order/Referral of the Nomination of the Assistant Secretary of the Army for Civil Works: A unanimous-consent agreement was reached providing that the order that was submitted to the Senate today, be considered a permanent standing order with respect to the referral of the nomination of the Assistant Secretary of the Army for Civil Works for the 107th Congress.

Pages S8847–48

Nominations Confirmed: Senate confirmed the following nominations:

By unanimous vote of 97 yeas (Vote No. EX. 270), William J. Riley, of Nebraska, to be United States Circuit Judge for the Eighth Circuit.

Pages S8678–80, S8707

By unanimous vote of 98 yeas (Vote No. EX. 271), Sarah V. Hart, of Pennsylvania, to be Director of the National Institute of Justice.

Pages S8680, S8707

By unanimous vote of 98 yeas (Vote No. EX. 272), Robert S. Mueller III, of California, to be Director of the Federal Bureau of Investigation for the term of ten years. **Pages S8680–91, S8707**

Nominations Received: Senate received the following nominations:

Terrence L. O'Brien, of Wyoming, to be United States Circuit Judge for the Tenth Circuit.

Jeffrey R. Howard, of New Hampshire, to be United States Circuit Judge for the First Circuit.

M. Christina Armijo, of New Mexico, to be United States District Judge for the District of New Mexico.

Karon O. Bowdre, of Alabama, to be United States District Judge for the Northern District of Alabama.

David L. Bunning, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

Karen K. Caldwell, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

Claire V. Eagan, of Oklahoma, to be United States District Judge for the Northern District of Oklahoma.

Kurt D. Engelhardt, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Stephen P. Friot, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

Callie V. Granade, of Alabama, to be United States District Judge for the Southern District of Alabama.

Joe L. Heaton, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

Larry R. Hicks, of Nevada, to be United States District Judge for the District of Nevada.

William P. Johnson, of New Mexico, to be United States District Judge for the District of New Mexico.

James H. Payne, of Oklahoma, to be United States District Judge for the Northern, Eastern and Western Districts of Oklahoma.

Danny C. Reeves, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

Roscoe Conklin Howard, Jr., of the District of Columbia, to be United States Attorney for the District of Columbia for the term of four years.

David Claudio Iglesias, of New Mexico, to be United States Attorney for the District of New Mexico for the term of four years.

Matthew Hansen Mead, of Wyoming, to be United States Attorney for the District of Wyoming for the term of four years.

Michael J. Sullivan, of Massachusetts, to be United States Attorney for the District of Massachusetts for the term of four years.

Drew Howard Wrigley, of North Dakota, to be United States Attorney for the District of North Dakota for the term of four years.

Colm F. Connolly, of Delaware, to be United States Attorney for the District of Delaware for the term of four years.

Susan W. Brooks, of Indiana, to be United States Attorney for the Southern District of Indiana for the term of four years.

Leura Garrett Canary, of Alabama, to be United States Attorney for the Middle District of Alabama for the term of four years.

Thomas C. Gean, of Arkansas, to be United States Attorney for the Western District of Arkansas for the term of four years.

Raymond W. Gruender, of Missouri, to be United States Attorney for the Eastern District of Missouri for the term of four years.

Joseph S. Van Bokkelen, of Indiana, to be United States Attorney for the Northern District of Indiana for the term of four years.

Charles W. Larson, Sr., of Iowa, to be United States Attorney for the Northern District of Iowa for the term of four years.

Lawrence J. Block, of Virginia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

4 Air Force nominations in the rank of general.

Pages S8706–07

Executive Communications: **Pages S8701–02**

Petitions and Memorials: **Page S8702**

Executive Reports of Committees: **Page S8703**

Measures Referred: **Page S8700**

Messages From the House: **Page S8700**

Measures Placed on Calendar: **Pages S8700–01**

Measures Read First Time: **Page S8701**

Statements on Introduced Bills: **Pages S8709–70**

Additional Cosponsors: **Pages S8705–06**

Amendments Submitted: **Pages S8772–S8834**

Additional Statements: **Pages S8697–S8700**

Text of H.R. 2299, as Previously Passed: Pages S8835–44

Authority for Committees: Pages S8834–35

Privilege of the Floor: Page S8835

Record Votes: Seven record votes were taken today. (Total—272)

Pages S8655, S8656, S8665, S8676, S8679–80, S8680, S8691

Adjournment: Senate met at 9:30 a.m., and adjourned at 8:00 p.m., until 9:30 a.m., on Friday, August 3, 2001. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S8706.)

Committee Meetings

(Committees not listed did not meet)

FEDERAL FARM BILL

Committee on Agriculture, Nutrition, and Forestry: Committee continued hearings on the conservation provisions of the proposed Federal farm bill, focusing on rural economic issues, receiving testimony from David Kolsrud, CORN-er Stone Farmers Cooperative, Luverne, Minnesota, on behalf of the National Cooperative Business Association; Ronald L. Phillips, Coastal Enterprises, Inc., Wiscasset, Maine; Chuck Hassebrook, Center for Rural Affairs, Walthill, Nebraska; Karen Dearlove, Indiana 15 Regional Planning Commission and Indiana Association of Regional Councils, Jasper, Indiana, on behalf of the National Association of Development Organizations; Curtis Wynn, Roanoke Electric Cooperative, Rich Square, North Carolina; Deborah M. Markley, Rural Policy Research Institute, Chapel Hill, North Carolina; Steve Lane, Security Savings Bank, Gowrie, Iowa, on behalf of the Iowa Independent Bankers Association and the Independent Community Bankers of America; and Jack Cassidy, CoBank, Greenwoodville, Colorado.

Hearings recessed subject to call.

NOMINATIONS

Committee on Armed Services: Committee ordered favorably reported the nominations of John P. Stenbit, of Virginia, to be Assistant Secretary for Command, Control, Communication and Intelligence, and Ronald M. Sega, of Colorado, to be Director of Defense Research and Engineering, both of the Department of Defense, Michael L. Dominguez, of Virginia, to be Assistant Secretary for Manpower and Reserve Affairs, and Nelson F. Gibbs, of California, to be Assistant Secretary for Installations and Environment, both of the Department of the Air Force, Michael Parker, of Mississippi, to be Assistant Secretary for Civil Works, and Mario P. Fiori, of Georgia, to be Assistant Secretary for Installations and Environment, both of the Department of the Army, and H.T. Johnson, of Virginia, to be Assistant Secretary of the Navy for Installations and Environment, Gen. John P. Jumper, USAF, for reappointment to the grade of general and to be Chief of Staff, United States Air Force, and 1147 military nominations in the Army, Navy, Air Force, and Marine Corps.

AUTHORIZATION—DEFENSE INSTALLATIONS/CONSTRUCTION/HOUSING

Committee on Armed Services: Subcommittee on Readiness and Management Support concluded hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on installation programs, military construction programs, and family housing programs, after receiving testimony from Raymond F. DuBois, Jr., Deputy Under Secretary of Defense for Installations and Environment; Maj. Gen. Robert L. Van Antwerp, Jr., USA, Assistant Chief of Staff for Installation Management, Department of the Army; Rear Adm. Michael Johnson, USN, Commander, Naval Facilities Engineering Command; Maj. Gen. Earnest O. Robbins II, USAF, The Civil Engineer, Headquarters, United States Air Force; and Lt. Gen. Gary S. McKissock, USMC, Deputy Commandant for Installations and Logistics, Headquarters, United States Marine Corps.

DEPOSIT INSURANCE REFORM

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Financial Institutions concluded hearings to examine financial institution recommendations to strengthen and improve the Federal Deposit Insurance Corporation's deposit insurance fund system, focusing on preserving the value of FDIC protection and coverage for the future, establishing a pricing structure, smoothing out premiums to avoid wild swings caused by the hard target reserve ratio, and providing appropriate rebates of excess fund reserves, after receiving testimony from Robert I. Gulledge, Citizens Bank, Robertsdale, Alabama, on behalf of the Independent Community Bankers of America; Jeff L. Plagge, First National Bank of Waverly, Iowa, on behalf of the American Bankers Association; and Curtis L. Hage, Home Federal Bank, Sioux Falls, South Dakota, on behalf of the America's Community Bankers.

SOCIAL SECURITY REFORM

Committee on the Budget: Committee concluded hearings to examine Social Security reform issues, focusing on budgetary tradeoffs and transition costs, after receiving testimony from Peter R. Orszag, Sebago

Associates, Inc., Robert Greenstein, Center on Budget and Policy Priorities, and Sylvester J. Scheiber, Watson Wyatt Worldwide, all of Washington, D.C.

BUSINESS MEETING

Committee on Commerce, Science, and Transportation: Committee ordered favorably reported the following business items:

S. 633, to provide for the review and management of airport congestion, with an amendment in the nature of a substitute;

S. 951, to authorize appropriations for the Coast Guard, with an amendment in the nature of a substitute;

S. 980, to provide for the improvement of the safety of child restraints in passenger motor vehicles, with an amendment in the nature of a substitute;

S. 1214, to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports; and

The nominations of John Arthur Hammerschmidt, of Arkansas, to be a Member of the National Transportation Safety Board, Jeffrey William Runge, of North Carolina, to be Administrator, National Highway Traffic Safety Administration, and Kirk Van Tine, of Virginia, to be General Counsel, both of the Department of Transportation, and Nancy Victory, of Virginia, to be Assistant Secretary for Communications and Information, and Otto Wolff, of Virginia, to be an Assistant Secretary and Chief Financial Officer, both of the Department of Commerce.

Also, committee failed to report the nomination of Mary Sheila Gall, of Virginia, to be Chairman of the Consumer Product Safety Commission.

CAFÉ STANDARDS

Committee on Commerce, Science, and Transportation/Committee on Energy and Natural Resources: Committees concluded joint hearings to examine the National Academy of Sciences report on fuel economy, focusing on the effectiveness and impact of Corporate Average Fuel Economy Standards, after receiving testimony from David L. Greene, Corporate Research Fellow, National Transportation Research Center, Oak Ridge National Laboratory, Paul R. Portney, Resources for the Future, Washington, D.C., Adrian Lund, Insurance Institute for Highway Safety, Arlington, Virginia, Philip R. Sharp, Harvard University John F. Kennedy School of Government, Cambridge, Massachusetts, and John J. Wise, Mobil Research and Development Corporation, Princeton, New Jersey, all on behalf of the Committee on the Effectiveness and Impact of Corporate Average Fuel Economy (CAFÉ) Standards of the National Research Council.

BUSINESS MEETING

Committee on Energy and Natural Resources: Committee ordered favorably reported the following business items:

H.R. 146, to authorize the Secretary of the Interior to study the suitability and feasibility of designating the Great Falls Historic District in Paterson, New Jersey, as a unit of the National Park System;

H.R. 182, to amend the Wild and Scenic Rivers Act to designate a segment of the Eight Mile River in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System;

H.R. 1000, to adjust the boundary of the William Howard Taft National Historic Site in the State of Ohio, and to authorize an exchange of land in connection with the historic site;

H.R. 1668, to authorize the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor former President John Adams and his legacy;

S. 423, to amend the Act entitled ''An Act to provide for the establishment of Fort Clatsop National Memorial in the State of Oregon'', with amendments;

S. 941, to revise the boundaries of the Golden Gate National Recreation Area in the State of California, and to extend the term of the advisory commission for the recreation area, with amendments;

S. 1057, to authorize the addition of lands to Pu'uhonua o Honaunau National Historical Park in the State of Hawaii;

S. 1097, to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of the Great Smoky Mountains National Park;

S. 1105, to provide for the expeditious completion of the acquisition of State of Wyoming lands within the boundaries of Grand Teton National Park, with amendments; and

The nomination of Theresa Alvillar-Speake, of California, to be Director of the Office of Minority Economic Impact, Department of Energy.

Also, committee continued markup of S. 597, to provide for a comprehensive and balanced national energy policy, but did not complete action thereon, and recessed subject to call.

BUSINESS MEETING

Committee on Governmental Affairs: Committee ordered favorably reported the following business items:

S. 1008, to amend the Energy Policy Act of 1992 to develop the United States Climate Change Response Strategy with the goal of stabilization of greenhouse gas concentrations in the atmosphere at

a level that would prevent dangerous anthropogenic interference with the climate system, while minimizing adverse short-term and long-term economic and social impacts, aligning the Strategy with United States energy policy, and promoting a sound national environmental policy, to establish a research and development program that focuses on bold technological breakthroughs that make significant progress toward the goal of stabilization of greenhouse gas concentrations, to establish the National Office of Climate Change Response within the Executive Office of the President, with amendments;

S. 1202, to amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to extend the authorization of appropriations for the Office of Government Ethics through fiscal year 2006;

S. 1198, to reauthorize Franchise Fund Pilot Programs;

S. 1144, to amend title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.) to reauthorize the Federal Emergency Management Food and Shelter Program;

S. 271, to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers;

H.R. 93, to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers;

H.R. 1042, to prevent the elimination of certain reports;

S. 737, to designate the facility of the United States Postal Service located at 811 South Main Street in Yerington, Nevada, as the ''Joseph E. Dini, Jr. Post Office'';

S. 970, to designate the facility of the United States Postal Service located at 39 Tremont Street, Paris Hill, Maine, as the ''Horatio King Post Office Building'';

S. 985, to designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the ''G. Elliot Hagan Post Office Building'';

H.R. 1183, to designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the ''G. Elliot Hagan Post Office Building'';

S. 1026, to designate the United States Post Office located at 60 Third Avenue in Long Branch, New Jersey, as the ''Pat King Post Office Building'';

S. 1181, to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the ''Elwood Haynes 'Bud' Hillis Post Office Building'';

H.R. 2043, to designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the ''Elwood Haynes 'Bud' Hillis Post Office Building'';

H.R. 364, to designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the ''Marjory Williams Scrivens Post Office'';

H.R. 821, to designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the ''W. Joe Trogdon Post Office Building'';

H.R. 1753, to designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the ''M. Caldwell Butler Post Office Building''; and

The nominations of Lynn Leibovitz, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia, and Daniel R. Levinson, of Maryland, to be Inspector General, General Services Administration.

NOMINATION

Committee on Health, Education, Labor, and Pensions: Committee concluded hearings on the nomination of John Lester Henshaw, of Missouri, to be Assistant Secretary of Labor for Occupational Safety and Health, after the nominee testified and answered questions in his own behalf.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 356, to establish a National Commission on the Bicentennial of the Louisiana Purchase, with an amendment in the nature of a substitute;

S. 1046, to establish a Commission to commemorate the 50th anniversary of the Supreme Court decision in *Brown* v. *Board of Education*, with amendments;

H.R. 2133, to establish a Commission to commemorate the 50th anniversary of the Supreme Court decision in *Brown* v. *Board of Education*, with amendments;

S. Res. 143, expressing the sense of the Senate regarding the development of educational programs on veterans' contributions to the country and the designation of the week of November 11 through November 17, 2001, as ''National Veterans Awareness Week'';

S. Res. 145, recognizing the 4,500,000 immigrants helped by the Hebrew Immigrant Aid Society;

S. Res. 138, designating the month of September as ''National Prostate Cancer Awareness Month'', with amendments;

S. Res. 146, designating August 4, 2001, as ''Louis Armstrong Day''; and

The nominations of William J. Riley, of Nebraska, to be United States Circuit Judge for the Eighth Circuit, and Sarah V. Hart, of Pennsylvania, to be Director of the National Institute of Justice, and Robert S. Mueller III, of California, to be Director of the Federal Bureau of Investigation, both of the Department of Justice.

BUSINESS MEETING

Committee on Rules and Administration: Committee ordered favorably reported the following bills:

S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections;

S.J. Res. 19, providing for the reappointment of Anne d'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 20, providing for the appointment of Roger W. Sant as a citizen regent of the Board of Regents of the Smithsonian Institution.

BUSINESS MEETING

Committee on Veterans' Affairs: Committee ordered favorably reported the following business items:

S. 739, to amend title 38, United States Code, to improve programs for homeless veterans, with an amendment in the nature of a substitute;

S. 1088, to amend title 38, United States Code, to facilitate the use of educational assistance under the Montgomery GI Bill for education leading to employment in high technology industry, with an amendment in the nature of a substitute;

S. 1090, to increase, effective as of December 1, 2001, the rates of compensation for veterans with service-connected disabilities and the rates dependency and indemnity compensation for the survivors of certain disabled veterans;

S. 1188, to amend title 38, United States Code, to enhance the authority of the Secretary of Veterans Affairs to recruit and retain qualified nurses for the Veterans Health Administration, with an amendment in the nature of a substitute; and

The nominations of John A. Gauss, of Virginia, to be Assistant Secretary of Veterans Affairs for Information and Technology, and Claude M. Kicklighter, of Georgia, to be Assistant Secretary of Veterans Affairs for Policy and Planning.

Prior to this action, committee concluded hearings on the nominations of Messrs. Gauss and Kicklighter (listed above), after the nominees testified and answered questions in their own behalf. Mr. Kicklighter was introduced by Senators Thurmond and Akaka.

House of Representatives

Chamber Action

Bills Introduced: 116 public bills, H.R. 2707, 2714–2830; 1 private bill, H.R. 2831; and 21 resolutions, H. Con. Res. 208–215, and H. Res. 218, 221–232, were introduced. **Pages H5332–39**

Reports Filed: Reports were filed as follows:

H.R. 2175, to protect infants who are born alive (H. Rept. 107–186);

H.R. 2277, to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors (H. Rept. 107–187);

H.R. 2278, to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States (H. Rept. 107–188);

H.R. 2048, to require a report on the operations of the State Justice Institute (H. Rept. 107–189);

H.R. 2047, to authorize appropriations for the United States Patent and Trademark Office for fiscal year 2002, amended (H. Rept. 107–190);

H.R. 2646, to provide for the continuation of agricultural programs through fiscal year 2011, amended (H. Rept. 107–191, Pt. 1); and

H.R. 1408, to safeguard the public from fraud in the financial services industry, to streamline and facilitate the antifraud information-sharing efforts of Federal and State regulators, amended (H. Rept. 107–192, Pt. 1). **Page H5332**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Fossella to act as Speaker pro tempore for today. **Page H5179**

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. George G. McDearmon, Ballston Lake Baptist Church of Ballston Lake, New York. **Page H5179**

Journal: Agreed to the Speaker's approval of the Journal of August 1 by a recorded vote of 331 ayes to 76 noes with 1 voting "present," Roll No. 321. **Pages H5179, H5180**

Motions to Adjourn: Rejected the McNulty motions to adjourn by a recorded vote of 55 ayes to 363 noes, Roll No. 322, yea-and-nay vote of 56 yeas to 355 nays, Roll No. 323, and a recorded vote of 55 ayes to 356 noes, Roll No. 327. **Pages H5180–81, H5184–85, H5196**

Recess: The House recessed at 11:17 p.m. and reconvened at 12 noon. **Page H5184**

Bipartisan Patient Protection Act: The House passed H.R. 2563, to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage by a yea-and-nay vote of 226 yeas to 203 nays, Roll No. 332. **Page H5196–H5315**

Rejected the Berry motion to recommit the bill to the Committee on Ways and Means, Committee on Energy and Commerce, and the Committee on Education and the Workforce with instructions to report it back to the House forthwith with an amendment in the nature of a substitute by a recorded vote of 208 ayes to 220 noes, Roll No. 331. **Pages H5285–H5314**

Agreed To:

Thomas amendment No. 1 printed in H. Rept. 107–184 that adds Association Health Plans to the Employee Retirement Income Security Act (ERISA) and removes restrictions on Medical Savings Accounts (MSAs) (agreed to by a recorded vote of 236 ayes to 194 noes, Roll No. 328); and **Pages H5247–62**

Norwood amendment No. 2 printed in H. Rept. 107–184 that guarantees patients Federal remedies to hold health plans accountable for wrongful denial or delay of medical care and caps non-economic damages at $1.5 million and punitive damages at $1.5 million (agreed to by a recorded vote of 218 ayes to 213 noes, Roll No. 329). **Pages H5262–76**

Rejected:

Thomas amendment No. 3 printed in H. Rept. 107–184 that sought to reform medical malpractice laws (rejected by a recorded vote of 207 ayes to 221 noes, Roll No. 330). **Pages H5276–85**

The Clerk was authorized to make corrections and conforming changes in the engrossment of the bill. **Page H5315**

Agreed to H. Res. 219, the rule that provided for consideration of the bill by a recorded vote of 222 ayes to 205 noes, Roll No. 326. Earlier, agreed to order the previous question by a recorded vote of 222 ayes to 205 noes, Roll No. 325. **Pages H5185–96**

Late Report—Committee on Armed Services: The Committee on Armed Services received permission to have until midnight on Tuesday, Sept. 4, to file a report on H.R. 2586, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2002. **Pages H5315–16**

Late Report—Committee on Agriculture: The Committee on Agriculture received permission to have until 5 p.m. on Tuesday, Sept. 4, to file a supplemental report on H.R. 2646, to provide for the continuation of agricultural programs through fiscal year 2011. **Page H5316**

August District Work Period: The House agreed to H. Con. Res. 208, providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate. **Page H5316**

Possible Pro Forma Sessions of the House During the August District Work Period: Agreed that when the House adjourns today, it shall adjourn to meet at noon on Monday, August 6, and that when the House adjourns on Monday, August 6, it shall adjourn to meet at noon on Tuesday, August 7; and when the House adjourns on Tuesday, August 7, and on each of its successive days of meeting under this order it shall stand adjourned until noon on each third successive day until it shall convene at 2 p.m. on Wednesday, September 5, 2001; unless the House sooner receives a message from the Senate transmitting its adoption of a concurrent resolution providing for the summer district work period, in which case the House, following its adoption thereof, shall stand adjourned pursuant to that concurrent resolution. **Page H5316**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, Sept. 5, 2001. **Page H5316**

Consideration of Suspensions on Wednesday, Sept. 5: Agreed that it be in order at any time on Wednesday, Sept. 5 for the Speaker to entertain motions to suspend the rules. **Page H5316**

Resignations—Appointments: Agreed that notwithstanding any adjournment of the House until Wednesday, Sept. 5, 2001 the Speaker, Majority Leader, and Minority Leader be authorized to accept

resignations and to make appointments authorized by law or by the House. **Page H5316**

Cleaning the Mace: The House agreed to H. Res. 223, authorizing the cleaning and repair of the mace of the House of Representatives by the Smithsonian Institution. **Page H5316**

Neighborhood Crime Prevention: The House agreed to H. Res. 193, requesting that the President focus appropriate attention on the issues of neighborhood crime prevention, community policing, and reduction of school crime by delivering speeches, convening meetings, and directing his Administration to make reducing crime an important priority. **Pages H5316–17**

Mourning the Death of Ron Sander in Ecuador: The House agreed to H. Con. Res. 89, mourning the death of Ron Sander at the hands of terrorist kidnappers in Ecuador and welcoming the release from captivity of Arnie Alford, Steve Derry, Jason Weber, and David Bradley, and supporting efforts by the United States to combat such terrorism. **Pages H5317–19**

Appalachian Regional Development Reauthorization: The House passed H.R. 2501, amended, to reauthorize the Appalachian Regional Development Act of 1965. **Pages H5319–21**

Thurgood Marshall United States Courthouse, New York City: The House passed H.R. 988, to designate the United States courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse." **Pages H5321–23**

National Health Center Week: The House agreed to H. Con. Res. 179, expressing the sense of Congress regarding the establishment of a National Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers. **Page H5323**

10th Anniversary of the Re-establishment of Ukraine Independence: The House agreed to H. Res. 222, congratulating Ukraine on the tenth anniversary of re-establishment of its independence. **Pages H5323–24**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Wolf or, if he is not available, Representative Gilchrest to act as Speaker pro tempore to sign enrolled bills and joint resolutions through September 5. **Page H5324**

Senate Messages: Message received from the Senate today appears on page H5179.

Referral: S. 494 was referred to the Committees on Financial Services and International Relations. **Page H5330**

Quorum Calls—Votes: One quorum call (418 present, Roll No. 324), three yea-and-nay votes, and eight recorded votes developed during the proceedings of the House today and appear on pages H5180, H5180–81, H5184–85, H5194, H5194–95, H5195–96, H5196, H5262, H5275–76, H5285, H5314, and H5315.

Adjournment: The House met at 10 a.m. and, at midnight, pursuant to the previous order of the House of Thursday, August 2, the House stands adjourned until noon on Monday, August 6, 2001, unless it sooner has received a message from the Senate transmitting its concurrence in H. Con. Res. 208, in which case the House shall stand adjourned pursuant to that concurrent resolution for the August District Work Period and will reconvene on Wednesday, September 5 at 2 p.m.

Committee Meetings

AIRLINE DELAYS AND AVIATION SYSTEM CAPACITY

Committee on Appropriations: Subcommittee on Transportation on Airline Delays and Aviation System Capacity. Testimony was heard from the following officials of the Department of Transportation: Jane F. Garvey, Administrator, FAA; and Kenneth M. Mead, Inspector General; and public witnesses.

BUDGET RESPONSIBILITY AND EFFICIENCY ACT

Committee on the Budget: Ordered reported, as amended, H.R. 981, Budget Responsibility and Efficiency Act of 2001.

RETIREMENT SECURITY ADVICE ACT

Committee on Education and the Workforce: Subcommittee on Employer-Employee Relations approved for full Committee action H.R. 2269, Retirement Security Advice Act of 2001.

CHILD ABUSE AND NEGLECT PREVENTION

Committee on Education and the Workforce: Subcommittee on Select Education held a hearing on "CAPTA: Successes and Failures at Preventing Child Abuse and Neglect." Testimony was heard from Wade Horn, Assistant Secretary, Children and Families, Department of Health and Human Services; and public witnesses.

SEC'S BROKER-DEALER RULES

Committee on Financial Services: Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises and the Subcommittee on Financial Institutions and Consumer Credit held a joint hearing entitled "Pushing Back the Pushouts: the Securities and Exchange Commission's Broker-Dealer Rules."

Testimony was heard from Laura S. Under, Acting Chairwoman, SEC; Laurence H. Meyer, member, Board of Governors, Federal Reserve System; William F. Kroener, General Counsel, FDIC; Ellen Broadman, Director, Securities and Corporate Practices, Office of the Comptroller of the Currency, Department of the Treasury; and public witnesses.

REGULATORS IN DEREGULATED ELECTRICITY MARKETS

Committee on Government Reform: Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs held a hearing on FERC: Regulators in Deregulated Electricity Markets. Testimony was heard from the following officials of the Federal Energy Regulatory Commission, Department of Energy: Kevin Madden, General Counsel; and Shelton Cannon, Deputy Director, Office of Markets, Tariffs and Rates; James E. Wells, Jr., Director, Natural Resources and Environment, GAO; and public witnesses.

F–22 COST CONTROLS

Committee on Government Reform: Subcommittee on National Security, Veterans' Affairs, and International Relations held a hearing on F–22 Cost Controls: How Realistic are Production Cost Reduction Plan Estimates? Testimony was heard from the following officials of the National Security and International Affairs Division, GAO: Allen Li, Associate Director; and Donald Springman, Senior Analyst; and the following officials of the Department of Defense: Darleen A. Druyun, Principal Deputy Assistant Secretary, Air Force, Acquisition and Management, and George Schneiter, Director, Strategic and Tactical Systems, both with the Department of the Air Force; and Francis P. Summers, Regional Director, Defense Contract Audit Agency.

MISCELLANEOUS MEASURES

Committee on International Relations: Subcommittee on Europe approved for full Committee action the following measures: H. Res. 200, amended, relating to the transfer of Slobodan Milosevic, and other alleged war criminals, to the International Criminal Tribunal for Yugoslavia; H. Con. Res. 131, congratulating the Baltic nations of Estonia, Latvia, and Lithuania on the tenth anniversary of the reestablishment of their full independence; and H. Con. Res. 58, amended, urging the President of Ukraine to support democratic ideals, the rights of free speech, and free assembly for Ukrainian citizens.

INTERNET TAX NONDISCRIMINATION ACT

Committee on the Judiciary: Subcommittee on Commercial and Administrative Law approved for full Committee action H.R. 1552, Internet Tax Nondiscrimination Act.

TWO STRIKES AND YOU'RE OUT CHILD PROTECTION ACT; LAW ENFORCEMENT TRIBUTE ACT

Committee on the Judiciary: Subcommittee on Crime approved for full Committee action the following bills: H.R. 2146, amended, Two Strikes and You're Out Child Protection Act; and H.R. 2624, Law Enforcement Tribute Act.

OVERSIGHT—U.S. POPULATION AND IMMIGRATION

Committee on the Judiciary: Subcommittee on Immigration and Claims held an oversight hearing on the U.S. Population and Immigration. Testimony was heard from John F. Long, Chief, Population Division, Bureau of the Census, Department of Commerce; and public witnesses.

FISHERIES CONSERVATION ACT; ATLANTIC HIGHLY MIGRATORY SPECIES CONSERVATION ACT

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans approved for full Committee action, as amended, H.R. 1989, Fisheries Conservation Act of 2001.

The Subcommittee also held a hearing on H.R. 1367, Atlantic Highly Migratory Species Conservation Act of 2001. Testimony was heard from the following officials of the National Marine Fisheries Service, NOAA, Department of Commerce: William T. Hogarth, Acting Assistant Administrator, Fisheries; and Gerry Scott, Director, Sustainable Fisheries Division; and public witnesses.

BRIEFING—THE TERRORIST THREAT

Permanent Select Committee on Intelligence: Working Group on Terrorism and Homeland Security met in executive session to receive a briefing on "CBRN 101," The Terrorist Threat. The Committee was briefed by departmental witnesses.

COMMITTEE MEETINGS FOR FRIDAY, AUGUST 3, 2001

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Finance: Subcommittee on International Trade, to hold hearings on the Andean Trade Preferences Act, 10 a.m., SD–215.

Committee on Foreign Relations: to hold hearings on the nomination of J. Richard Blankenship, of Florida, to be Ambassador to the Commonwealth of The Bahamas; the nomination of Hans H. Hertell, of Puerto Rico, to be

Ambassador to the Dominican Republic; and the nomination of Martin J. Silverstein, of Pennsylvania, to be Ambassador to the Oriental Republic of Uruguay, 9:45 a.m., SD–419.

House

Committee on Energy and Commerce, Subcommittee on Energy and Air Quality, hearing on the reauthorization of the Price-Anderson Act, 9:30 a.m., 2322 Rayburn.

Subcommittee on Oversight and Investigations, hearing on ''How Secure is Sensitive Commerce Department Data and Operations? A Review of the Department's Computer Security Policies and Practices,'' 9:30 a.m., 2123 Rayburn.

Joint Meetings

Joint Economic Committee: to hold hearings to examine the employment situation for July, 2001, 9:30 a.m., 1334 Longworth Building.

Next Meeting of the SENATE

9:30 a.m., Friday, August 3

Senate Chamber

Program for Friday: Senate will resume consideration of S. 1246, Emergency Agriculture Assistance Act, with a vote on the motion to close further debate on the bill.

Next Meeting of the HOUSE OF REPRESENTATIVES

12 noon, Monday, August 6

House Chamber

Program for Monday: Pro forma session.

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