Senator from Arizona (Mr. KYL), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 2794, supra.

S. 2798

At the request of Mr. DURBIN, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 2798, a bill to protect employees and retirees from corporate practices that deprive them of their earnings and retirement savings when a business files for bankruptcy under title 11, United States Code.

S. 2800

At the request of Mr. BAUCUS, the names of the Senator from New York (Mrs. CLINTON) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2800, a bill to provide emergency disaster assistance to agricultural producers.

S. 2814

At the request of Mr. DORGAN, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2814, a bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the rates applicable to marketing assistance loans and loan deficiency payments for other oilseeds.

S. 2819

At the request of Mr. JEFFORDS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2819, a bill to amend title XXI of the Social Security Act to permit qualifying States to use a portion of their unspent allotments under the State children's health insurance program to expand health coverage under that program or for expenditures under the medicaid program, and for other purposes.

S. 2820

At the request of Mrs. CARNAHAN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2820, a bill to increase the priority dollar amount for unsecured claims, and for other purposes.

S. 2826

At the request of Mr. SCHUMER, the names of the Senator from Georgia (Mr. CLELAND), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 2826, a bill to improve the national instant criminal background check system, and for other purposes.

S. 2830

At the request of Mr. ROBERTS, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 2830, a bill to provide emergency disaster assistance to agricultural producers.

S. CON. RES. 122

At the request of Ms. SNOWE, the name of the Senator from Iowa (Mr . HARKIN) was added as a cosponsor of S. Con. Res. 122, a concurrent resolution expressing the sense of Congress that security, reconciliation, and prosperity for all Cypriots can be best achieved within the context of membership in the European Union which will provide significant rights and obligations for all Cypriots, and for other purposes.

S. CON. RES. 129

At the request of Mr. CRAPO, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. Con. Res. 129, a concurrent resolution expressing the sense of Congress regarding the establishment of the month of November each year as ''Chronic Obstructive Pulmonary Disease Awareness Month''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 2835. A bill to promote the development of health care cooperatives that will help businesses to pool the health care purchasing power of employers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, I rise today with my colleague from Maine to introduce legislation to help businesses form group-purchasing cooperatives to obtain enhanced benefits, to reduce health care rates, and to improve quality for their employees' health care.

High health care costs are burdening businesses and employees across the Nation. These costs are digging into profits and preventing access to affordable health care. Too many patients feel trapped by the system, with decisions about their health dictated by costs rather than by what they need.

This year has been the third year in a row of double-digit increases in health care costs. Companies will likely face average increases of 12 to 15 percent in 2003, on top of the 12.7 percent increase this year.

For some employers in Wisconsin, costs will rise much more sharply. A recent study found health care cost for businesses in southeastern Wisconsin were 55 percent higher than the Midwest average. While nationwide, the average health care premium for a family currently costs about $588 per month, in Wisconsin an average family pays $812 per month.

We must curb these rapidly-increasing health care premiums. I strongly support initiatives to ensure that everyone has access to health care. It is crucial that we support successful local initiatives to reduce health care premiums and to improve the quality of employees; health care.

By using group purchasing to obtain rate discounts, some employers have been able to reduce the cost of health care premiums for their employees. According to the National Business Coalition on Health, there are more than 90 employer-led coalitions across the United States that collectively purchase health care. Through these pools, businesses are able to proactively challenge high costs and inefficient delivery of health care and share information on quality. These coalitions represent over 7,000 employers and approximately 34 million employees nation-wide.

Improving the quality of health care will also lower the cost of care. By investing in the delivery of quality health car, we will be able to lower long term health care costs. Effective care, such as quality preventive services, can reduce overall health care expenditures. Health purchasing coalitions help promote these services and act as an employer forum for networking and education on health care cost containment strategies. They can help foster a dialogue with health care providers, insurers, and local HMOs.

Health care markets are local. Problems with cost, quality, and access to healthcare are felt most intensely in the local markets. Health care coalitions can function best when they are formed and implemented locally.

Local employers of large and small businesses have formed health care coalitions to track health care trends, create a demand for quality and safety, and encourage group purchasing.

In Wisconsin, there have been various successful initiatives that have formed health care purchasing cooperatives to improve quality of care and to reduce cost. For example, the Employer Health Care Alliance Cooperative, an employer-owned and employer-directed not-for-profit cooperative, has developed a network of health care providers in Dane County and 12 surrounding counties on behalf of its 170 member employers. Through this pooling effort, employers are able to obtain affordable, high-quality health care for their 110,000 employees and dependents.

This legislation seeks to build on successful local initiatives, such as The Alliance, that help businesses to join together to increase access to affordable and high-quality health care.

The Promoting Health Care Purchasing Cooperatives Act would authorize grants to a group of businesses so that they could form group-purchasing cooperatives to obtain enhanced benefits, reduce health care rates, and improve quality.

This legislation offers two separate grant programs to help different types of businesses pool their resources and bargaining power. Both programs would aid businesses to form cooperatives. The first program would help large businesses that sponsor their own health plans, while the second program would help small businesses that purchase their health insurance.

My bill would enable larger businesses to form cost-effective cooperatives that could offer quality health care through several ways. First, they could obtain health services through pooled purchasing from physicians, hospitals, home health agencies, and

others. By pooling their experience and interests, employers involved in a coalition could better attack the essential issues, such as rising health insurance rates and the lack of comparable health care quality data. They would be able to share information regarding the quality of these services and to partner with these health care providers to meet the needs of their employees.

For smaller businesses that purchase their health insurance, the formation of cooperatives would allow them to buy health insurance at lower prices through pooled purchasing. Also, the communication within these cooperatives would provide employees of small businesses with better information about the health care options that are available to them. Finally, coalitions would serve to promote quality improvements by facilitating partnerships between their group and the health care providers.

By working together, the group could develop better quality insurance plans and negotiate better rates.

Past health purchasing pool initiatives have focused only on cost and have tried to be all things for all people. My legislation creates an incentive to join the pool by giving grants to a group of similar businesses to form group-purchasing cooperatives. The pool are also given flexibility to find innovative ways to lower costs, such as enhancing benefits, for example, more preventive care, and improving quality. Finally, the cooperative structure is a proven model, which creates an incentive for businesses to remain in the pool because they will be invested in the organization.

We must reform health care in America and give employers and employees more options. This legislation, by providing for the formation of cost-effective coalitions that will also improve the quality of care, contributes to this essential reform process. I urge my colleagues to join me in cosponsoring this proposal to improve the quality and ease the costs of health care.

By Ms. LANDRIEU:

S. 2837. A bill to amend the Internal Revenue Code of 1986 to allow businesses to qualify as renewal community businesses if such businesses employ residents of certain other renewal communities; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, I rise to introduce legislation to make a small change to the Renewal Community program that will make a big difference for the people of my State. This legislation will spur job growth and economic development in many impoverished areas that have been designated as renewal communities.

Renewal communities were authorized under the Community Renewal Tax Relief Act of 2000. The Department of Housing and Urban Development has designated 40 urban and rural areas around the country as renewal communities that are eligible to share in an estimated $17 billion in tax incentives to stimulate job growth, promote economic development, and create affordable housing. The purpose of the Act is to help bring needed investment to areas with demonstrated economic distress. The poverty rate in renewal communities is at least 20 percent, and the unemployment rate is one-and-a-half times the national level. The households in the renewal communities have incomes that are 80 percent below the median income of households in their local jurisdictions.

Businesses in renewal communities are eligible to receive wage credits, tax deductions, and capital gains exclusions for hiring workers living in the renewal communities. In order for businesses to qualify for participation in the program they must meet certain criteria. For example, at least fifty percent of the total gross income of a business must come from operations within the renewal community and a substantial part of its tangible property must lie within the renewal community. Furthermore, at least thirty-five percent of its employees must be residents of the renewal community and the employees' services must be performed in the renewal community.

The Renewal Community program is targeted to help small businesses in poor communities. Through the tax benefits provided, the small and family-owned businesses are able to maintain their operations and continue supplying goods and services to their neighborhoods. These businesses are the true essence of the entrepreneurial spirit and are the engines of economic growth and development. The Renewal Community program also encourages the start of new businesses. Louisiana has really benefited from this program. It has been a catalyst in boosting local economics and cutting unemployment.

Louisiana has four renewal communities. Some of them border one another. Under the rules of the program, however, a business cannot take advantage of the tax incentives if they hire someone who lives outside the renewal community, even if that person lives in the renewal community next door. In rural areas, this rule poses a problem for people living in one renewal community who often find jobs with companies in an adjacent renewal community.

A good example of what I am talking about is in the northern part of Louisiana, home of the North Louisiana Renewal Community and the Ouachita Renewal Community. The City of Monroe is located at the heart of the Ouachita Renewal Community. Monroe serves as the hub for Northeast Louisiana. All around Monroe and the Ouachita Renewal Community there are parishes which all fall in the North Louisiana Renewal Community, Morehouse Parish to the north, Richland Parish to the east, Caldwell Parish to the south, and Lincoln Parish to the west. We know that many companies in the Ouachita Renewal Community would qualify for the tax benefits if they could count any employees they hired from the adjacent North Louisiana Renewal Community toward meeting the thirty-five percent requirement. My legislation will allow the employers in one renewal community to hire employees from an adjacent or nearby renewal community areas and still receive the tax benefits granted through the Act.

The goal of the Renewal Community Program is to provide a vehicle for change in poverty stricken areas. It makes sense that we take steps to add flexibility to the program. Employees with a particular skill set may be better suited to work at companies located in an adjacent renewal community. My legislation provides employers and employees with the opportunity to take full advantage of the Renewal Community program.

This legislation is an opportunity for continued assistance to low income people and economically distressed areas of our country. I urge my colleagues to support this bill.

By Mrs. FEINSTEIN:

S. 2838. A bill to provide for the conveyance of Forest Service facilities and lands comprising the Five Mile Regional Learning Center in the State of California to the Clovis Unified School District, to authorize a new special use permit regarding the continued use of unconveyed lands comprising the Center, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I am proud to introduce legislation today to transfer 27 acres of land from the Stanislaus National Forest to the Clovis Unified School District.

This bill allows the school district to continue operating the California Five Mile Regional Learning Center and, more importantly, raise the necessary funds to renovate the facilities.

Since 1989, Clovis Unified School District has leased the Five Mile Regional Learning Center from the Forest Service to offer programs to students living in the Central Valley. And each year, thousands of eager children come to the Center to take classes that emphasize natural resource conservation. During this past academic year, for instance, more than 14,000 students benefitted from classes ranging from forest management to aviary studies to team building.

In addition to classes, students have the option of attending summer basketball camps offered in the Center's gymnasium and participating in individual activities given on the Center's adjacent 93 acres. To date, the district has invested $14 million of local funds to provide these opportunities.

Unfortunately, in the last few years, the Regional Learning Center has fallen into a state of disrepair. The buildings that occupy the 27 acres are over 40 years old, but have never undergone

major renovations to modernize and improve them. As a result, the Center has a laundry list of items in need of repair: from cracked asphalt and leaky roofs to unreliable electrical wiring. And while Clovis Unified School District officials have done a fine job of operating the Center and are willing to invest in renovations, the Forest Service can not permit the district to spend local funds to renovate these federally owned buildings.

This bill enables the Forest Service to convey the acreage that the buildings occupy to the school district allowing the district to make the necessary repairs. Clovis Unified has already committed to investing $5 million over 5 years to make the renovations, in addition to the district's $1.2 million of annual contributions spent on routine maintenance and operating costs. These investments will be used to expand and enhance the Center's environmental educational curriculum. I believe that given the budget constraints that schools nationwide are facing that this commitment speaks to the quality of these programs and to the need to keep the Center in operation.

The Forest Service has already acknowledged that this transfer would be in the best interest of both the Forest Service and the general public. At the Forest Service's request, reversionary language was added to this bill to ensure that the gederal government would retain ownership of the land should the school district decide to no longer operate the facilities.

Without this important legislation, in a few years time, the California Five Mile Regional Learning Center will be uninhabitable and another educational resource that benefits our children will close its doors. I believe that this bill is the perfect example of what can happen when local, state, and federal governments work together to get something done. It is this type of partnership that Congress should support in our efforts to diversify and improve educational opportunities for students and encourage multi-use activities on federal land. In this case, I believe everyone wins and I urge my colleagues to join me in supporting this bill.

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. 2838

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 ''California Five Mile Regional Learning Center Transfer Act''.

SEC. 2. LAND CONVEYANCE AND SPECIAL USE AGREEMENT, FIVE MILE REGIONAL LEARNING CENTER, CALIFORNIA.

(a) CONVEYANCE.—The Secretary of Agriculture shall convey to the Clovis Unified School District of California all right, title, and interest of the United States in and to a parcel of National Forest System land consisting of 27.10 acres located within the southwest ¼ of section 2, township 2 north, range 15 east, Mount Diablo base and meridian, California, which has been utilized as the Five Mile Regional Learning Center by the school district since 1989 pursuant to a special use permit (Holder No. 2010–02) to provide natural resource conservation education to California youth. The conveyance shall include all structures, improvements, and personal property shown on original map #700602 and inventory dated February 1, 1989.

(b) SPECIAL USE AGREEMENT.—As soon as practicable after the date of the enactment of this Act, the Secretary shall enter into negotiations with the Clovis Unified School District to enter into a new special use permit for the approximately 100 acres of National Forest System land that, as of the date of the enactment of this Act, is being used by the school district pursuant to the permit described in subsection (a), but is not included in the conveyance under such subsection.

(c) REVERSION.—In the event that the Clovis Unified School District discontinues its operation of the Five Mile Regional Learning Center, title to the real property conveyed under subsection (a) shall revert back to the United States.

(d) COSTS AND MINERAL RIGHTS.—The conveyance under subsection (a) shall be for a nominal cost. Notwithstanding such subsection, the conveyance does not include the transfer of mineral rights.

By Mr. CLELAND:

S. 2839. A bill to enhance the protection of privacy of children who use school or library computers employing Internet content management services, and for other purposes; to the Committee on commerce, Science, and Transportation.

Mr. CLELAND. Mr. President, in December 2000, New York Times reporter, John Schwartz, wrote ''When Congress passed a new bill last week requiring virtually every school and library in the nation to install technology to protect minors from adult materials online, it created a business opportunity for companies that sell Internet filtering systems. . . . some of the filtering companies' business plans include tracking students' Web wanderings and selling the data to market research firms.'' While I support the use of filtering technology in schools and libraries that will be visited by our children, this statement alarmed me.

A month later, the Wall Street Journal reported that the Department of Defense was buying information about our school children's Internet habits from a filtering company without the knowledge of their parents or the school officials. The Defense Department contracted directly with the filtering company. As one of our most vulnerable populations, I believe it is Congress's duty to act in a manner to ensure families knowledge of the information that is collected about our children and to restrict the collection of personal information on children. The fact that this arrangement could occur without anyone with direct responsibility for the children having knowledge of it is a serious oversight. We need a solution, and to that end, I am introducing the Children's Electronic Access Safety Enhancement, or CEASE Act.

This legislation is a commonsense approach to dealing with this problem in order to ensure our children are protected. The first section of the bill requires an Internet filtering government contractor to disclose its treatment of collected information to the school or library with which it is contracting. Additionally, if changes to these policies are made, the filtering company must inform the school or library of these changes. If adequate notice is not provided, the entity has the option to cancel the contract. Armed with such information about the company's practices, the school or library officials can make an informed decision of whether it wishes to contract with a particular company.

The Children's Online Privacy Protection Act, COPPA, which passed Congress and was signed into law in 1998, prohibits the collection of personal information about children on commercial websites. In the second section of my legislation, a similar COPPA prohibition would extend to Internet content management services at schools and libraries. If personal information is collected on a child, the provider is required to inform the school or library and the Federal Trade Commission and to indicate how it will treat this information so that it will not be disclosed or distributed. When children go to schools and libraries, these environments are supposed to be safe. Parents and guardians should not have to worry about how their children's personal information may be compromised, especially by a company that markets itself to protect children and in some cases facilitate learning. I believe my legislation will help put to rest such concerns.

Protecting the privacy of children has been widely supported, as it should be. When Congress was debating COPPA in 1998, the bill received broad support. At a Senate Commerce Committee hearing in September 1998, Arthur Sackler, representing the Direct Marketing Association, DMA stated, ''Although DMA usually supports self-regulation of electronic commerce, we believe it may be appropriate to consider targeted legislation in this area.'' Kathyrn Montgomery from the Center for Media Education stated, ''Children are not little adults. . . . Because many young children do not fully understand the concept of privacy, they can be quite eager and willing to offer up information about themselves and their families when asked. Children also tend to be particularly trusting of computers, and thus more open to interacting with them.''

An April 2002 FTC report on the implementation of COPPA draws the conclusion that Web sites have generally been able to comply with COPPA. That is why I have every hope and expectation that the CEASE Act can also be implemented.

Given the fact that we have evidence of some Internet content management companies already sharing information with outside entities, the CEASE Act is timely. If an Internet content management company believes it is a good business plan to share information, even in aggregate, with outside parties, these companies should not be adverse to disclosing this practice with a potential client. And, I believe that a number of communities may not wish to allow these practices at all because they believe that, as Alex Molnar, a professor at the University of Wisconsin at Milwaukee, stated, ''Providing demographic information about students to special interests, even in aggregate form, is a potential violation of the privacy of children and their families.'' Communities with such beliefs should be able to act upon them in the best interest of their children, and my legislation requires the disclosure that will help make this a reality.

There is no arguing that the Internet is, and will continue to be, an important part of the learning process. Personally, I support wiring the schools and libraries in this Nation as rapidly as possible because I understand the educational and job opportunities the Internet can bring. However, especially for our children, we need to ensure there are safeguards. Providing more information and empowering local officials to make decisions based on this information are good policies. As the Nation's children prepare to return to school—schools that are more wired now than ever before—I urge my colleagues to support the CEASE bill to protect our children.

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

S. 2839

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 ''Children's Electronic Access Safety Enhancement (CEASE) Act''.

SEC. 2. DISCLOSURE BY INTERNET CONTENT MANAGEMENT SERVICES OF COLLECTION, USE, AND DISCLOSURE OF INFORMATION UNDER CONTRACTS FOR SCHOOLS AND LIBRARIES.

(a) INITIAL DISCLOSURE OF POLICIES.—

(1) IN GENERAL.—A provider of Internet content management services shall, before entering into a contract or other agreement to provide such services to or for an elementary or secondary school or library, notify the local educational agency or other authority with responsibility for the school, or library, as the case may be, of the policies of the provider regarding the collection, use, and disclosure of information from or about children whose Internet use will be covered by such services.

(2) ELEMENTS OF NOTICE.—Notice on policies regarding the collection, use, disclosure of information under paragraph (1) shall include information on the following:

(A) Whether any information will be collected from or about children whose Internet use will be covered by the services in question.

(B) Whether any information so collected will be stored or otherwise retained by the provider of Internet content management services, and, if so, under what terms and conditions, including a description of how the information will be secured.

(C) Whether any information so collected will be sold, distributed, or otherwise transferred, and, if so, under what terms and conditions.

(3) FORM OF NOTICE.—Any notice under this subsection shall be clear, conspicuous, and designed to be readily understandable by its intended audience.

(b) MODIFICATION OF POLICIES.—

(1) IN GENERAL.—A provider of Internet content management services shall, before implementing any material modification of the policies described in subsection (a)(1) under a contract or other agreement with respect to an elementary or secondary school or library, notify the local educational agency or other authority with responsibility for the school, or library, as the case may be, of the proposed modification of the policies.

(2) TIMELINESS.—Notice under paragraph (1) shall be provided in sufficient time in advance of the modification covered by the notice to permit the local educational agency or other authority concerned, or library concerned, as the case may be, to evaluate the effects of the modification.

(c) REGULATIONS.—The Commission shall prescribe regulations for purposes of the administration of this section. The regulations shall include provisions regarding the elements of notice required under subsection (a)(2) and the timeliness of notice under subsection (b)(2).

(d) ADMINISTRATION.—

(1) IN GENERAL.—This section shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(2) EFFECT ON OTHER LAWS.—Nothing in this section shall be construed to limit the authority of the Commission under any other provision of law.

(e) NONCOMPLIANCE.—

(1) IN GENERAL.—The violation of any provision of this section, including the regulations prescribed by the Commission under subsection (c), shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) TERMINATION OF CONTRACT OR AGREEMENT.—

(A) AUTHORITY TO TERMINATE.—Notwithstanding any provision of a contract or agreement to the contrary, if a provider of Internet content management services for a school or library fails to comply with a policy in a notice under subsection (a), or fails to submit notice of a modification of a policy under subsection (b) in a timely manner, the local educational agency or other authority concerned, or library concerned, may terminate the contract or other agreement with the provider to provide Internet content management services to the school or library, as the case may be.

(B) RESOLUTION OF DISPUTES.—Any dispute under subparagraph (A) regarding the failure of a provider of Internet content management services as described in that subparagraph shall be resolved by the Commission.

(C) RELATIONSHIP TO OTHER RELIEF.—The authority under this paragraph with respect to noncompliance of a provider of Internet content management services is in addition to the power of the Commission to treat the noncompliance as a violation under paragraph (1).

(f) NOTICE TO PARENTS.—A school or library shall provide reasonable notice of the policies of an Internet content management service provider used by that school or library to parents of students, or patrons of the library, as the case may be.

SEC. 3. COLLECTION OF PERSONAL INFORMATION ABOUT CERTAIN OLDER CHILDREN BY PROVIDERS OF INTERNET CONTENT MANAGEMENT SERVICES TO SCHOOLS AND LIBRARIES.

(a) PROHIBITION.—A provider of Internet content management services to or for an elementary or secondary school or library may not collect through such services personal information from or about a child who is a student at that school or a user of that library.

(b) RESPONSIBILITIES UPON COLLECTION.—

(1) IN GENERAL.—If a provider of Internet content management services to or for an elementary or secondary school or library collects through such services personal information from or about a child who is a student at that school or a user of that library, the provider shall—

(A) provide prompt notice of such collection—

(i) to either—

(I) the local educational agency or other authority with responsibility for the school and appropriate officials of the State in which the school is located; or

(II) the library; and

(ii) to the Federal Trade Commission; and

(B) take appropriate actions to treat the personal information—

(i) in a manner consistent with the provisions of the Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6501 et seq.) if the personal information was collected from a child as defined in section 1302(1) of that Act; or

(ii) in a similar manner, under regulations prescribed by the Commission, if the personal information was collected from a child over the age of 12.

(2) ELEMENTS OF NOTICE.—Notice of the collection of personal information by a provider of Internet content management services under paragraph (1)(A) shall include the following:

(A) A description of the personal information so collected.

(B) A description of the actions taken by the provider with respect to such personal information under paragraph (1)(B).

(c) RESPONSE TO NOTICE.—A local educational agency or other authority, or library, receiving notice under subsection (b) with respect to a covered child shall take appropriate actions to notify a parent or guardian of the child of receipt of such notice.

SEC. 4. APPLICATION OF COPPA.

Section 1302 of the Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6501) is amended by adding at the end the following:

''(13) PROVIDER OF INTERNET CONTENT MANAGEMENT SERVICES TREATED AS OPERATOR.—The term 'operator' includes a provider of Internet content management services (as defined in section 5(4) of the Children's Electronic Access Safety Enhancement Act) who collects or maintains personal information from or about the users of those services, or on whose behalf such information is collected or maintained, if those services are provided for commercial purposes involving commerce described in paragraph (2)(A)(i), (ii), or (iii).''.

SEC. 5. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) CHILD.—Except as provided in section 3(b)(1)(B), the term ''child'' means an individual who is less than 19 years of age.

(3) PERSONAL INFORMATION.—The term ''personal information'' has the meaning given that term in section 1301(8) of the Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6501(8)).

(4) PROVIDER OF INTERNET CONTENT MANAGEMENT SERVICES.—The term ''provider of

Internet content management services'' includes a provider of Internet content management software if such software operates, in whole or in part, by or through an Internet connection or otherwise provides information on users of such software to the provider by the Internet or other means.

By Mr. CORZINE (for himself, Mr. CARPER, Mr. ENSIGN, Mr. SCHUMER, and Mr. ALLARD):

S. 2841. A bill to adjust the indexing of multifamily mortgage limits, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORZINE. Mr. President, today I am introducing legislation, the FHA Multifamily Housing Loan Limit Improvement Act, to expand the supply of affordable housing by increasing the Federal Housing Administration's multifamily housing loan limit to account for inflation.

Providing access to decent, safe, affordable housing for individuals and families remains an enormous challenge for our Nation. Throughout the country, rising construction costs have resulted in shortage of affordably priced rental units. In fact, the shortage of affordable housing should be considered nothing short of a crisis. After all, housing is among the most basic of human needs, and it is critically important for all American communities.

The Federal Housing Administration, FHA, was established as part of a national commitment to providing affordable housing, particularly for those most in need. Overall, the FHA, through its various initiatives, has been successful in providing increased access to housing. But as the crisis of affordable housing has grown, so has the need for Congress and the Department of Housing and Urban Development, HUD, to promote increased production of affordable housing.

That is why I am pleased to join with Senators CARPER, ENSIGN and SCHUMER in introducing this legislation to increase the production and availability of affordable housing for American families. The bill would improve upon legislation I introduced last year, ''The FHA Multifamily Housing Loan Limit Adjustment Act,'' which Congress approved last year as part of the VA–HUD Appropriations bill. That legislation increased by twenty-five percent the statutory limits for multifamily project development loans that are insurable by the FHA. The change reflected the increased costs associated with the production of multifamily units since 1992, the last time those limits were revised upwards.

In other words, it had taken Congress ten years to modify the underlying statute to account for rising prices and simply maintain the effectiveness of the program. That is too long. The legislation we are introducing today would ensure that it does not take another decade or longer to assist those who need affordable housing.

This bill is simple, it ensures that the insurable FHA loan limit amounts, as adjusted under ''The FHA Multifamily Loan Adjustment Act,'' would keep pace with economic growth by indexing them each year to the Annual Construction Cost Index, issued annually by the Census Bureau.

This bill also promotes the production of affordable housing in another important way, by promoting the development of affordable housing in high-cost cities like Newark, NJ, New York, Philadelphia and San Francisco. Currently in those communities, the cost of living is so high that the FHA insurance program is rendered largely ineffective.

This bill improves the FHA multifamily program by adjusting its statutory limits to promote increased housing production in high-cost, primarily urban, communities.

There is a very real need for Congress to address the shortage of affordable housing. A report released last year by the Center for Housing Policy, ''Housing America's Working Families,'' documented the severity of this need. The report found that more than fourteen million people faced severe housing needs because of the lack of affordable housing. That number may well be higher now.

This bill will provide the proper incentive for public/private investment in affordable housing in communities throughout America and spur new production of cooperative housing projects, rental housing for the elderly, new construction or substantial rehabilitation of apartments by for- and non-profit entities, condominium developments and refinancing of rental properties.

In short, this bill is good housing policy. That is why the National Association of Home Builders, the National Association of Realtors and the Mortgage Bankers Association endorse the legislation, along with other housing and community advocates.

I hope that my colleagues will support this legislation and 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 the RECORD, as follows:

S. 2841

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 ''FHA Multifamily Housing Loan Limit Improvement Act''.

SEC. 2. INDEXING OF MULTIFAMILY MORTGAGE LIMITS.

(a) SECTION 207 LIMITS.—Section 207(c)(3) of the National Housing Act (12 U.S.C. 1713(c)(3)) is amended—

(1) by striking ''11,250'' and inserting ''$17,460'';

(2) by inserting before ''; and except that'' the following: ''; except that the Secretary shall adjust each such dollar amount limitation set forth in this paragraph (as such limitation may have been previously adjusted pursuant to this paragraph) effective January 1 of each year, beginning in 2003, in accordance with the percentage increase, if any, during the 12-month period ending with the preceding October, in the Annual Construction Cost Index of the Bureau of the Census of the Department of Commerce''; and

(3) by inserting after ''foregoing dollar amount limitations contained in this paragraph'' the following: ''(as such limitations may have been previously adjusted pursuant to this paragraph)''.

(b) SECTION 213 LIMITS.—Section 213(b)(2) of the National Housing Act (12 U.S.C. 1715e(b)(2)) is amended—

(1) by striking ''$38,025'', ''$42,120'', ''$50,310'', ''$62,010'', and ''$70,200'', and inserting ''$41,207'', ''$47,511'', ''$57,300'', ''$73,343'', and ''$81,708'', respectively;

(2) by striking ''$49,140'', ''$60,255'', ''$75,465'', and ''$85,328'', and inserting ''$49,710'', ''$60,446'', ''$78,197'', and ''$85,836'', respectively;

(3) by inserting after the colon at the end of the first proviso the following: ''*Provided further*, That the Secretary shall adjust each such dollar amount limitation set forth in this paragraph (as such limitation may have been previously adjusted pursuant to this paragraph) effective January 1 of each year, beginning in 2003, in accordance with the percentage increase, if any, during the 12-month period ending with the preceding October, in the Annual Construction Cost Index of the Bureau of the Census of the Department of Commerce:''; and

(4) by inserting after ''foregoing dollar amount limitations contained in this paragraph'' the following: ''(as such limitations may have been previously adjusted pursuant to this paragraph)''.

(c) SECTION 220 LIMITS.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended—

(1) by inserting after ''foregoing dollar amount limitations contained in this clause'', the first place such phrase appears, the following: ''(as such limitations may have been previously adjusted pursuant to this clause)''.

(2) by inserting after ''Provided,'' the following: ''That the Secretary shall adjust each such dollar amount limitation set forth in this clause (as such limitation may have been previously adjusted pursuant to this clause) effective January 1 of each year, beginning in 2003, in accordance with the percentage increase, if any, during the 12-month period ending with the preceding October, in the Annual Construction Cost Index of the Bureau of the Census of the Department of Commerce: *Provided further*,''; and

(3) by striking ''(as determined after the application of the preceding proviso)'' and inserting ''(as such limitations may have been previously adjusted pursuant to the preceding proviso and as determined after application of any percentage increase authorized in this clause relating to units with 2, 3, 4, or more bedrooms)''.

(d) SECTION 221(d)(3) LIMITS.—Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(3)(ii)) is amended—

(1) by inserting before ''; and except that'' the following: ''; except that the Secretary shall adjust each such dollar amount limitation set forth in this clause (as such limitation may have been previously adjusted pursuant to this clause) effective January 1 of each year, beginning in 2003, in accordance with the percentage increase, if any, during the 12-month period ending with the preceding October, in the Annual Construction Cost Index of the Bureau of the Census of the Department of Commerce''; and

(2) by inserting after ''foregoing dollar amount limitations contained in this clause'' the following: ''(as such limitations may have been previously adjusted pursuant to this clause)''.

(e) SECTION 221(d)(4) LIMITS.—Section 221(d)(4)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(4)(ii)) is amended—

(1) by inserting before ''; and except that'' the following: ''; except that the Secretary shall adjust each such dollar amount limitation set forth in this clause (as such limitation may have been previously adjusted pursuant to this clause) effective January 1 of each year, beginning in 2003, in accordance with the percentage increase, if any, during the 12-month period ending with the preceding October, in the Annual Construction Cost Index of the Bureau of the Census of the Department of Commerce''; and

(2) by inserting after ''foregoing dollar amount limitations contained in this clause'' the following: ''(as such limitations may have been previously adjusted pursuant to this clause)''.

(f) SECTION 231 LIMITS.—Section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended—

(1) by inserting before ''; and except that'' the following: ''; except that the Secretary shall adjust each such dollar amount limitation set forth in this paragraph (as such limitation may have been previously adjusted pursuant to this paragraph) effective January 1 of each year, beginning in 2003, in accordance with the percentage increase, if any, during the 12-month period ending with the preceding October, in the Annual Construction Cost Index of the Bureau of the Census of the Department of Commerce''; and

(2) by inserting after ''foregoing dollar amount limitations contained in this paragraph'' the following: ''(as such limitations may have been previously adjusted pursuant to this paragraph)''.

(g) SECTION 234 LIMITS.—Section 234(e)(3) of the National Housing Act (12 U.S.C. 1715y(e)(3)) is amended—

(1) by inserting before ''; except that'' the second place such phrase appears the following: ''; except that the Secretary shall adjust each such dollar amount limitation set forth in this paragraph (as such limitation may have been previously adjusted pursuant to this paragraph) effective January 1 of each year, beginning in 2003, in accordance with the percentage increase, if any, during the 12-month period ending with the preceding October, in the Annual Construction Cost Index of the Bureau of the Census of the Department of Commerce'';

(2) by inserting after ''each of the foregoing dollar amounts'' the following: ''(as such amounts may have been previously adjusted pursuant to this paragraph)''; and

(3) by inserting after ''foregoing dollar amount limitations contained in this paragraph'' the following: ''(as such limitations may have been previously adjusted pursuant to this paragraph and increased pursuant to the preceding clause)''.

SEC. 2. HIGH-COST AREAS.

(a) SECTION 207 LIMITS.—Section 207(c)(3) of the National Housing Act (12 U.S.C. 1713(c)(3)) is amended—

(1) by striking ''140 percent'' and inserting ''170 percent''; and

(2) by striking ''110 percent'' and inserting ''140 percent''.

(b) SECTION 213 LIMITS.—Section 213(b)(2) of the National Housing Act (12 U.S.C. 1715e(b)(2)) is amended—

(1) by striking ''140 percent'' and inserting ''170 percent''; and

(2) by striking ''110 percent'' and inserting ''140 percent''.

(c) SECTION 220 LIMITS.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended—

(1) by striking ''140 percent'' and inserting ''170 percent''; and

(2) by striking ''110 percent'' and inserting ''140 percent''.

(d) SECTION 221(d)(3) LIMITS.—Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(3)(ii)) is amended—

(1) by striking ''140 percent'' and inserting ''170 percent''; and

(2) by striking ''110 percent'' and inserting ''140 percent''.

(e) SECTION 221(d)(4) LIMITS.—Section 221(d)(4)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(4)(ii)) is amended—

(1) by striking ''140 percent'' and inserting ''170 percent''; and

(2) by striking ''110 percent'' and inserting ''140 percent''.

(f) SECTION 231 LIMITS.—Section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended—

(1) by striking ''140 percent'' and inserting ''170 percent''; and

(2) by striking ''110 percent'' and inserting ''140 percent''.

(g) SECTION 234 LIMITS.—Section 234(e)(3) of the National Housing Act (12 U.S.C. 1715y(e)(3)) is amended—

(1) by striking ''140 percent'' and inserting ''170 percent''; and

(2) by striking ''110 percent'' and inserting ''140 percent''.

Mr. CARPER. Mr. President, I am very pleased to join today with my distinguished colleagues from New Jersey, Nevada, and New York to introduce legislation to index the Federal Housing Administration's, FHA, multifamily loan limits.

Last year, Senator CORZINE and I introduced similar legislation that raised the FHA multifamily loan limits, which had not been increased since 1992 despite a 23 percent increase in the Annual Construction Cost Index. Senators MIKULSKI and BOND included this increase in last year's VA–HUD appropriations legislation. I am pleased that these limits were increased last year, however, an important piece of the original legislation was left undone. While the FHA loan limits were increased, they were not indexed. Construction costs will continue to rise, and the multifamily loan limits should be indexed, just like the FHA single-family loan limits.

Affordable housing continues to be a problem in this country. Over the July recess, I held a series of housing summits in Delaware to hear from Delawareans about the lack of affordable housing. In each county, I heard that working families in Delaware are having difficulty finding affordable housing. This shortage of affordable housing also comes at a time of limited federal resources. Thus, we have to find the best use of each dollar at our disposal, as well as the most effective use of existing Federal programs to stimulate new housing production and substantial rehabilitation. This bill modifies a current federal program, FHA multifamily insurance, to make that program more effective.

In the next Congress, I hope to be able to address the affordable housing problem in a more comprehensive manner. In the meantime, I believe Congress can take some incremental steps to address the shortage of affordable housing.

I ask my colleagues to join Senators CORZINE, ENSIGN, and SCHUMER and me to increase these multifamily loan limits so that more working families will have access to affordable housing.

Mr. ENSIGN. Mr. President, I rise today, along with my good friend, the Senator from New Jersey, to introduce a bill that will help solve the affordable housing crisis that is facing this Nation.

There is a dramatic shortage of rental housing that is affordable to low and moderate income working families. FHA multifamily insurance programs are designed to stimulate the construction, rehabilitation and preservation of properties by insuring lenders against loss in financing first mortgages. The programs assist both the private and the public sectors towards the goal of providing affordable housing to those that otherwise may not be able to afford it.

Last year, in a remarkable step, Congress granted a 25 percent increase in the FHA multifamily loan limits. The new loan limits are one great remedy to the affordable housing crisis facing our nation, but this alone does not do enough.

Unfortunately, without additional legislation, the loan limits will again be outpaced by inflation and today's growing construction costs.

The legislation that we are introducing solves this problem by indexing the multifamily loan limits to the annual construction costs index of the Bureau of the Census. This will allow loan limits to increase automatically, as costs increase. Without such a fix, the FHA multifamily loan program will again be limited in its ability to stimulate the development of affordable housing.

This legislation will help halt the growing shortage of affordable rental housing faced by millions of Americans and give builders and lenders the confidence that they will be able to use the programs in their communities every year, even as construction and land costs rise over time.

Additionally, this legislation raises the loan limits in high-cost areas. This will allow several major urban markets to take advantage of the new FHA multifamily insurance programs, and to provide much needed new affordable housing to low and moderate income families.

I believe this legislation is an important step in our ongoing battle to ensure that each American has access to affordable housing. I would like to once again thank the Senator from New Jersey, Mr. CORZINE, for his hard work on this bill, and for recognizing the significant effect this legislation will have for many low and moderate income families by dramatically increasing their access to affordable housing.

By Mrs. CARNAHAN:

S. 2842. A bill to amend the Older Americans Act of 1965 to authorize appropriations for demonstration

projects to provide supportive services to older individuals who reside in naturally occurring retirement communities; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CARNAHAN. Mr. President, we are all familiar with our changing demographics. Those once a part of the baby boom are now well on their way to creating a senior boom. By the year 2020, one in six Americans will be age 65 or over. By 2040, the number of seniors aged 85 and older will more than triple from about 4 million to 14 million. This boom will create a dramatic increase in the demand for services for seniors especially long-term care.

Long-term care is more than just health care. It includes any services that seniors need to maintain their quality of life, such as transportation, nutrition, or other supports that help seniors live independently.

Long-term care can mean help with buying groceries, paying bills each month, getting dressed in the morning, getting a ride to the doctor's office, or taking medicine at the appropriate time. We need to make sure our society is ready to provide these kinds of services for seniors, and we need to make sure that we give seniors options. We need to be creative in what we offer.

Last year I learned about an innovative option for providing long-term care services for seniors. The concept is based on naturally occurring retirement communities, NORCs. A naturally occurring retirement community develops in a community or neighborhood where residents remain for years and age as neighbors. A NORC may be a large apartment building or a street of single family homes. According to AARP, about 27 percent of seniors currently live in NORCs. NORCs represent a new model for giving seniors the support services they need. We can bring services directly to seniors, and we can help enhance their quality of life and allow them to age in place.

This is important because most seniors prefer living in their own homes. To address the need for long-term care services, I secured $1.2 million last year to establish a NORC project in downtown St. Louis. To get this project underway, first there will be assessment of residents' needs. The funds will then be used to meet these individual needs. Residents will receive such services as individual case management, family education, wellness services, and other needed supports.

The St. Louis program is only the first step. This unique model could be used to deliver support services to seniors in communities across the country. That is why I am pleased to introduce the Senior Self-Sufficiency Act. This legislation would lay the foundation for a new way of helping seniors stay in their own homes and in their own communities. The Senior Self-Sufficiency Act would create ten demonstration projects in naturally occurring retirement communities across the country. Each would last 4 years. The grant would be used to provide comprehensive support services to seniors.

The services offered would be created to meet the individual needs of the residents and to help them maintain their independence. Funds would also be used to make housing improvements that would allow seniors to live in their own neighborhoods longer. For example, they could install safety bars in bathrooms or replace stairs with wheelchair ramps. Two of the ten projects would be located in rural areas where access to services is often harder or more distant. We will learn from the research how best to expand the program to all areas of the country.

If given the choice, most people would prefer to grow older in their own homes, surrounded by friends and family. This is exactly what this legislation will allow seniors to do. By making support services available to seniors in their own homes, we can extend the time they live independently, and we can improve their quality of life. We can provide services at lower cost, and we can start preparing now for the future needs of our population.

I am pleased to announce that the Senior Self-Sufficiency Act has the support of the Missouri Department of Health and the Jewish Federation of St. Louis.

I ask unanimous consent that their letters of support and the text of the bill be printed in the RECORD.

Mrs. CARNAHAN. We need to begin now to plan for the future senior boom. The Senior Self-Sufficiency Act is a step in the right direction, making it possible for seniors to remain in their home longer and to retain their independence. That is a goal worth pursuing.

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

MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES,
Jefferson City, MO, July 31, 2002.

Hon. JEAN CARNAHAN,
U.S. Senate, Hart Senate Office Bldg, Washington, DC.

DEAR SENATOR CARNAHAN: The Missouri Department of Health and Senior Services is charged with the mission of enhancing the quality of life for all Missourians by protecting and promoting the community's health and well-being of citizens of all ages. In following that mission, we are pleased to offer our support of your proposed legislation known as the Senior Self-Sufficiency Act.

This legislation, which would authorize demonstration projects in naturally occurring retirement communities, would help show the effectiveness of providing comprehensive supportive services to older individuals who reside in their homes to enhance their quality of life and reduce the need for institutionalization. Missouri has long supported the concept of ''options in care'' to include comprehensive home and community based services and supports. This legislation would help focus and define the concept and value of communities, to include the significance of retaining seniors within their natural occurring communities. The comprehensive nature of the services to be offered under this concept, such as health services, nutrition services, transportation, home and personal care, socialization, continuing adult education, information and referral, and any other services to enhance quality of life will greatly increase a person's ability to remain in their home and community.

I can assure you the Department of Health and Senior Services is eager to assist with the implementation of this concept. Your proposed legislation is paramount in supporting our mission to protect and promote our community's health, and well-being of citizens of all ages. Please feel free to contact Jerry Simon, Interim Department Deputy Director, at (573) 751–8535, if we can offer any additional information or support to this important concept.

Respectfully,

RONALD W. CATES,
Interim Director.

JEWISH FEDERATION OF ST. LOUIS,
St. Louis, MO, July 29, 2002.

Hon. JEAN CARNAHAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CARNAHAN: I am writing regarding the legislation you will be introducing to amend the Older Americans act of 1965 authorizing appropriations for demonstration projects to provide services to older individuals residing in NORCs. As you are aware, the St. Louis community has a large senior citizen population compared with other communities of similar size. It is essential that we find ways to help our older adults remain health, productive, and independent for as long as possible in order to enhance their quality of life.

Your bill, the Senior Self-Sufficiency Act, authorizing ten demonstration projects to provide comprehensive supportive services to residents of naturally occurring retirement communities will ensure that best practices are developed and/or replicated nationwide. It is an innovative and exciting opportunity to study aging-in-place populations and postpone or avoid institutionalization for these populations.

I strongly support this legislation and appreciate your tireless efforts on behalf of older adults.

Sincerely,

BARRY ROSENBERG,
Executive Vice President.

S. 2842

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 ''Senior Self-Sufficiency Act''.

SEC. 2. AMENDMENTS.

Part A of title IV of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq) is amended by adding at the end the following:

''SEC. 422. DEMONSTRATION PROJECTS IN NATURALLY OCCURRING RETIREMENT COMMUNITIES.

''(a) PROGRAM AUTHORIZED.—The Assistant Secretary shall award grants to eligible entities to carry out 10 demonstration projects to provide comprehensive supportive services to older individuals who reside in noninstitutional residences in naturally occurring retirement communities to enhance the quality of life of such individuals and reduce the need to institutionalize such individuals. Those residences for which assistance is provided under section 202 of the National Housing Act of 1959 (12 U.S.C. 1701q) in naturally occurring retirement communities shall not receive services through a demonstration project under this section if such services would otherwise be provided as part of the assistance received by such residences under such section 202.

''(b) ELIGIBLE ENTITY.—An entity is eligible to receive a grant under this section if

such entity is a nonprofit public or private agency, organization, or institution that proposes to provide services only in geographical areas considered to be low- or middle-income areas.

''(c) PRIORITY.—

''(1) IN GENERAL.—In awarding grants under this section, the Assistant Secretary shall give priority to eligible entities that provided comprehensive supportive services in fiscal year 2002 to older individuals who resided in noninstitutional residences in naturally occurring retirement communities.

''(2) RURAL AREAS.—Two of the 10 grants awarded under this section shall be awarded to eligible entities that propose to provide services to residents in rural areas.

''(d) GRANT PERIOD.—Each grant awarded under this section shall be awarded for a period of 4 years, with not more than $1,000,000 being awarded annually.

''(e) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Assistant Secretary in such form and containing such information as the Assistant Secretary may require, including a plan for continuing services provided under the grant after the grant expires.

''(f) LIMITATIONS.—

''(1) COST-SHARING.—An eligible entity receiving a grant under this section may require cost-sharing from individuals receiving services only in a manner consistent with the requirements of title III.

''(2) CONSTRUCTION.—An entity may not use funds received under a grant under this section to construct or permanently improve (other than remodeling to make facilities accessible to older individuals) any building or other facility.

''(g) DEFINITIONS.—In this section:

''(1) NATURALLY OCCURRING RETIREMENT COMMUNITY.—The term 'naturally occurring retirement community' means a geographical area in which not less than 40 percent of the noninstitutional residences are occupied for not less than 10 years by heads of households who are older individuals, but does not include residences for which assistance is provided under section 202 of the National Housing Act of 1959 (12 U.S.C. 1701q). The definition provided for in the previous sentence may be modified by the Secretary as such definition relates to grants for rural areas.

''(2) SUPPORTIVE SERVICES.—The term 'supportive services' means services offered to residents that may include—

''(A) case management;

''(B) health services and education;

''(C) nutrition services, nutrition education, meals, and meal delivery;

''(D) transportation services;

''(E) home and personal care services;

''(F) continuing adult education;

''(G) information and referral services; and

''(H) any other services and resources appropriate to enhance the quality of life of residents and reduce the need to institutionalize such individuals.

''(h) MATCHING REQUIREMENT.—The Assistant Secretary may not make a grant to an eligible entity under this section unless that entity agrees that, with respect to the costs to be incurred by the entity in carrying out the program for which the grant was awarded, the entity will make available in cash or in-kind (directly or through donations from public or private entities) non-Federal contributions equaling 5 percent of Federal funds provided under the grant for the second year that such grant is provided, 10 percent of Federal funds provided under the grant for the third year that such grant is provided, and 15 percent of Federal funds provided under the grant for the fourth year that such grant is provided.

''(i) REPORT.—Not later than the beginning of the fourth year of distributing grants under this section, the Assistant Secretary shall evaluate services provided with funds under this section and submit a report to Congress summarizing the results of such evaluation and recommending what services should be taken in the future.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, not more than $10,000,000 for each of fiscal years 2003 through 2006.''.

By Ms. LANDRIEU:

S. 2843. A bill to direct the Consumer Product Safety Commission to promulgate a rule that requires manufacturers of certain consumer products to establish and maintain a system for providing notification of recalls of such products to consumers who first purchase such a product; to the Committee on Commerce, Science, and Transportation.

Ms. LANDRIEU. Mr. President, it is my pleasure to come to the floor today and introduce a bill that I believe will make it easier for parents to learn about dangerous products that may harm their children, and remove these products from their homes.

Every year, more than 1.7 million children under the age of 5 are harmed by defective or hazardous products. As my colleagues know, each year the Consumer Products Safety Commission recalls hundreds of products which have been found to pose a danger to consumers. Unfortunately, many times parents do not get the word about these recalls, because companies often do not have a way of getting in touch with their customers. This is particularly significant when you are talking about children's products. The manufacturers of these products rarely have records of who their customers are; often all they can do is publicize the recall as best they can. It is for this reason, that I am introducing the Product Safety Notification and Recall Effectiveness Act of 2002.

This legislation would require the Consumer Products Safety Commission to establish a rule to require manufacturers to establish and maintain a system for notifying consumers of the recall of certain products that may cause harm to children. The database could be assembled through the use of shortened product registration cards, Internet registration, or other alternate means of encouraging consumers to provide vital contact information.

As an example for my colleagues, I just want to touch on one method that this bill would encourage companies to use. We've all seen the registration cards that come with many products. It is these cards that provide companies with much of the information on their customers, and could be used to help spread the word about a recall. Unfortunately, many consumers just throw these cards away without even sending them in. In fact, by some estimates 90 percent of these cards are thrown away. Why? Well, one reason is because the cards ask for personal and marketing information that many people do not want to give out. So they throw the card away.

But if you shorten the card, to just ask for the basic information, name, address, and phone number, people are much more likely to return them. This is particularly true if the card specifies the information will not be used for marketing purposes. These cards are an idea that Ann Brown, former chairman of the CPSC and now Chairman of the non-profit group SAFE, a Safer America for Everyone Foundation, has been advocating for years. And studies done with companies like Mattel and BrandStamp have shown that these methods really do increase the number of consumers who respond.

So, I come to the floor today to say that this is something we need to do, and we need to do it as quickly as possible. This is a very important bill for our citizens. I am hopeful that we can get a hearing on this legislation very soon.

Before I close, I just want to commend Ann Brown and the folks at SAFE for all of their hard work on product recall. I introduced this legislation in the Senate today, but Ann is the one who has been pushing this issue for years, since she served on the CPSC. I am proud to work with her on this and want to thank her for her monumental efforts to bring this to the forefront. I also want to acknowledge my colleagues, Congressman JIM MORAN and Congressman JAMES MCGOVERN, who introduced this bill in the House of Representatives. And, of course, I look forward to working with the CPSC on this bill. I know they had some problems with this bill initially, and I am hopeful we have addressed most of these concerns.

I want to encourage my colleagues to support this much-needed legislation. By passing this bill, we can give parents the information they need to protect their children. When a child is hurt or killed by a defective product that has already been recalled, there simply is no excuse. This legislation would go a long way towards ensuring that this kind of tragedy never happens again.

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. 2843

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 ''Product Safety Notification and Recall Effectiveness Act of 2002''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Consumer Product Safety Commission conducts approximately 300 recalls of hazardous, dangerous, and defective consumer products each year.

(2) In developing comprehensive corrective action plans with recalling companies, the

Consumer Product Safety Commission staff greatly relies upon the media and retailers to alert consumers to the dangers of unsafe consumer products, because the manufacturers do not generally possess contact information regarding the purchasing consumers. Based upon information received from companies maintaining customer registration lists, such contact information is known for generally less than 7 percent of the total consumer products produced and distributed.

(3) The Consumer Product Safety Commission staff has found that most consumers do not return purchaser identification cards because of requests for marketing and personal information on the cards, and the likelihood of receiving unsolicited marketing materials.

(4) The Consumer Product Safety Commission staff has conducted research demonstrating that direct consumer contact is one of the most effective ways of motivating consumer response to a consumer product recall.

(5) Companies that maintain consumer product purchase data, such as product registration cards, warranty cards, and rebate cards, are able to effectively notify consumers of a consumer product recall.

(6) The Consumer Product Safety Commission staff has found that a consumer product safety owner card, without marketing questions or requests for personal information, that accompanied products such as small household appliances and juvenile products would increase consumer participation and information necessary for direct notification in consumer product recalls.

(7) The National Highway Traffic Safety Administration has, since March 1993, required similar simplified, marketing-free product registration cards on child safety seats used in motor vehicles.

(b) PURPOSE.—The purpose of this Act is to reduce the number of deaths and injuries from defective and hazardous consumer products through improved recall effectiveness, by—

(1) requiring the Consumer Product Safety Commission to promulgate a rule to require manufacturers of juvenile products, small household appliances, and certain other consumer products, to include a simplified product safety owner card with those consumer products at the time of original purchase by consumers, or develop effective electronic registration of the first purchasers of such products, to develop a customer database for the purpose of notifying consumers about recalls of those products; and

(2) encouraging manufacturers, private labelers, retailers, and others to use creativity and innovation to create and maintain effective methods of notifying consumers in the event of a consumer product recall.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) TERMS DEFINED IN CONSUMER PRODUCT SAFETY ACT.—The definitions set forth in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) shall apply to this Act.

(2) COVERED CONSUMER PRODUCT.—The term ''covered consumer product'' means—

(A) a juvenile product;

(B) a small household appliance; and

(C) such other consumer product as the Commission considers appropriate for achieving the purpose of this Act.

(3) JUVENILE PRODUCT.—The term ''juvenile product''—

(A) means a consumer product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years; and

(B) includes—

(i) full-size cribs and nonfull-size cribs;

(ii) toddler beds;

(iii) high chairs, booster chairs, and hook-on chairs;

(iv) bath seats;

(v) gates and other enclosures for confining a child;

(vi) playpens;

(vii) stationary activity centers;

(viii) strollers;

(ix) walkers;

(x) swings;

(xi) child carriers; and

(xii) bassinets and cradles.

(4) PRODUCT SAFETY OWNER CARD.—The term ''product safety owner card'' means a standardized product identification card supplied with a consumer product by the manufacturer of the product, at the time of original purchase by the first purchaser of such product for purposes other than resale, that only requests that the consumer of such product provide to the manufacturer a minimal level of personal information needed to enable the manufacturer to contact the consumer in the event of a recall of the product.

(5) SMALL HOUSEHOLD APPLIANCE.—The term ''small household appliance'' means a consumer product that is a toaster, toaster oven, blender, food processor, coffee maker, or other similar small appliance as provided for in the rule promulgated by the Consumer Product Safety Commission.

SEC. 4. RULE REQUIRING SYSTEM TO PROVIDE NOTICE OF RECALLS OF CERTAIN CONSUMER PRODUCTS.

(a) IN GENERAL.—The Commission shall promulgate a rule under section 16(b) of the Consumer Product Safety Act (15 U.S.C. 2065(b)) that requires that the manufacturer of a covered consumer product shall establish and maintain a system for providing notification of recalls of such product to consumers of such product.

(b) REQUIREMENT TO CREATE DATABASE.—

(1) IN GENERAL.—The rule shall require that the system include use of product safety owner cards, Internet registration, or an alternative method, to create a database of information regarding consumers of covered consumer products, for the sole purpose of notifying such consumers of recalls of such products.

(2) USE OF TECHNOLOGY.—Alternative methods specified in the rule may include use of on-line product registration and consumer notification, consumer information data bases, electronic tagging and bar codes, embedded computer chips in consumer products, or other electronic and design strategies to notify consumers about product recalls, that the Commission determines will increase the effectiveness of recalls of covered consumer products.

(c) USE OF COMMISSION STAFF PROPOSAL.—In promulgating the rule, the Commission shall consider the staff draft for an Advanced Notice of Proposed Rulemaking entitled ''Purchaser Owner Card Program'', dated June 19, 2001.

(d) EXCLUSION OF LOW-PRICE ITEMS.—The Commission shall have the authority to exclude certain low-cost items from the rule for good cause.

(e) DEADLINES.—

(1) IN GENERAL.—The Commission—

(A) shall issue a proposed rule under this section by not later than 90 days after the date of enactment of this Act; and

(B) shall promulgate a final rule under this section by not later than 270 days after the date of enactment of this Act.

(2) EXTENSION.—The Commission may extend the deadline described in paragraph (1) if the Commission provides timely notice to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

By Mr. ROCKEFELLER:

S. 2844. A bill to amend the Internal Revenue Code of 1986 to provide a tax incentive to individuals teaching in elementary and secondary schools located in rural or high unemployment areas and to individuals who achieve certification from the National Board for Professional Teaching Standards, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, perhaps the most effective way to improve the education of America's children is to ensure that they begin their education in an uncrowded classroom led by a qualified teacher. This body recognized that fact when we overwhelmingly passed the ''No Child Left Behind Act'' last year, mandating the hiring of qualified teachers by every school in every district.

Unfortunately, without our help, America's poor and rural schools may not be able to attract the qualified teachers this legislation mandates and our children deserve. Isolated and impoverished, competing against higher paying and well-funded school districts for scarce classroom talent, they are already facing a desperate shortage of qualified teachers. As pressure to hire increases, that shortage will become a crisis, and children already at a disadvantage in relation to their more affluent and less isolated peers will be the ones who suffer most.

Today, I propose a bill that will help bring dedicated and qualified teaching professionals to West Virginia's and America's poor and rural schools, and help give their students the opportunity to learn and flourish that every child deserves. The Incentives To Educate American Children Act, or ''I Teach'' Act, will provide teachers a refundable tax credit every year they practice their profession in the public schools where they are needed most. And it will give every public school teacher, whichever school they choose, a refundable tax credit for earning certification by the National Board for Professional Teaching Standards. Together, these two tax credits will give economically depressed areas a better ability to recruit and retain skilled teachers.

One-fourth of America's children attend public schools in rural areas, and of the 250 poorest counties in the United States, 244 are rural. West Virginia has rural schools scattered through 36 of its 55 counties, and these schools face real challenges in recruiting and retaining teachers, as well as dealing with other issues related to their rural location.

Attracting teachers to these schools is difficult in large part due to the vast gap between what rural districts are able to offer and the salaries paid by more affluent school districts, as wide as $20,000 a year, according to one study. Poor urban schools must overcome similar difficulties. It is often a challenge for these schools to attract and keep qualified teachers. Yet, according to the 2001 No Child Left Behind Act, every school must have

qualified teachers by the end of the 2005–2006 school year.

My ''I Teach'' Act will reward teachers willing to work in rural or high poverty schools with an annual $1,000 refundable tax credit. If the teacher obtains certification by the National Board for Professional Teaching Standards, they will receive an additional annual $1,000 refundable tax credit.

Every teacher willing to work in underserved schools will earn a tax credit. Every teacher who gets certified will earn a tax credit. Teachers who work in rural or poor schools and get certified will earn both. Schools who desperately need help attracting teachers will get a boost. And children educated in poor and rural schools will benefit most.

In my State of West Virginia, as in over 30 other States, there is already a State fiscal incentive for teachers who earn National Board certification. My legislation builds upon the West Virginia program; together, they add up to a powerful tax incentive for teachers to remain in the classroom and to use their skills where they are most needed.

I have spent a great deal of time in West Virginia classrooms this year, and it has become obvious to me that our education agenda suffers greatly from inadequate funding on a number of fronts. In response, I have introduced a series of bills attacking different aspects of the problem.

A qualified teacher is a great start, but children also deserve a safe, modern classroom. And so, in addition to the ''I Teach'' Act, I have introduced a measure to encourage investment in school construction and renovations.

I am promoting legislation to develop Math and Science Partnerships at the National Science Foundation, to place needed emphasis on these core subjects.

And to ensure that every student, including those in rural areas, has access to modern technology and the wealth of educational resources on the web, I remain vigilant in protecting the E-Rate, which provides $2.25 billion in annual discounts to connect our schools and libraries to the Internet.

Education is among our top national priorities, essential for every family with a child and vital for our economic and national security. I supported the bold goals and higher standards of the 2001 No Child Left Behind Act, but they won't be met unless our schools have the teachers and resources they need. I am committed to working closely with my Senate colleagues this fall to secure as much funding as possible for our children's education.

No amount of construction or technology can replace a qualified and motivated teacher, however, and making it easier for underserved schools to attract the teachers they need remains one of my most important objectives. I hope each of my colleagues will join me in supporting this important legislation which takes a great stride toward better education for every child in the United States.

By Mr. FEINGOLD:

S. 2847. A bill to assist in the conservation of cranes by supporting and providing, through projects of persons and organizations with expertise in crane conservation, financial resources for the conservation programs of countries the activities of which directly or indirectly affect cranes; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, I rise today to introduce the Crane Conservation Act of 2002. I propose this legislation in the hope that Congress will do its part to protect the existence of these birds, whose cultural significance and popular appeal can be seen worldwide. This legislation is important to the people of Wisconsin, as our State provides habitat and refuge to several crane species. But this legislation, which authorizes the United States Fish and Wildlife Service to distribute funds and grants to crane conservation efforts both domestically and in developing countries, promises to have a larger environmental and cultural impact that will go far beyond the boundaries of my home State.

In October of 1994, Congress passed and the President signed the Rhinoceros and Tiger Conservation Act. The passage of this act provided support for multinational Rhino and Tiger conservation through the creation of the Rhinoceros and Tiger Conservation Fund, or RTCF. Administered by the United States Fish and Wildlife Service, the RTCF distributes up to $10 million in grants every year to conservation groups to support projects in developing countries. Since its establishment in 1994, the RTCF has been expanded by Congress to cover other species, such as elephants and great apes.

Today, with the legislation I am introducing, I am asking Congress to add cranes to this list. Cranes are the most endangered family of birds in the world, with ten of the world's fifteen species at risk of extinction. Specifically, this legislation would authorize up to $3 million of funds per year to be distributed in the form of conservation project grants to protect cranes and their habitat. The financial resources authorized by this bill can be made available to qualifying conservation groups operating in Asia, Africa, and North America. The program is authorized from Fiscal Year 2003 through Fiscal Year 2007.

In keeping with my belief that we should maintain fiscal integrity, this bill proposes that the $15 million in authorized spending over five years for the Crane Conservation Act established in this legislation should be offset by rescinding $18 million in unspent funds from funds carried over the Department of Energy's Clean Coal Technology Program in the Fiscal Year 2002 Energy and Water Appropriations Bill. The Secretary of the Interior would be required to transfer any funds it does not expend under the Crane Conservation Act back to the Treasury at the end of Fiscal Year 2007. I do not intend my bill to make any particular judgments about the Clean Coal program or its effectiveness, but I do think, in general, that programs should expend resources that we appropriate in a timely fashion.

I am offering this legislation due to the serious and significant decline that can be expected in crane populations worldwide without conservation efforts. The decline of the North American whooping crane, the rarest crane on earth, perfectly illustrates the dangers faced by these birds. In 1941, only 21 whooping cranes existed in the entire world. This stands in contrast to the almost 400 birds in existence today. The North American whooping crane's resurgence is attributed to the birds' tenacity for survival and to the efforts of conservationists in the United States and Canada. Today, the only wild flock of North American whooping cranes breeds in northwest Canada, and spends its winters in coastal Texas. Two new flocks of cranes are currently being reintroduced to the wild, one of which is a migratory flock on the Wisconsin to Florida flyway.

This flock of five birds illustrates that any effort by Congress to regulate crane conservation needs to cross both national and international lines. As this flock of birds makes its journey from Wisconsin to Florida, the birds rely on the ecosystems of a multitude of states in this country. In its journey from the Necedah National Wildlife Refuge in Wisconsin to the Chassahowitzka National Wildlife Refuge in Florida in the fall and eventual return to my home state in the spring, this flock also faces threats from pollution of traditional watering grounds, collision with utility lines, human disturbance, disease, predation, loss of genetic diversity within the population, and vulnerability to catastrophes, both natural and man-made. Despite the conservation efforts taken since 1941, this symbol of conservation is still very much in danger of extinction.

While over the course of the last half-century, North American whooping cranes have begun to make a slow recovery, many species of crane in Africa and Asia have declined, including the sarus crane of Asia and the wattled crane of Africa.

The sarus crane is a symbol of martial fidelity in many Asian cultures, especially Laos, Thailand and Indonesia. Additionally, in northern India, western Nepal, and Vietnam, these birds are a symbol of fertility, lending them as important religious significance. Standing at four feet tall, these birds can be found in the wetlands of northern India and south Asia. These birds require large, open, well watered plains or marshes to breed and survive.

Due to agricultural expansion, industrial development, river basin development, pollution, warfare, and heavy

use of pesticides, which is found to be highly prevalent in India and southeast Asia, the sarus crane population has been in decline. Furthermore, in many areas, a high human population concentration compounds these factors. On the Mekong River, which runs through Cambodia, Vietnam, Laos, Thailand, and China, human population growth and planned development projects threaten the sarus crane. Reports from India, Cambodia, and Thailand have also cited incidences of the trading of adult birds and chicks, as well as hunting and egg stealing in the drop-in population of the sarus crane.

Only three subspecies of the sarus crane exist today. One resides in northern India and Nepal, one resides in southeast Asia, and one resides in northern Australia. Their population is about 8,000 in the main Indian population, with recent numbers showing a rapid decline. In Southeast Asia, only 1,000 birds remain.

The situation of the sarus crane in Asia is mirrored by the situation of the wattled crane in Africa. In Africa, the wattled crane is found in the southern and eastern regions, with an isolated population in the mountains of Ethiopia. Current population estimates range between 6,000 to 8,000 and are declining rapidly, due to loss and degradation of wetland habitats, as well as intensified agriculture, dam construction, and industrialization. In other parts of the range, the creation of dams has changed the dynamics of the flood plains, thus further endangering these cranes and their habitats. Human disturbance at or near breeding sites also continues to be a major threat. Lack of oversight and education over the actions of humans, industry, and agriculture is leading to reduced preservation for the lands on which cranes live, thereby threatening the ability of cranes to survive in these regions.

If we do not act now, not only will cranes face extinction, but the ecosystems that depend on their contributions will suffer. With the decline of the crane population, the wetlands and marshes they inhabit can potentially be thrown off balance. I urge my colleagues to join me in supporting legislation that can provide funding to the local farming, education and enforcement projects that can have the greatest positive effect on the preservation of both cranes and fragile habitats. This small investment can secure the future of these exemplary birds and the beautiful areas in which they live. Therefore, I ask my colleagues to support the Crane Conservation Act of 2002.

By Ms. COLLINS (for herself, Mr. CLELAND, Mr. HUTCHINSON, Mr. KERRY, Ms. SNOWE, and Mr. MILLER):

S. 2848. A bill to amend title XVIII of the Social Security Act to provide for a clarification of the definition of homebound for purposes of determining eligibility for home health services under the medicare program; to the Committee on Finance.

Ms. COLLINS. Mr. President, I am pleased to join with Senators CLELAND, HUTCHINSON, KERRY, SNOWE and MILLER in introducing the David Jayne Medicare Homebound Modernization Act of 2002 to modernize Medicare's outdated ''homebound'' requirement that has impeded access to needed home health services for many of our nation's elderly and disabled Medicare beneficiaries.

Health care in American has gone full circle. People are spending less time in institutions, and recovery and care for patients with chronic diseases and conditions has increasingly been taking place in the home. The highly skilled and often technically complex care that our home health agencies provide have enabled millions of our most vulnerable older and disabled individuals to avoid hospitals and nursing homes and stay just where they belong, in the comfort and security of their own homes.

Under current law, a Medicare patient must be considered ''homebound'' if he or she is to be eligible for home health services. While an individual is not actually required to be bedridden to qualify for benefits, his or her conditions must be such that ''there exists a normal inability to leave home.'' The statute does allow for absences from the home of ''infrequent'' or ''relatively short duration.'' Unfortunately, however, it does not define precisely what this means. It leaves it to the fiscal intermediaries to interpret just how many absences qualify as ''frequent'' and just how short those absences must be. Interpretations of this definition have therefore varied widely.

As a consequence, there have been far too many instances where an overzealous or arbitrary interpretation of the definition has turned elderly or disabled Medicare beneficiaries, who are dependent upon Medicare home health services and medical equipment for survival, into virtual prisoners in their own home. We have heard disturbing accounts of individuals on Medicare who have had their home health benefits terminated for leaving their homes to visit a hospitalized spouse or to attend a family gathering, including, in one case, to attend the funeral of their own child.

Under current law, a Medicare patient must be considered ''homebound'' if he or she is to be eligible for home health services. While an individual is not actually required to be bedridden to quality for benefits, his or her condition must be such that ''there exists a normal inability to leave home.''

The statute does allow for absences from the home that are ''infrequent and of short duration.'' It also gives specific permission for the individual to leave home to attend medical appointments, adult day care or religious services. Otherwise, it leaves it to the fiscal intermediaries to interpret just how many absences qualify as ''frequent'' and just how short those absences must be. Interpretations of this definition have therefore varied widely.

As a consequence, there have been far too many instances where an overzealous or arbitrary interpretation of the definition has turned elderly or disabled Medicare recipients, who are dependent upon Medicare home health services and medical equipment for survival, into virtual prisoners in their own homes.

The current homebound requirement is particularly hard on younger, disabled Medicare patients. For example, I recently met with David Jayne, a 40-year old man with Lou Gehrig's disease, who is confined to a wheelchair and cannot swallow, speak or even breathe on his own. Mr. Jayne needs several skilled nursing visits per week to enable him to remain independent and out of an inpatient facility. Despite his disability, Mr. Jayne meets frequently with youth and church groups. Speaking through a computerized voice synthesizer, he gives inspirational talks about how the human spirit can endure and even overcome great hardship.

The Atlanta Journal Constitution ran a feature article on Mr. Jayne and his activities, including a report about how he had, with the help of family and friends, attended a football game to root for the University of Georgia Bulldogs. A few days later, at the direction of the fiscal intermediary, his home health agency, which had been sending a health care worker to his home for two hours, four mornings a week, notified him that he could no longer be considered homebound, and that his benefits were being cut off. While his benefits were subsequently reinstated due to the media attention given the case, this experience motivated him to launch a crusade to modernize the homebound definition and led him to found the National Coalition to Amend the Medicare Homebound Restriction.

The current homebound requirement is particularly hard on younger, disabled individuals who are on Medicare. The fact is that the current requirement reflects an outmoded view of life for persons who live with serious disabilities. The homebound criteria may have made sense thirty years ago, when an elderly or disabled person might expect to live in the confines of their home, perhaps cared for by an extended family. The current definition, however, fails to reflect the technological and medical advances that have been made in supporting individuals with significant disabilities and mobility challenges. It also fails to reflect advances in treatment for seriously ill individuals, like Mr. Jayne, which allow them brief periods of relative wellness.

It also fails to recognize that an individual's mental acuity an physical stamina can only be maintained by use, and that the use of the body and mind is encouraged by social interactions outside the four walls of a home.

The David Jayne Medicare Homebound Modernization Act of 2002 will amend the homebound definition to base eligibility for the home health benefit on the patient's functional limitations and clinical condition, rather than on an arbitrary limitation on absences from the home. It will provide a specific, limited exception to the homebound rule for individuals who:

One, have been certified by a physician has having a permanent and severe condition that will not improve;

Two, who need assistance from another person with 3 or more of the 5 activities of daily living and require technological and/or personal assistance with the act of leaving home;

Three, who have received Medicare home health services during the previous 12 month period; and

Four, who are only able to leave home because the services provided through the home health benefit makes it possible for them to do so.

We believe that our legislation is budget neutral because it is specifically limited to individuals who are already eligible for Medicare and whose conditions require the assistance of a skilled nurse, therapist or home health aide to make it functionally possible for them to leave the home. Our legislation does not expand Medicare eligibility—it simply gives people who are already eligible for the benefit their freedom.

This issue was first brought to my attention by former Senator Robert Dole, who has long been a vigorous advocate for people with disabilities. Our proposal is also supported by the Consortium of Citizens with Disabilities, the Visiting Nurse Associations of America, the National Association for Home Care, Advancing Independence: Modernizing Medicare and Medicaid, AIMM, and the National Coalition to Amend the Medicare Homebound Restriction.

Moreover, the David Jayne Medicare Homebound Modernization Act of 2002 is consistent with President Bush's ''New Freedom Initiative'' which has, as its goal, the removal of barriers that impede opportunities for those with disabilities to integrate more fully into the community. By allowing reasonable absences from the home, our amendment will bring the Medicare home health benefit into the 21st Century, and I look forward to working with my colleagues to getting it done.

By Ms. COLLINS (for herself and Mrs. MURRAY):

S. 2849. A bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy; to the Committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. Mr. President, I am pleased to join my colleague from Washington, Senator MURRAY, in introducing the Pancreatic Islet Cell Transplantation Act of 2002 which will help to advance important research that holds the promise of a cure for the more than one million Americans with Type 1 or juvenile diabetes.

As the founder and Co-Chair of the Senate Diabetes Caucus, I have learned a great deal about this serious disease and the difficulties and heartbreak that it causes for so many Americans and their families as they await a cure. Diabetes is a devastating, life-long condition that affects people of every age, race and nationality. It is the leading cause of kidney failure, blindness in adults, and amputations not related to injury. Moreover, diabetes costs the nation more than $105 billion a year, one out of every ten health care dollars, in health-related expenditures.

The burden of diabetes is particularly heavy for children and young adults with juvenile diabetes. Juvenile diabetes is the second most common chronic disease affecting children. Moreover, it is one that they never outgrow.

In individuals with juvenile diabetes, the body's immune system attacks the pancreas and destroys the islet cells that produce insulin. While the discovery of insulin was a landmark breakthrough in the treatment of people with diabetes, it is not a cure, and people with juvenile diabetes face the constant threat of developing devastating, life-threatening complications as well as a drastic reduction in their quality of life.

Thankfully, there is good news for people with diabetes. We have seen some tremendous breakthroughs in diabetes research in recent years, and I am convinced that diabetes is a disease that can be cured, and will be cured in the near future.

We were all encouraged by the development of the ''Edmonton Protocol,'' an experimental treatment developed at the University of Alberta involving the transplantation of insulin-producing pancreatic islet cells, which has been hailed as the most important advance in diabetes research since the discovery of insulin in 1921. Of the approximately 70 patients who have been treated using variation of the Edmonton Protocol over the past two years, all have seen a reversal of their life-disabling hypoglycemia, and nearly 80 percent have maintained normal glucose levels without insulin shots for more than two years.

Moreover, the side effects associated with this treatment—which uses more islet cells and a less-toxic combination of immunosuppressive drugs than previous, less successful protocols—have been mild, and the therapy has been generally well-tolerated by most patients.

Unfortunately, long-term use of toxic immunosuppressive drugs, has side-effects that make the current treatment inappropriate for use in children. Researchers, however, are working hard to find a way to reduce the transplant recipient's dependence on these drugs so that the procedure will be appropriate for children in the future, and the protocol has been hailed around the world as a remarkable breakthrough and proof that islet transplantation can work. It appears to offer the most immediate chance to achieve a cure for juvenile diabetes, and the research is moving forward rapidly.

New sources of islet cells must be found, however, because, as the science advances and continues to demonstrate promise, the number of islet cell transplants that can be performed will be limited by a serious shortage of pancreases available for islet cell transplantation. There currently are only 2,000 pancreases donated annually, and, of these, only about 500 are available each year for islet cell transplants. Moreover, most patients require islet cells from two pancreases for the procedure to work effectively.

The legislation we are introducing today will increase the supply of pancreases available for these trials and research. Our legislation will direct the Centers for Medicare and Medicaid Services to grant credit to organ procurement organizations, OPS, for the purposes of their certification—for pancreases harvested and used for islet cell transplantation and research.

Currently, CMS collects performance data from each OPO based upon the number of organs procured for transplant relative to the population of the OPO's service area. While CMS considers a pancreas to have been procured for transplantation if it is used for a whole organ transplant, the OPO receives no credit towards its certification if the pancreas is procured and used for islet cell transplantation or research. Our legislation will therefore give the OPOs an incentive to step up their efforts to increase the supply of pancreases donated for this purpose.

In addition, the legislation establishes an inter-agency committee on islet cell transplantation comprised of representatives of all of the federal agencies with an active role in supporting this research. The many advisory committees on organ transplantation that currently exist are so broad in scope that the issue of islet cell transplantation—while of great importance to the juvenile diabetes community—does not rise to the level of consideration when included with broader issues associated with organ donation, such as organ allocation policy and financial barriers to transplantation. We believe that a more focused effort in the area of islet cell transplantation is clearly warranted since the research is moving forward at such a rapid pace and with such remarkable results.

And finally, to help us collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy covered by insurance, our legislation directs the Institute of Medicine to conduct a study on the impact of islet cell transplantation on the health-related quality of life for individuals with juvenile

diabetes as well as the cost-effectiveness of the treatment.

Islet cell transplantation offers real hope for people with juvenile diabetes. Our legislation, which is strongly supported by the Juvenile Diabetes Research Foundation, addresses some of the specific obstacles to moving this research forward as rapidly as possible, and I urge all of our colleagues to join us in sponsoring it.

By Mr. JOHNSON (for himself and Mr. DORGAN):

S. 2853. A bill to direct the Secretary of the Interior to establish the Missouri River Monitoring and Research Program, to authorize the establishment of the Missouri River Basin Stakeholder Committee, and for other purposes; to the Committee on Environment and Public Works.

Mr. JOHNSON. Mr. President, today, I am pleased to join Senator BYRON DORGAN in introducing legislation that will establish a world-class, science-based long-term monitoring program for the Missouri River. As America's longest river, fed by the headwaters of thousand, year-old glaciers, the Missouri is intertwined into the fabric of the American experience. Fed by dozens of tributaries crisscrossing Montana, North and South Dakota, Nebraska, Missouri, and Kansas, the Missouri River supports hundreds of river species and provides crucial wildlife habitat for migratory birds and other animals. The Missouri River also sustains trophy walleye fishing on South Dakota's main stem reservoirs and is the hub for the cultural and economic development of several communities and Indian Tribes.

The Missouri River faces challenges on several fronts: The manipulation of its water levels by the Corps of Engineers, the continued development of river shoreline, and the invasion of nonnative fish and plants. The Missouri River Enhancement and Monitoring Act of 2002 creates a comprehensive monitoring program to investigate and examine how the multiple uses of the Missouri are impacting water quality and the sustainability of fish and wildlife.

The legislation authorizes the establishment of a federal research program through the Biological Resources Division of the USGS, the Department of the Interior's research engine. The strength of the bill, however, stems from the participation of the states, Indian Tribes, and academic institutions all who have a stake in the health of the River. To that end, the legislation authorizes the establishment of monitoring field stations throughout the Missouri River basin. The bill also includes a competitive funding process to contract with Indian Tribes and basin States for the recovery of threatened species and specific habitat restoration projects. These focused investigations will encourage States and Indian Tribes to study the impact of water flows on fish populations at main stem reservoirs.

Earlier this year, water releases from South Dakota reservoirs damaged the spring fish spawn and the ecology of the Missouri River. This bill authorizes funds for State agencies with jurisdiction over fish and wildlife habitat to initiate projects that will be able to tell us how low water levels at South Dakota reservoirs impact fish populations and recreational opportunities.

I ask unanimous consent that a letter from the South Dakota Department of Game, Fish, and Parks in support of the Missouri River Monitoring Act of 2002 be printed in the RECORD.

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

DEPARTMENT OF GAME,
FISH AND PARKS,
Pierre, SD, July 23, 2002.

Senator TIM JOHNSON,
Hart Senate Office,
Washington, DC.

DEAR SENATOR JOHNSON: I would like to express my appreciation for all of your efforts on behalf of Missouri River fish and wildlife resources, especially the introduction of the ''Missouri River Monitoring Act of 2002.'' The framework for this legislation. ''The Missouri River Environmental Assessment Program (MOREAP), was developed by the Missouri River Natural Resources Committee (MRNRC) during 1996 and 1997 in partnership with the Biological Resources Division of the United States Geological Survey (USGS) and 79 Missouri River scientists and fish and wildlife managers. The MRNRC was established in 1987 by my agency and other main stem state fish and wildlife agencies with statutory responsibilities for management and stewardship of river fish and wildlife resources held in trust for the public. We are accountable to the public for management of those resources.

My staff and I have reviewed the proposed legislation and I want you to know that we support your bill. The Missouri River lacks a basin wide biological monitoring program and environmental assessment is desperately needed. The need for collecting comprehensive, long-term natural resource data to understand the effects of future river management decisions cannot be over-stated. This program will generate a system-wide database on Missouri River water quality, habitat, and biota that will provide the scientific foundation for management decisions.

The Missouri River is 2,341 miles long and drains one-sixth of the United States. It is one of the most important resources in our country. Harnessing the river's flow and constricting its channel has altered and reduced native fish and wildlife habitat. Recovering declining fish and wildlife resources in this extremely large, diverse and complex river environment, while maintaining the important economic benefits the river and reservoir system provides, will require sound and ongoing scientific data.

The time has come to make management changes on the Missouri River and those changes should be based on a thorough understanding of how those changes affect the river's environment. Scientific data will help us understand the complex relationships between river management and fish and wildlife habitat recovery.

I thank you once again for your help. This legislation has the strong support of the South Dakota Department Game Fish and Parks.

Sincerely,

JOHN L. COOPER,
Department Secretary.

The time for a monitoring program for the Missouri River has arrived. With the Corps of Engineers poised to revise the Missouri River Master Water Control Manual, a monitoring program will establish a baseline for judging the impact of new water flows. Years of scientific analysis and research from the U.S. Fish and Wildlife Service point toward Corps management of the river as the reason for diminished riparian habitat and a laundry list of threatened fish and bird species. Scientific monitoring must be part of a new Master Manual to examine how the new water flows impact fish and wildlife populations. The Corps has spent nearly 13 years and millions of dollars to find a consensus and implement a new, more balanced Master Manual. The Missouri River Enhancement and Monitoring Act of 2002 establishes a comprehensive database to analyze and examine how fish and wildlife respond to a new management plan. A long-term monitoring program will ensure that future decisions over the Missouri River are based on sound science and not politics.

As we approach the 200 year anniversary of Lewis and Clark's journey up the Missouri River, I call on Congress to pass the Missouri River Enhancement and Monitoring Act of 2002 to ensure the health and vitality of the River for the enjoyment of future generations.

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. 2853

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 ''Missouri River Enhancement and Monitoring Act of 2002''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CENTER.—The term ''Center'' means the River Studies Center of the Biological Resources Division of the United States Geological Survey, located in Columbia, Missouri.

(2) COMMITTEE.—The term ''Committee'' means the Missouri River Basin Stakeholder Committee established under section 4(a).

(3) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(4) PROGRAM.—The term ''program'' means the Missouri River monitoring and research program established under section 3(a).

(5) RIVER.—The term ''River'' means the Missouri River.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Biological Resources Division of the United States Geological Survey.

(7) STATE.—The term ''State'' means—

(A) the State of Iowa;

(B) the State of Kansas;

(C) the State of Missouri;

(D) the State of Montana;

(E) the State of Nebraska;

(F) the State of North Dakota;

(G) the State of South Dakota; and

(H) the State of Wyoming.

(8) STATE AGENCY.—The term ''State agency'' means an agency of a State that has jurisdiction over fish and wildlife of the River.

SEC. 3. MISSOURI RIVER MONITORING AND RESEARCH PROGRAM.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish the Missouri River monitoring and research Program—

(1)(A) to coordinate the collection of information on the biological and water quality characteristics of the River; and

(B) to evaluate how those characteristics are affected by hydrology;

(2) to coordinate the monitoring and assessment of biota (including threatened or endangered species) and habitat of the River; and

(3) to make recommendations on means to assist in restoring the ecosystem of the River.

(b) CONSULTATION.—In establishing the program under subsection (a), the Secretary shall consult with—

(1) the Biological Resources Division of the United States Geological Survey;

(2) the Director of the United States Fish and Wildlife Service;

(3) the Chief of Engineers;

(4) the Western Area Power Administration;

(5) the Administrator of the Environmental Protection Agency;

(6) the Governors of the States, acting through—

(A) the Missouri River Natural Resources Committee; and

(B) the Missouri River Basin Association; and

(7) the Indian tribes of the Missouri River Basin.

(c) ADMINISTRATION.—The Center shall administer the program.

(d) ACTIVITIES.—In administering the program, the Center shall—

(1) establish a baseline of conditions for the River against which future activities may be measured;

(2) monitor biota (including threatened or endangered species), habitats, and the water quality of the River;

(3) if initial monitoring carried out under paragraph (2) indicates that there is a need for additional research, carry out any additional research appropriate to—

(A) advance the understanding of the ecosystem of the River; and

(B) assist in guiding the operation and management of the River;

(4) use any scientific information obtained from the monitoring and research to assist in the recovery of the threatened species and endangered species of the River; and

(5) establish a scientific database that shall be—

(A) coordinated among the States and Indian tribes of the Missouri River Basin; and

(B) readily available to members of the public.

(e) CONTRACTS WITH INDIAN TRIBES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall enter into contracts in accordance with section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) with Indian tribes that have—

(A) reservations located along the River; and

(B) an interest in monitoring and assessing the condition of the River.

(2) REQUIREMENTS.—A contract entered into under paragraph (1) shall be for activities that—

(A) carry out the purposes of this Act; and

(B) complement any activities relating to the River that are carried out by—

(i) the Center; or

(ii) the States.

(f) MONITORING AND RECOVERY OF THREATENED SPECIES AND ENDANGERED SPECIES.—The Center shall provide financial assistance to the United States Fish and Wildlife Service and State agencies to monitor and recover threatened species and endangered species, including monitoring the response of pallid sturgeon to reservoir operations on the mainstem of the River.

(g) GRANT PROGRAM.—

(1) IN GENERAL.—The Center shall carry out a competitive grant program under which the Center shall provide grants to States, Indian tribes, research institutions, and other eligible entities and individuals to conduct research on the impacts of the operation and maintenance of the mainstem reservoirs on the River on the health of fish and wildlife of the River, including an analysis of any adverse social and economic impacts that result from reoperation measures on the River.

(2) REQUIREMENTS.—On an annual basis, the Center, the Director of the United States Fish and Wildlife Service, the Director of the United States Geological Survey, and the Missouri River Natural Resources Committee, shall—

(A) prioritize research needs for the River;

(B) issue a request for grant proposals; and

(C) award grants to the entities and individuals eligible for assistance under paragraph (1).

(h) ALLOCATION OF FUNDS.—

(1) CENTER.—Of amounts made available to carry out this section, the Secretary shall make the following percentages of funds available to the Center:

(A) 35 percent for fiscal year 2003.

(B) 40 percent for fiscal year 2004.

(C) 50 percent for each of fiscal years 2005 through 2017.

(2) STATES AND INDIAN TRIBES.—Of amounts made available to carry out this section, the Secretary shall use the following percentages of funds to provide assistance to States or Indian tribes of the Missouri River Basin to carry out activities under subsection (d):

(A) 65 percent for fiscal year 2003.

(B) 60 percent for fiscal year 2004.

(C) 50 percent for each of fiscal years 2005 through 2017.

(3) USE OF ALLOCATIONS.—

(A) IN GENERAL.—Of the amount made available to the Center for a fiscal year under paragraph (1)(C), not less than—

(i) 20 percent of the amount shall be made available to provide financial assistance under subsection (f); and

(i) 33 percent of the amount shall be made available to provide grants under subsection (g).

(B) ADMINISTRATIVE AND OTHER EXPENSES.—Any amount remaining after application of subparagraph (A) shall be used to pay the costs of—

(i) administering the program;

(ii) collecting additional information relating to the River, as appropriate;

(iii) analyzing and presenting the information collected under clause (ii); and

(iv) preparing any appropriate reports, including the report required by subsection (i).

(i) REPORT.—Not later than 3 years after the date on which the program is established under subsection (a), and not less often than every 3 years thereafter, the Secretary, in cooperation with the individuals and agencies referred to in subsection (b), shall—

(1) review the program;

(2) establish and revise the purposes of the program, as the Secretary determines to be appropriate; and

(3) submit to the appropriate committees of Congress a report on the environmental health of the River, including—

(A) recommendations on means to assist in the comprehensive restoration of the River; and

(B) an analysis of any adverse social and economic impacts on the River, in accordance with subsection (g)(1).

SEC. 4. MISSOURI RIVER BASIN STAKEHOLDER COMMITTEE.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Governors of the States and the governing bodies of the Indian tribes of the Missouri River Basin shall establish a committee to be known as the ''Missouri River Basin Stakeholder Committee'' to make recommendations to the Federal agencies with jurisdiction over the River on means of restoring the ecosystem of the River.

(b) MEMBERSHIP.—The Governors of the States and governing bodies of the Indian tribes of the Missouri River Basin shall appoint to the Committee—

(1) representatives of—

(A) the States; and

(B) Indian tribes of the Missouri River Basin;

(2) individuals in the States with an interest in or expertise relating to the River; and

(3) such other individuals as the Governors of the States and governing bodies of the Indian tribes of the Missouri River Basin determine to be appropriate.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary—

(1) to carry out section 3—

(A) $6,500,000 for fiscal year 2003;

(B) $8,500,000 for fiscal year 2004; and

(C) $15,100,000 for each of fiscal years 2005 through 2017; and

(2) to carry out section 4, $150,000 for fiscal year 2003.

Mr. DORGAN. Mr. President, I am pleased to join my colleague from South Dakota Senator TIM JOHNSON today in introducing this Missouri River Enhancement and Monitoring Act of 2002 and thank him for his efforts in working with me on this legislation. This bill will establish a program to conduct research on, and monitor the health of, the Missouri River to help recover threatened and endangered species, such as the pallid sturgeon and piping plover.

This bill will enable those who are active in the Missouri River Basin to collect and analyze baseline data, as river operations change, so that we can monitor changes in the health of the river and in species recovery in future years.

The program would also provide an analysis of the social and economic impacts along the river. And, it would establish a stakeholder group to make recommendations on the recovery of the Missouri River ecosystem.

The bill establishes a cooperative working arrangement between state, regional federal, and tribal entities that are active in the Missouri River Basin. I look forward to working with all of the stakeholders in the Basin to implement this important legislation.

I am especially pleased that this legislation is supported by a broad range of stakeholders, including the North Dakota State Water Commission, the North Dakota Game and Fish Department, the North Dakota Chapter of the Sierra Club, the Three Affiliated

Tribes, the Missouri River Natural Resources Committee, The Missouri River Basin Association, the South Dakota Game and Fish Department, American Rivers, and Environmental Defense.

I am confident that this legislation will enjoy bipartisan support, because of its significance in helping to monitor and restore the health of this historic River. Lewis and Clark traveled on this River. This River also contributes to $80 million in recreation, fishing, and tourism benefits in the Basin. I look forward to holding hearings on this bill and hope that we will be able to pass it into law in the near future.

By Mr. BINGAMAN (for himself, Mr. ROBERTS, and Mr. ENZI):

S. 2854. A bill to amend title XVIII of the Social Security Act to improve disproportionate share medicare payments to hospitals serving vulnerable populations; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I am introducing bipartisan legislation today with Senators ROBERTS and ENZI that addresses some inequities in the current Medicare disproportionate share hospital, or DSH, program. The bill incorporates the recommendations by the Medicare Payment Advisory Commission, or MedPAC, to address the current inequities in the formula that harm rural hospitals and to better target the money to safety net hospitals.

The Medicare DSH program was created with the purpose of assisting hospitals that provide a substantial amount of care to low-income beneficiaries, including seniors and disabled citizens served by Medicare. To protect access to low-income Medicare beneficiaries, DSH funds are provided to hospitals whose viability is threatened by providing care, including unreimbursed care, to low-income patients.

Unfortunately, the current Medicare DSH formula does not adequately reflect or target money appropriately to these safety net institutions and it also inappropriately sets limits and inequities for rural hospitals, which are a life-line to many of our Nation's senior citizens and yet struggle due to such payment inequities in the Medicare system.

This legislation adopts the recommendations of MedPAC to address these inequities. According to MedPAC from its March 2000 ''Report to the Congress: Medicare Payment Policy''—

> The Commission believes that special policy changes are needed to ameliorate several problems inherent in the existing disproportionate share payment system. The current low-income share measure does not include care to all the poor; most notably, it omits uncompensated care. Instead, the measure relies on the share of resources devoted to treating Medicaid recipients to represent the low-income patient load for the entire non-elderly poor population.

New Mexico leads the Nation in the percentage of uninsured in its populations, according to the Census Bureau. Consequently, as MedPAC has noted repeatedly, the hospitals in my state lose more money to uncompensated care than similarly situated hospitals in other states. Because the Medicare DSH formula fails to account for uncompensated care directly but instead uses Medicaid as a proxy, the hospitals in New Mexico are not fairly compensated by the Medicare DSH formula.

To address this problem, MedPAC recommends the formula ''include the costs of all poor patients in calculating low-income shares used to distribute disproportionate share payments. . . .'' The legislation we are introducing today would make that important change on behalf of our Nation's safety net hospitals.

In addition, MedPAC notes that the current Medicare DSH program has 10 different formulas. MedPAC adds, ''In particular, current policy favors hospitals located in urban areas; almost half of urban hospitals receive DSH payments, compared with only one-fifth of rural facilities.''

Although BIPA improved the equity of DSH payments by raising the minimum low-income share needed to qualify for a payment adjustment for rural hospitals to that of urban hospitals, BIPA capped the DSH add-on payments a rural hospital can receive at just 5.25 percent, except for those rural hospitals already receiving higher payments due to the sole community hospital or rural referral center status. While MedPAC estimated the change made about 840 additional rural hospitals, or 40 percent of all rural facilities, eligible to receive DSH payments, the cap maintains some of the inequities between urban and rural hospitals.

Again, according to MedPAC in its June 2001 ''Report to Congress: Medicare in Rural America'':

> Rural hospitals were responsible for 12.8 percent of the care provided to Medicaid and uncompensated care patients nationally in 1999. With the DSH payment rules in effect through 2000, only 3.1 percent of payments went to rural facilities; BIPA rules would increase that proportion to 6.9 percent.

To address this problem, MedPAC also recommends using the ''same formula to distribute payments to all hospitals covered by prospective payment.''

In incorporating the recommendations of MedPAC in this legislation, it is estimated the bill would increase rural DSH payments by 5.4 percent across the country, including an 8.4 percent increase for rural hospitals with less than 50 beds. Our Nation's public hospitals would also benefit greatly, as urban public hospitals and rural government facilities are estimated to receive increases of 3.6 percent and 7.7 percent, respectively, under this legislation.

This legislation I am introducing with Senators ROBERTS and ENZI addresses some long-standing inequities in the Medicare DSH formula. I urge its adoption this year.

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. 2854

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 ''Medicare Safety Net Hospital Improvement Act of 2002''.

SEC. 2. COLLECTION OF DATA AND MODIFICATION OF DISPROPORTIONATE SHARE MEDICARE PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS.

(a) COLLECTION OF DATA.—Section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)) is amended by adding at the end the following new clause:

''(xiv) The Secretary shall collect from each subsection (d) hospital annual data on inpatient and outpatient charges, including all such charges for each of the following categories:

''(I) All patients.

''(II) Patients who are entitled to benefits under part A and are entitled to benefits (excluding any State supplementation) under the supplemental security income program under title XVI.

''(III) Patients who are entitled to (or, if they applied, would be eligible for) medical assistance under title XIX or child health assistance under title XXI.

''(IV) Patients who are beneficiaries of indigent care programs sponsored by State or local governments (including general assistance programs) which are funded solely by local or State funds or by a combination of local, State, or Federal funding.

''(V) The amount of charity care charges and bad debt.''.

(b) MODIFICATION.—Section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)), as amended by subsection (a), is amended—

(1) by striking all the matter preceding clause (xiv) and inserting the following:

''(F)(i) The Secretary shall provide, in accordance with this subparagraph, for an additional payment amount for each subsection (d) hospital which serves a significantly disproportionate number of low-income patients (as defined in clause (iv)).

''(ii) The amount of the payment described in clause (i) for each discharge shall be determined by multiplying—

''(I) the sum of the amount determined under paragraph (1)(A)(ii)(II) (or, if applicable, the amount determined under paragraph (1)(A)(iii)) and, for cases qualifying for additional payment under subparagraph (A)(i), the amount paid to the hospital under subparagraph (A) for that discharge, by

''(II) the disproportionate share adjustment percentage established under clause (iii) for the cost reporting period in which the discharge occurs.

''(iii) The disproportionate share adjustment percentage for a cost reporting period for a hospital is equal to (P–T)(C), where—

''(I) 'P' is equal to the hospital's disproportionate patient percentage (as defined in clause (v)) for the period;

''(II) 'T' is equal to the threshold percentage established by the Secretary under clause (iv); and

''(III) 'C' is equal to a conversion factor established by the Secretary in a manner so that, in applying such conversion factor for cost reporting periods beginning in fiscal year 2002—

''(aa) the total of the additional payments that would have been made under this subparagraph for cost reporting periods beginning in fiscal year 2002 if the amendment made by section 2(b) of the Medicare Safety Net Hospital Improvement Act of 2002 had been in effect; are equal to

''(bb) the total of the additional payments that would have been made under this subparagraph for cost reporting periods beginning in fiscal year 2002 if such amendment was not in effect but if the disproportionate share adjustment percentage (as defined in clause (iv) (as in effect during such cost reporting periods)) for all hospitals was equal to the percent determined in accordance with the applicable formulae described in clause (vii) (as so in effect).

The Secretary shall establish the conversion factor under subclause (III) based upon the data described in clause (iv) that is collected by the Secretary.

''(iv) For purposes of this subparagraph, a hospital 'serves a significantly disproportionate number of low-income patients' for a cost reporting period if the hospital has a disproportionate patient percentage (as defined in clause (v)) for that period which equals or exceeds a threshold percentage, as established by the Secretary in a manner so that, if the amendment made by section 2(b) of the Medicare Safety Net Hospital Improvement Act of 2002 had been in effect for cost reporting periods beginning in fiscal year 2002 and if the disproportionate share adjustment percentage (as defined in clause (iv) (as in effect during such periods)) for all hospitals was equal to the percent determined in accordance with the applicable formulae described in clause (vii) (as so in effect), 60 percent of subsection (d) hospitals would have been eligible for an additional payment under this subparagraph for such periods. The Secretary shall establish such threshold percentage based upon the data described in clause (iv) that is collected by the Secretary.

''(v) In this subparagraph, the term 'disproportionate patient percentage' means, with respect to a cost reporting period of a hospital (expressed as a percentage)—

''(I) the charges described in subclauses (II) through (V) of clause (vi) for such period; divided by

''(II) the charges described in subclause (I) of such clause for such period.''; and

(2) by redesignating clause (xiv) as clause (vi).

(c) CONFORMING AMENDMENTS.—

(1) MEDICARE.—

(A) QUALIFIED LONG-TERM CARE HOSPITAL.—Section 1886(b)(3)(G)(ii)(II) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(G)(ii)(II)) is amended by striking ''of at least 70 percent (as determined by the Secretary under subsection (d)(5)(F)(vi))'' and inserting ''under subsection (d)(5)(F)(v) equal to or greater than an appropriate percentage (as determined by the Secretary)''.

[(B) PROVIDER-BASED STATUS.—Section 404(b)(2)(B) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–507), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by striking ''greater than 11.75 percent or is described in clause (i)(II) of such section'' and inserting ''greater than an appropriate percent (as determined by the Secretary)''.]

(2) MEDICAID.—Section 1923(c) of the Social Security Act (42 U.S.C. 1396r–4(c)) is amended—

(A) in paragraph (1), by striking ''section 1886(d)(5)(F)(iv)'' and inserting ''section 1886(d)(5)(F)(iii)''; and

(B) by striking the second sentence.

(3) PUBLIC HEALTH SERVICE ACT.—Section 340B(a)(4)(L)(ii) of the Public Health Service Act (42 U.S.C. 256b(a)(4)(L)(ii)) is amended to read as follows:

''(ii) for the most recent cost reporting period that ended before the calendar quarter involved—

''(I) in the case of a calendar quarter involved that begins prior to April 1, 2004, had a disproportionate share adjustment percentage (as determined under section 1886(d)(5)(F) of the Social Security Act) greater than 11.75 percent or was described in section 1886(d)(5)(F)(i)(II) of such Act; and

''(II) in the case of a calendar quarter involved that begins on or after April 1, 2004, had a disproportionate share adjustment percentage (as so determined) that is greater than an appropriate percent, as established by the Secretary in a manner so that, with respect to the 12-month period beginning on such date, the number of hospitals that are described in this subparagraph is the same as, or greater than, the number of hospitals that would have been described in this subparagraph if the Medicare Safety Net Hospital Improvement Act of 2002 had not been enacted; and''.

(d) TECHNICAL AMENDMENTS.—Section 1815(e)(1)(B) of the Social Security Act (42 U.S.C. 1395g(e)(1)(B)) is amended—

(1) in the matter preceding clause (i), by inserting ''a'' before ''hospital''; and

(2) in clause (i), by striking ''(as established in clause (iv) of such section)'' and inserting ''(as established in section 1886(d)(5)(F)(iv), as in effect during fiscal year 1987)''.

(e) EFFECTIVE DATES.—

(1) COLLECTION.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

(2) MODIFICATION AND CONFORMING AMENDMENTS.—The amendments made by subsections (b) and (c) shall apply to payments for discharges occurring on or after April 1, 2004.

(3) TECHNICAL AMENDMENTS.—The amendments made by subsection (d) shall take effect as if included in the enactment of section 9311(a) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509; 100 Stat. 1996).

By Mr. BINGAMAN (for himself, Mr. ROCKEFELLER, and Mr. GRAHAM):

S. 2855. A bill to amend title XIX of the Social Security Act to improve the qualified medicare beneficiary (QMB) and special low-income medicare beneficiary (SLMB) programs within the medicaid program; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, today I am introducing a bill with Senator ROCKEFELLER that will make significant and long-overdue improvements in the programs that provide assistance to low-income Medicare beneficiaries. This bill is a companion bill to H.R. 5276, which was introduced by Representatives JOHN DINGELL, SHERROD BROWN, HENRY WAXMAN, and PETE STARK last week.

Medicare provides coverage to all 40 million elderly and disabled beneficiaries, regardless of income, but the cost of uncovered services, premiums, and cost-sharing is a serious burden on those with the lowest incomes.

More than 40 percent of Medicare beneficiaries have incomes below 200 percent of poverty, including 47 percent or 102,000 seniors in New Mexico, at income levels below $17,720 for an individual and $23,880 for a couple. These low-income beneficiaries are nearly twice as likely as higher-income beneficiaries to report their health status as fair or poor, but are less likely to have private supplemental insurance to cover the cost of uncovered services or Medicare cost-sharing. Poor beneficiaries also bear a disproportionate burden in out-of-pocket health care costs, spending more than a third of their incomes on health care compared to only 10 percent for higher-income beneficiaries.

Medicaid, through what is known as the ''Medicare Savings Programs,'' fills in Medicare's gaps for low-income beneficiaries, providing supplemental coverage to 17 percent of all Medicare beneficiaries. According to the Center for Medicare Education, which is funded by the Robert Wood Johnson Foundation, the costs for low-income beneficiaries enrolled in the Qualified Medicare Beneficiary, or QMB, program drops out-of-pocket expenditures from 34 percent to 13 percent for low-income beneficiaries. Moreover, Medicare beneficiaries with full Medicaid coverage have out-of-pocket expenses of about 5 percent of their income or $295 a year.

This is a significant and important protection for our Nation's most financially vulnerable seniors and disabled citizens. Unfortunately, millions of beneficiaries, who are eligible for assistance under the Medicare Savings Programs, are not enrolled. Again, the Center for Medicare Education estimates that only half of the beneficiaries below poverty who are eligible for assistance are actually enrolled. Lack of outreach, complex and burdensome enrollment procedures, and restrictive asset requirements keep millions of seniors from receiving the assistance they desperately need.

The ''Medicare Beneficiary Improvement Act of 2002'' takes a number of steps to address these problems. First, the legislation improves eligibility requirements for these programs. It raises the income level for eligibility for Medicare Part B premium assistance from 120 to 135 percent of poverty. This expansion was originally enacted in 1997 but it expires this year. The Congress needs to take action this year to maintain these important protections for the Nation's elderly and should take the additional action to make this provision permanent.

In addition, the bill also ensures that all seniors who meet supplemental security income, or SSI, criteria are automatically eligible for assistance. Currently, automatic eligibility is only required in certain States, meaning that beneficiaries in other states may miss out on critical assistance unless they know enough to apply.

The bill also eliminates the restrictive assets test that requires seniors to become completely destitute in order to qualify for assistance. Most low-income Medicare beneficiaries have limited assets to begin with but the asset restrictions are so severe, a beneficiary

could not keep a fund or more than $1,500 for burial expenses without being disqualified from assistance. Moreover, own a car and you are likely to be denied financial protections under current law.

According to the Kaiser Family Foundation, it is estimated that up to 40 percent of low-income elderly that are otherwise eligible for financial assistance are denied protections due to the assets test. Any senior citizen making less than $13,290 a year who somehow has managed to scrape together $4,000 in a savings account for emergency are not eligible for financial protections from Medicare's cost sharing requirements. This runs counter to the goal of the Medicare program of providing security to the elderly rather than requiring impoverishment of them.

Furthermore, the legislation take steps to eliminate barriers to enrollment under the program. Again, according to the Center for Medicare Education, ''While some states have conducted activities to reach and enroll people in the Medicare Savings Programs, there is a need for more outreach activity in states. For example, in 1999, only 18 states reported that they used a short application form for the Medicare Savings Programs, and less than half of the states placed eligibility workers in settings other than welfare offices.''

The bill allows Medicare beneficiaries to apply for assistance at local social security offices, encourages states to station eligibility workers at these offices, as well as at other sites frequented by senior citizens and individuals with disabilities, and ensures that beneficiaries can apply for the program using a simplified application form. In addition, this bill will ensure that once an individual is found eligible for assistance, the individual remains continuously eligible and does not need to re-apply annually.

Another important step the legislation takes for low-income Medicare beneficiaries is that it provides 3 months of retroactive for QMBs. All other groups of beneficiaries have this protection currently. In addition, it prohibits estate recovery for QMBs for the cost of their cost-sharing or benefits provided through this program. The fear that Medicaid will recoup such costs from a surviving spouse is often a deterrent for many seniors to apply for such assistance.

And finally, the legislation funds a demonstration project to improve information and coordination between federal state, and local entities to increase enrollment of eligible Medicare beneficiaries. This demonstration would help agencies identify individuals who are potentially eligible for assistance by coordinating various data and sharing it with states for the purposes of locating and enrolling these individuals. In addition, the legislation provides grant money for additional innovative outreach and enrollment projects for the Medicare Savings Programs.

I would like to thank Representative DINGELL for his leadership on this issue and am pleased to be introducing the Senate companion bill to his legislation.

I look forward to working with my colleagues to pass this important legislation.

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

S. 2855

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 ''Medicare Beneficiary Assistance Improvement Act of 2002''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Renaming program to eliminate confusion.
Sec. 3. Expanding protections by increasing SLMB eligibility income level to 135 percent of poverty.
Sec. 4. Eliminating barriers to enrollment.
Sec. 5. Elimination of asset test.
Sec. 6. Improving assistance with out-of-pocket costs.
Sec. 7. Improving program information and coordination with State, local, and other partners.
Sec. 8. Notices to certain new medicare beneficiaries.

SEC. 2. RENAMING PROGRAM TO ELIMINATE CONFUSION.

The programs of benefits for lower income medicare beneficiaries provided under section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) shall be known as the ''Medicare Savings Programs''.

SEC. 3. EXPANDING PROTECTIONS BY INCREASING SLMB ELIGIBILITY INCOME LEVEL TO 135 PERCENT OF POVERTY.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iii)) is amended by striking ''120 percent in 1995 and years thereafter'' and inserting ''120 percent in 1995 through 2002 and 135 percent in 2003 and years thereafter''.

(b) CONFORMING REMOVAL OF QI–1 AND QI–2 PROVISIONS.—

(1) Section 1902(a)(10)(E) of such Act (42 U.S.C. 1396a(a)(10)(E)) is further amended—

(A) by adding ''and'' at the end of clause (ii);

(B) by striking ''and'' at the end of clause (iii); and

(C) by striking clause (iv).

(2) Section 1933 of such Act (42 U.S.C. 1396u–3) is repealed.

(3) The amendments made by this subsection shall take effect as of January 1, 2003.

(c) APPLICATION OF CHIP ENHANCED MATCHING RATE FOR SLMB ASSISTANCE.—

(1) IN GENERAL.—Section 1905(b)(4) of such Act (42 U.S.C. 1396d(b)(4)) is amended by inserting ''or section 1902(a)(10)(E)(iii)'' after ''section 1902(a)(10)(A)(ii)(XVIII)''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to medical assistance for medicare cost-sharing for months beginning with January 2003.

SEC. 4. ELIMINATING BARRIERS TO ENROLLMENT.

(a) AUTOMATIC ELIGIBILITY FOR SSI RECIPIENTS IN 209(b) STATES AND SSI CRITERIA STATES.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)) is amended—

(1) be redesignating paragraph (6) as paragraph (11); and

(2) by adding at the end the following new paragraph:

''(6) In the case of a State which has elected treatment under section 1902(f) for aged, blind, and disabled individuals, individuals with respect to whom supplemental security income payments are being paid under title XVI are deemed for purposes of this title to be qualified medicare beneficiaries.''.

(b) SELF-CERTIFICATION OF INCOME.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), as amended by subsection (a), is further amended by inserting after paragraph (6) the following new paragraph:

''(7) In determining whether an individual qualifies as a qualified medicare beneficiary or is eligible for benefits under section 1902(a)(10)(E)(iii), the State shall permit individuals to qualify on the basis of self-certifications of income without the need to provide additional documentation.''.

(c) AUTOMATIC REENROLLMENT WITHOUT NEED TO REAPPLY.—

(1) IN GENERAL.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), as amended by subsections (a) and (b), is further amended by inserting after paragraph (7) the following new paragraph:

''(8) In the case of an individual who has been determined to qualify as a qualified medicare beneficiary or to be eligible for benefits under section 1902(a)(10)(E)(iii), the individual shall be deemed to continue to be so qualified or eligible without the need for any annual or periodic application unless and until the individual notifies the State that the individual's eligibility conditions have changed so that the individual is no longer so qualified or eligible.''.

(2) CONFORMING AMENDMENT.—Section 1902(e)(8) of the Social Security Act (42 U.S.C. 1396a(e)(8)) is amended by striking the second sentence.

(d) USE OF SIMPLIFIED APPLICATION PROCESS.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), as amended by subsections (a), (b), and (c), is further amended by inserting after paragraph (8) the following new paragraph:

''(9) A State shall permit individuals to apply to qualify as a qualified medicare beneficiary or for benefits under section 1902(a)(10)(E)(iii) through the use of the simplified application form developed under section 1905(p)(5)(A) and shall permit such an application to be made over the telephone or by mail, without the need for an interview in person by the applicant or a representative of the applicant.''.

(e) ROLE OF SOCIAL SECURITY OFFICES.—

(1) ENROLLMENT AND PROVISION OF INFORMATION AT SOCIAL SECURITY OFFICES.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), as amended by subsections (a), (b), (c), and (d) is further amended by inserting after paragraph (9) the following new paragraph:

''(10) The Commissioner of Social Security shall provide, through local offices of the Social Security Administration—

''(A) for the enrollment under State plans under this title for appropriate medicare cost-sharing benefits for individuals who qualify as a qualified medicare beneficiary or for benefits under section 1902(a)(10)(E)(iii); and

''(B) for providing oral and written notice of the availability of such benefits.''.

(2) CLARIFYING AMENDMENT.—Section 1902(a)(5) of such Act (42 U.S.C. 1396a(a)(5)) is amended by inserting ''as provided in section 1905(p)(10)'' after ''except''.

(f) OUTSTATIONING OF STATE ELIGIBILITY WORKERS AT SSA FIELD OFFICES.—Section 1902(a)(55) of such Act (42 U.S.C. 1396a(a)(55)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''subsection (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), or (a)(10)(A)(ii)(IX)'' and inserting ''paragraph (10)(A)(i)(IV), (10)(A)(i)(VI), (10)(A)(i)(VII), (10)(A)(ii)(IX), or (10)(E)''; and

(2) in subparagraph (A), by striking ''1905(1)(2)(B)'' and inserting ''1905(l)(2)(B), and in the case of applications of individuals for medical assistance under paragraph (10)(E), at locations that include field offices of the Social Security Administration''.

SEC. 5. ELIMINATION OF ASSET TEST.

(a) IN GENERAL.—Section 1905(p)(1) of the Social Security Act (42 U.S.C. 1396d(p)(1)) is amended—

(1) by adding ''and'' at the end of subparagraph (A);

(2) by striking '', and'' at the end of subparagraph (B) and inserting a period; and

(3) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to eligibility determinations for medicare cost-sharing furnished for periods beginning on or after January 1, 2003.

SEC. 6. IMPROVING ASSISTANCE WITH OUT-OF-POCKET COSTS.

(a) ELIMINATING APPLICATION OF ESTATE RECOVERY PROVISIONS.—Section 1917(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1396p(b)(1)(B)(ii)) is amended by inserting ''(but not including medical assistance for medicare cost-sharing or for benefits described in section 1902(a)(10)(E))'' before the period at the end.

(b) PROVIDING FOR 3-MONTHS RETROACTIVE ELIGIBILITY.—

(1) IN GENERAL.—Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended, in the matter before paragraph (1), by striking ''described in subsection (p)(1), if provided after the month'' and inserting ''described in subsection (p)(1), if provided in or after the third month before the month''.

(2) CONFORMING AMENDMENTS.—(A) The first sentence of section 1902(e)(8) of such Act (42 U.S.C. 1396a(e)(8)), as amended by section 4(c)(2), is amended by striking ''(8)'' and the first sentence.

(B) Section 1848(g)(3) of such Act (42 U.S.C. 1395w–4(g)(3)) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF RETROACTIVE ELIGIBILITY.—In the case of an individual who is determined to be eligible for medical assistance described in subparagraph (A) retroactively, the Secretary shall provide a process whereby claims previously for services furnished during the period of retroactive eligibility which were not submitted in accordance with such subparagraph are resubmitted and re-processed in accordance with such subparagraph.''.

SEC. 7. IMPROVING PROGRAM INFORMATION AND COORDINATION WITH STATE, LOCAL, AND OTHER PARTNERS.

(a) DATA MATCH DEMONSTRATION PROJECT.—

(1) IN GENERAL.—The Secretary of Health and Human Services (acting through the Administrator of the Centers for Medicare & Medicaid Services), the Secretary of the Treasury, and the Commissioner of Social Security shall enter into an arrangement under which a demonstration is conducted, consistent with this subsection, for the exchange between the Centers for Medicare & Medicaid Services, the Internal Revenue Service, and the Social Security Administration of information in order to identity individuals who are medicare beneficiaries and who, based on data from the Internal Revenue Service that (such as their not filing tax returns or other appropriate filters) are likely to be qualified medicare beneficiaries or individuals otherwise eligible for medical assistance under section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)).

(2) LIMITATION ON USE OF INFORMATION.—Notwithstanding any other provision of law, specific information on income or related matters exchanged under paragraph (1) may be disclosed only as required to carry out subsection (b) and for related Federal and State outreach efforts.

(3) PERIOD.—The project under this subsection shall be for an initial period of 3 years and may be extended for additional periods (not to exceed 3 years each) after such an extension is recommended in a report under subsection (d).

(b) STATE DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall enter into a demonstration project with States (as defined for purposes of title XIX of the Social Security Act (42 U.S..C 1396 et seq.) to provide funds to States to use information identified under subsection (a), and other appropriate information, in order to do ex parte determinations or other methods for identifying and enrolling individuals who are potentially eligible to be qualified medicare beneficiaries or otherwise eligible for medical assistance described in section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to the Secretary of Health and Human Services for the purpose of making grants under this subsection.

(c) ADDITIONAL CMS FUNDING FOR OUTREACH AND ENROLLMENT PROJECTS.—There are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to the Secretary of Health and Human Services through the Administrator of the Centers for Medicare & Medicaid Services, $100,000,000 which shall be used only for the purpose of providing grants to States to fund projects to improve outreach and increase enrollment in Medicare Savings Programs. Such projects may include cooperative grants and contracts with community groups and other groups (such as the Department of Veterans' Affairs and the Indian Health Service) to assist in the enrollment of eligible individuals.

(d) REPORTS.—The Secretary of Health and Human Services shall submit to Congress periodic reports on the projects conducted under this section. Such reports shall include such recommendations for extension of such projects, and changes in laws based on based projects, as the Secretary deems appropriate.

SEC. 8. NOTICES TO CERTAIN NEW MEDICARE BENEFICIARIES.

(a) SSA NOTICE.—At the time that the Commissioner of Social Security sends a notice to individuals that they have been determined to be eligible for benefits under part A or B of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq., 1395j et seq.), the Commissioner shall send a notice and application for benefits under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to those individuals the Commissioner identifies as being likely to be eligible for benefits under clause (i), (ii), or (iii) of section 1902(a)(10)(E) of such Act (42 U.S.C. 1396a(a)(10)(E)). Such notice and application shall be accompanied by information on how to submit such an application and on where to obtain more information (including answers to questions) on the application process.

(b) INCLUDING INFORMATION IN MEDICARE & YOU HANDBOOK.—The Secretary of Health and Human Services shall include in the annual handbook distributed under section 1804(a) of the Social Security Act (42 U.S.C. 1395b–2(a)) information on the availability of Medicare Savings Programs and a toll-free telephone number that medicare beneficiaries may use to obtain additional information about the program.

By Mr. ROCKEFELLER (for himself, Ms. COLLINS, and Mr. WYDEN):

S. 2857. A bill to amend titles XVIII and XIX of the Social Security Act to improve the requirements regarding advance directives in order to ensure that an individual's health care decisions are complied with, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr President, I am extremely pleased to be joined by my colleagues, Senator COLLINS and Senator WYDEN, in introducing the Advanced Directives and Compassionate Care Act of 2002.

The end of life is a difficult time for individuals and their families. A complex web of emotional, legal, medical, and spiritual demands magnify the pain and turmoil already being experienced. Loss of control can result in depression and confusion, sometimes even hastening death. And, too often, a lifetime's dignity can be stripped away in a person's final months, leaving their survivors an inheritance of sadness and regret.

The Advanced Directives and Compassionate Care Act will help families and individuals avoid this bitter legacy, by helping maintain greater control of their final months. It gives patients greater information and power in determining treatment and hospice options. The legislation addresses legal issues that often arise at the end-of-life, and makes it more certain that advanced directives, such as ''living wills'' will be followed. It promotes the hospice-based care that most terminally ill patients prefer. Most important, it gives people a better chance to maintain their dignity in their final hours. I urge that the Senate take up this vital and compassionate legislation this year, and that we ensure it's passage before we return home this fall.

According to a 1999 National Hospice and Palliative Care Organization survey, Americans are hesitant to talk with their elderly parents about how they would like to be cared for at the end of life. This same study showed that less than twenty-five percent of Americans have put into writing instructions for how we'd like to be cared for personally at the end of our lives. Many health care providers overlook the equally important issue of providing adequate and appropriate care such as relief of pain, or family support services to those who are at the end of life. In addition, there is great variation among State laws with respect to advanced directives.

Our legislation takes real and tangible steps toward improving the practices and care that affect our citizens when they are facing death or the real possibility of death.

First, and perhaps most important, the Compassionate Care Act gives patients greater power to control their

final days, by directly addressing the improvement of advanced directives. In my home state, a 2000 survey showed that three-quarters of West Virginians would prefer to die at home, yet nearly 60 percent of all deaths occur in a hospital. West Virginia has perhaps the most progressive state laws with regard to living wills and power of attorney, yet only one-third of those surveyed have either. These figures are unacceptable—people need to have a greater say in their own destiny.

Currently, state laws on the execution of advance directives vary greatly. Too often, this means a serious problem when the patient's wishes about their medical care are ignored—even when family members attest to their validity—because they moved to another state after creating the directive, but before or at the time that care is needed. Most of the differences that cause one state not to honor an advance directive created in another state are technical in nature—for example, one state requires two witnesses while another only one. This variance should not deny a person the type of care desired. Only a federal portability statute can address this problem.

Under our legislation, an advance directive valid in the state in which it is executed would be honored in any other state in which it may be presented. In addition, the Secretary of Health and Human Services would be required to gather information and consult with experts about the feasibility and desirability of creating a uniform advance directive for all Medicare and Medicaid beneficiaries, and possibly others, in the United States, as well as study such issues as the provision of adequate palliative care. A uniform advance directive would enable people to designate the kind of care they wish to receive at the end of their lives in a way that is easily recognizable and understood by everyone.

In 1990, this body passed bipartisan legislation entitled the Patient Self-Determination Act. That legislation required hospitals, and other health care facilities participating in the Medicare and Medicaid programs to provide every adult receiving medical care with written information regarding the patient's involvement with their own treatment decisions. The Compassionate Care Act builds on this Act, and the thinking behind it, to improve the quality of care and the quality of life for terminally ill patients.

Our bill builds on the Patient Self-Determination Act, improving the type and amount of information available by ensuring that a person entering a hospital, nursing home, or other health care facility is helped by a knowledgeable person to create a new advance directive or discuss an existing one. The patient's own needs, desires, and values must be the basis of decision-making and, whenever possible, the patient's family and/or friends should be part of the conversation. Further, the bill requires that if a person has an advance directive it be placed prominently in the medical record where all doctors and nurses involved in the patient's care can clearly see it. Finally, under the Compassionate Care Act, a 24-hour, toll-free hotline that provides consumers with information on advance directives, end-of-life care decision-making, and hospice care would be established.

Second, our legislation would require the Secretary of Health and Human Services to develop outcome standards and other measures for evaluating the quality of end-of-life care including the appropriateness of care and ease of access to high quality care. There are currently too few measures or standards available to assess the quality of care provided to Medicare, Medicaid and S–CHIP beneficiaries with terminal conditions. There are also significant variations in available medical care for patients at the end-of-life based on geographic area, ethnic group and alternative models of care.

Third, this legislation would authorize demonstration projects to develop new and innovative approaches to improving end-of-life care and pain management for Medicare, Medicaid and S–CHIP beneficiaries. At least one demonstration would focus particularly on pediatric end-of-life care. Priorities include adequate pain management for terminally ill patients—40–80 percent of terminally ill patients say they do not receive adequate treatment for their pain; treatment of pediatric illnesses—28 thousand children die of chronic illness each year, but fewer than 10 percent receive hospice care; and treatment of Medicare beneficiaries in hospice care.

Finally, to help improve communication between federal agencies and experts in the fields of hospice, end-of-life, and palliative care, the legislation establishes a 15 member End-of-Life Care Advisory Board consisting of end-of-life care providers, consumers, professional and resource-based groups, and policy/advocacy organizations. Recently, the Centers for Medicare and Medicaid Services has made a concerted effort to improve its involvement in the area of end-of-life care. The Advisory Board is designed to further assist the Secretary and the Centers for Medicare and Medicaid Services in the evaluation of and decisions relating to adequate end-of-life care. In addition, it would utilize the reports mandated in this bill to create its own evaluation of the field and propose recommendations for legislative and administrative actions to improve end-of-life care in America.

Mr. President, death is a hard subject to talk about. It's hard to think about—and especially hard to plan for. I know this personally, as many of my colleagues may as well, from dealing with the loss of a family member to a prolonged illness. Too often discussion about end-of-life care and adequate pain management focuses around physician assisted suicide. The fact is that this quality end-of-life care—helping the dying and their families who want better, more compassionate care—is what we should be talking about, and what our legislation does.

This legislation has been endorsed by the National Hospice and Palliative Care Association, Partnership for Caring, The American Bar Association, Americans for Better Care of the Dying, and the American Academy of Pediatrics. I ask unanimous consent that several of the letters of support from these organizations and the full text of the legislation be included in the RECORD at the conclusion of my remarks.

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

S. 2857

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 ''Advance Planning and Compassionate Care Act of 2002''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Development of standards to assess end-of-life care.
Sec. 3. Study and report by the Secretary of Health and Human Services regarding the establishment and implementation of a national uniform policy on advance directives.
Sec. 4. Improvement of policies related to the use of advance directives.
Sec. 5. National information hotline for end-of-life decisionmaking and hospice care.
Sec. 6. Demonstration project for innovative and new approaches to end-of-life care for medicare, medicaid, and SCHIP beneficiaries.
Sec. 7. Establishment of End-of-Life Care Advisory Board.

SEC. 2. DEVELOPMENT OF STANDARDS TO ASSESS END-OF-LIFE CARE.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, the Director of the National Institutes of Health, the Administrator of the Agency for Health Care Policy and Research, and the End-of-Life Care Advisory Board (established under section 7), shall develop outcome standards and measures to—

(1) evaluate the performance of health care programs and projects that provide end-of-life care to individuals, including the quality of the care provided by such programs and projects; and

(2) assess the access to, and utilization of, such programs and projects, including differences in such access and utilization in rural and urban areas and for minority populations.

(b) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the outcome standards and measures developed under subsection (a), together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

SEC. 3. STUDY AND REPORT BY THE SECRETARY OF HEALTH AND HUMAN SERVICES REGARDING THE ESTABLISHMENT AND IMPLEMENTATION OF A NATIONAL UNIFORM POLICY ON ADVANCE DIRECTIVES.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a thorough study of all matters relating to the establishment and implementation of a national uniform policy on advance directives for individuals receiving items and services under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 1396 et seq.).

(2) MATTERS STUDIED.—The matters studied by the Secretary of Health and Human Services under paragraph (1) shall include issues concerning—

(A) family satisfaction that a patient's wishes, as stated in the patient's advance directive, were carried out;

(B) the portability of advance directives, including cases involving the transfer of an individual from 1 health care setting to another;

(C) immunity from civil liability and criminal responsibility for health care providers that follow the instructions in an individual's advance directive that was validly executed in, and consistent with the laws of, the State in which it was executed;

(D) conditions under which an advance directive is operative;

(E) revocation of an advance directive by an individual;

(F) the criteria used by States for determining that an individual has a terminal condition;

(G) surrogate decisionmaking regarding end-of-life care;

(H) the provision of adequate palliative care (as defined in paragraph (3)), including pain management; and

(I) adequate and timely referrals to hospice care programs.

(3) PALLIATIVE CARE.—For purposes of paragraph (2)(H), the term ''palliative care'' means interdisciplinary care for individuals with a life-threatening illness or injury relating to pain and symptom management and psychological, social, and spiritual needs and that seeks to improve the quality of life for the individual and the individual's family.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the study conducted under subsection (a), together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(c) CONSULTATION.—In conducting the study and developing the report under this section, the Secretary of Health and Human Services shall consult with the End-of-Life Care Advisory Board (established under section 7), the Uniform Law Commissioners, and other interested parties.

SEC. 4. IMPROVEMENT OF POLICIES RELATED TO THE USE OF ADVANCE DIRECTIVES.

(a) MEDICARE.—Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by inserting ''and if presented by the individual, to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(B) in subparagraph (D), by striking ''and'' after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(2) in paragraph (3), by striking ''a written'' and inserting ''an''; and

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

''(5)(A) An advance directive validly executed outside of the State in which such advance directive is presented by an adult individual to a provider of services, a Medicare+Choice organization, or a prepaid or eligible organization shall be given the same effect by that provider or organization as an advance directive validly executed under the law of the State in which it is presented would be given effect.

''(B)(i) The definition of an advanced directive shall also include actual knowledge of instructions made while an individual was able to express the wishes of such individual with regard to health care.

''(ii) For purposes of clause (i), the term ''actual knowledge'' means the possession of information of an individual's wishes communicated to the health care provider orally or in writing by the individual, the individual's medical power of attorney representative, the individual's health care surrogate, or other individuals resulting in the health care provider's personal cognizance of these wishes. Other forms of imputed knowledge are not actual knowledge.

''(C) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(b) MEDICAID.—Section 1902(w) of the Social Security Act (42 U.S.C. 1396a(w)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking ''in the individual's medical record'' and inserting ''in a prominent part of the individual's current medical record''; and

(ii) by inserting ''and if presented by the individual, to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(B) in subparagraph (D), by striking ''and'' after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(2) in paragraph (4), by striking ''a written'' and inserting ''an''; and

(3) by adding at the end the following paragraph:

''(6)(A) An advance directive validly executed outside of the State in which such advance directive is presented by an adult individual to a provider or organization shall be given the same effect by that provider or organization as an advance directive validly executed under the law of the State in which it is presented would be given effect.

''(B)(i) The definition of an advanced directive shall also include actual knowledge of instructions made while an individual was able to express the wishes of such individual with regard to health care.

''(ii) For purposes of clause (i), the term ''actual knowledge'' means the possession of information of an individual's wishes communicated to the health care provider orally or in writing by the individual, the individual's medical power of attorney representative, the individual's health care surrogate, or other individuals resulting in the health care provider's personal cognizance of these wishes. Other forms of imputed knowledge are not actual knowledge.

''(C) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(c) STUDY AND REPORT REGARDING IMPLEMENTATION.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study regarding the implementation of the amendments made by subsections (a) and (b).

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the study conducted under paragraph (1), together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a) and (b) shall apply to provider agreements and contracts entered into, renewed, or extended under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and to State plans under title XIX of such Act (42 U.S.C. 1396 et seq.), on or after such date as the Secretary of Health and Human Services specifies, but in no case may such date be later than 1 year after the date of enactment of this Act.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SEC. 5. NATIONAL INFORMATION HOTLINE FOR END-OF-LIFE DECISIONMAKING AND HOSPICE CARE.

The Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall operate directly, or by grant, contract, or interagency agreement, out of funds otherwise appropriated to the Secretary, a clearinghouse and a 24-hour toll-free telephone hotline in order to provide consumer information about advance directives (as defined in section 1866(f)(3) of the Social Security Act (42 U.S.C. 1395cc(f)(3)), as amended by section 4(a)), end-of-life decisionmaking, and available end-of-life and hospice care services. In carrying out the preceding sentence, the Administrator may designate an existing clearinghouse and 24-hour toll-free telephone hotline or, if no such entity is appropriate, may establish a new clearinghouse and a 24-hour toll-free telephone hotline.

SEC. 6. DEMONSTRATION PROJECT FOR INNOVATIVE AND NEW APPROACHES TO END-OF-LIFE CARE FOR MEDICARE, MEDICAID, AND SCHIP BENEFICIARIES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall conduct a demonstration project under which the Secretary contracts with entities operating programs in order to develop new and innovative approaches to providing end-of-life care to medicare beneficiaries, medicaid beneficiaries, and SCHIP beneficiaries.

(2) APPLICATION.—Any entity seeking to participate in the demonstration project shall submit to the Secretary an application in such form and manner as the Secretary may require.

(3) DURATION.—The authority of the Secretary to conduct the demonstration project shall terminate at the end of the 5-year period beginning on the date the Secretary implements the demonstration project.

(b) SELECTION CRITERIA.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), in selecting entities to participate in the demonstration project, the Secretary shall select entities that will allow for programs to be conducted in a variety of States, in an array of care settings, and that reflect—

(A) a balance between urban and rural settings;

(B) cultural diversity; and

(C) various modes of medical care and insurance, such as fee-for-service, preferred provider organizations, health maintenance organizations, hospice care, home care services, long-term care, pediatric care, and integrated delivery systems.

(2) PREFERENCES.—The Secretary shall give preference to entities operating programs that—

(A) will serve medicare beneficiaries, medicaid beneficiaries, or SCHIP beneficiaries who are dying of illnesses that are most prevalent under the medicare program, the medicaid program, or SCHIP, respectively; and

(B) appear capable of sustained service and broad replication at a reasonable cost within commonly available organizational structures.

(3) SELECTION OF PROGRAM THAT PROVIDES PEDIATRIC END-OF-LIFE CARE.—The Secretary shall ensure that at least 1 of the entities selected to participate in the demonstration project operates a program that provides pediatric end-of-life care.

(c) EVALUATION OF PROGRAMS.—

(1) IN GENERAL.—Each program operated by an entity under the demonstration project shall be evaluated at such regular intervals as the Secretary determines are appropriate.

(2) USE OF PRIVATE ENTITIES TO CONDUCT EVALUATIONS.—The Secretary, in consultation with the End-of-Life Care Advisory Board (established under section 7), shall contract with 1 or more private entities to coordinate and conduct the evaluations under paragraph (1). Such a contract may not be awarded to an entity selected to participate in the demonstration project.

(3) REQUIREMENTS FOR EVALUATIONS.—

(A) USE OF OUTCOME MEASURES AND STANDARDS.—In coordinating and conducting an evaluation of a program conducted under the demonstration project, an entity shall use the outcome standards and measures required to be developed under section 2 as soon as those standards and measures are available.

(B) ELEMENTS OF EVALUATION.—In addition to the use of the outcome standards and measures under subparagraph (A), an evaluation of a program conducted under the demonstration project shall include the following:

(i) A comparison of the quality of care provided by, and of the outcomes for medicare beneficiaries, medicaid beneficiaries, and SCHIP beneficiaries, and the families of such beneficiaries enrolled in, the program being evaluated to the quality of care and outcomes for such individuals that would have resulted if care had been provided under existing delivery systems.

(ii) An analysis of how ongoing measures of quality and accountability for improvement and excellence could be incorporated into the program being evaluated.

(iii) A comparison of the costs of the care provided to medicare beneficiaries, medicaid beneficiaries, and SCHIP beneficiaries under the program being evaluated to the costs of such care that would have been incurred under the medicare program, the medicaid program, and SCHIP if such program had not been conducted.

(iv) An analysis of whether the program being evaluated implements practices or procedures that result in improved patient outcomes, resource utilization, or both.

(v) An analysis of—

(I) the population served by the program being evaluated; and

(II) how accurately that population reflects the total number of medicare beneficiaries, medicaid beneficiaries, and SCHIP beneficiaries residing in the area who are in need of services offered by such program.

(vi) An analysis of the eligibility requirements and enrollment procedures for the program being evaluated.

(vii) An analysis of the services provided to beneficiaries enrolled in the program being evaluated and the utilization rates for such services.

(viii) An analysis of the structure for the provision of specific services under the program being evaluated.

(ix) An analysis of the costs of providing specific services under the program being evaluated.

(x) An analysis of any procedures for offering medicare beneficiaries, medicaid beneficiaries, and SCHIP beneficiaries enrolled in the program being evaluated a choice of services and how the program responds to the preferences of such beneficiaries.

(xi) An analysis of the quality of care provided to, and of the outcomes for, medicare beneficiaries, medicaid beneficiaries, and SCHIP beneficiaries, and the families of such beneficiaries, that are enrolled in the program being evaluated.

(xii) An analysis of any ethical, cultural, or legal concerns—

(I) regarding the program being evaluated; and

(II) with the replication of such program in other settings.

(xiii) An analysis of any changes to regulations or of any additional funding that would result in more efficient procedures or improved outcomes under the program being evaluated.

(d) WAIVER AUTHORITY.—The Secretary may waive compliance with any of the requirements of titles XI, XVIII, XIX, and XXI of the Social Security Act (42 U.S.C. 1301 et seq.; 1395 et seq.; 1396 et seq.; 1397aa et seq.) which, if applied, would prevent the demonstration project carried out under this section from effectively achieving the purpose of such project.

(e) REPORTS TO CONGRESS.—

(1) ANNUAL REPORTS BY SECRETARY.—

(A) IN GENERAL.—Beginning 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the demonstration project and on the quality of end-of-life care under the medicare program, the medicaid program, and SCHIP, together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(B) SUMMARY OF RECENT STUDIES.—A report submitted under subparagraph (A) shall include a summary of any recent studies and advice from experts in the health care field regarding the ethical, cultural, and legal issues that may arise when attempting to improve the health care system to meet the needs of individuals with serious and eventually terminal conditions.

(C) CONTINUATION OR REPLICATION OF DEMONSTRATION PROJECTS.—The first report submitted under subparagraph (A) after the 3-year anniversary of the date the Secretary implements the demonstration project shall include recommendations regarding whether such demonstration project should be continued beyond the period described in subsection (a)(3) and whether broad replication of any of the programs conducted under the demonstration project should be initiated.

(2) REPORT BY END-OF-LIFE CARE ADVISORY BOARD ON DEMONSTRATION PROJECT.—

(A) IN GENERAL.—Not later than 2 years after the conclusion of the demonstration project, the End-of-Life Advisory Board shall submit a report to the Secretary and Congress on such project.

(B) CONTENTS.—The report submitted under subparagraph (A) shall contain—

(i) an evaluation of the effectiveness of the demonstration project; and

(ii) recommendations for such legislation and administrative actions as the Board considers appropriate.

(f) FUNDING.—There are appropriated such sums as are necessary for conducting the demonstration project and for preparing and submitting the reports required under subsection (e)(1).

(g) DEFINITIONS.—In this section:

(1) DEMONSTRATION PROJECT.—The term ''demonstration project'' means the demonstration project conducted under this section.

(2) MEDICAID BENEFICIARIES.—The term ''medicaid beneficiaries'' means individuals who are enrolled in the State medicaid program.

(3) MEDICAID PROGRAM.—The term ''medicaid program'' means the health care program under title XIX of the Social Security Act (42 U.S.C. 1395 et seq.).

(4) MEDICARE BENEFICIARIES.—The term ''medicare beneficiaries'' means individuals who are entitled to benefits under part A or enrolled for benefits under part B of the medicare program.

(5) MEDICARE PROGRAM.—The term ''medicare program'' means the health care program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(6) SCHIP BENEFICIARY.—The term ''SCHIP beneficiary'' means an individual who is enrolled in SCHIP.

(7) SCHIP.—The term ''SCHIP'' means the State children's health insurance program under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

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

SEC. 7. ESTABLISHMENT OF END-OF-LIFE CARE ADVISORY BOARD.

(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services an End-of-Life Care Advisory Board (in this section referred to as the ''Board'').

(b) STRUCTURE AND MEMBERSHIP.—

(1) IN GENERAL.—The Board shall be composed of 15 members who shall be appointed by the Secretary of Health and Human Services (in this section referred to as the ''Secretary'').

(2) REQUIRED REPRESENTATION.—The Secretary shall ensure that the following groups, organizations, and associations are represented in the membership of the Board:

(A) An end-of-life consumer advocacy organization.

(B) A senior citizen advocacy organization.

(C) A physician-based hospice or palliative care organization.

(D) A nurse-based hospice or palliative care organization.

(E) A hospice or palliative care provider organization.

(F) A hospice or palliative care representative that serves the veterans population.

(G) A physician-based medical association.

(H) A physician-based pediatric medical association.

(I) A home health-based nurses association.

(J) A hospital-based or health system-based palliative care group.

(K) A children-based or family-based hospice resource group.

(L) A cancer pain management resource group.

(M) A cancer research and policy advocacy group.

(N) An end-of-life care policy advocacy group.

(O) An interdisciplinary end-of-life care academic institution.

(3) ETHNIC DIVERSITY REQUIREMENT.—The Secretary shall ensure that the members of the Board appointed under paragraph (1) represent the ethnic diversity of the United States.

(4) PROHIBITION.—No individual who is a Federal officer or employee may serve as a member of the Board.

(5) TERMS OF APPOINTMENT.—Each member of the Board shall serve for a term determined appropriate by the Secretary.

(6) CHAIRPERSON.—The Secretary shall designate a member of the Board as chairperson.

(c) MEETINGS.—The Board shall meet at the call of the chairperson but not less often than every 3 months.

(d) DUTIES.—

(1) IN GENERAL.—The Board shall advise the Secretary on all matters related to the furnishing of end-of-life care to individuals.

(2) SPECIFIC DUTIES.—The specific duties of the Board are as follows:

(A) CONSULTING.—The Board shall consult with the Secretary regarding—

(i) the development of the outcome standards and measures under section 2;

(ii) conducting the study and submitting the report under section 3; and

(iii) the selection of private entities to conduct evaluations pursuant to section 6(c)(2).

(B) REPORT ON DEMONSTRATION PROJECT.—The Board shall submit the report required under section 6(e)(2).

(e) MEMBERS TO SERVE WITHOUT COMPENSATION.—

(1) IN GENERAL.—All members of the Board shall serve on the Board without compensation for such service.

(2) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(f) STAFF.—

(1) IN GENERAL.—The chairperson of the Board may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Board to perform its duties. The employment of an executive director shall be subject to confirmation by the Board.

(2) COMPENSATION.—The chairperson of the Board may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Board who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF BOARD.—Subparagraph (A) shall not be construed to apply to members of the Board.

(g) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Board without additional reimbursement (other than the employee' regular compensation), and such detail shall be without interruption or loss of civil service status or privilege.

(h) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(i) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

(j) TERMINATION.—The Board shall terminate 90 days after the date on which the Board submits the report under section 6(e)(2).

(k) FUNDING.—Funding for the operation of the Board shall be from amounts otherwise appropriated to the Department of Health and Human Services.

NATIONAL HOSPICE AND PALLIATIVE CARE ORGANIZATION,
Alexandria, VA, July 31, 2002.

Hon. JOHN D. ROCKEFELLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR ROCKEFELLER: The National Hospice and Palliative Care Organization (NHPCO), the nation's largest and oldest organization dedicated to advancing the philosophy and practice of hospice care, appreciates the opportunity to continue to work with you on your proposed draft legislation, ''Advance Planning and Compassionate Care Act of 2002''.

We applaud your efforts to address an important health care issue and appreciate your willingness to work with the NHPCO to incorporate changes relative to hospice into the legislation. Specifically, the NHPCO supports your efforts to make advance directives portable among the states, to study end of life care needs of the general population and to authorize Medicare demonstration projects on end of life care.

We look forward to working with you on your legislation.

Sincerely,

GALEN MILLER,
Executive Vice President.

PARTNERSHIP FOR CARING INC.,
Washington, DC, July 24, 2002.

Senator JOHN D. ROCKEFELLER IV,
U.S. Senate,
Washington, DC.

DEAR SENATOR ROCKEFELLER: On behalf of Partnership for Caring: America's Voices for the Dying I am writing to endorse and support the passage of the ''Compassionate Care and Advance Planning Act of 2002'' Our Board of Directors, staff and membership are grateful for and applaud your continuing leadership and deep commitment to improving care for people nearing the end of their lives.

Partnership for Caring is a national, nonprofit organization representing consumers of end-of-life care and their families. Our mission is to encourage individuals to think about and plan for the type of care they would like to receive at the end of their journey and to discuss those plans with their families, friends and physicians. Partnership makes available to the public Advance Directives specific to each state's law and educational materials on many aspects of end-of-life care and conversation. We also provide assistance via our 24 hour, toll-free help line, as well as advocacy to improve palliative and end-of-life care.

The health care systems and reimbursement mechanisms in America today are the focus of a great deal of scrutiny, especially the Medicare, Medicaid and S–CHIP programs. Unfortunately, the critically important health care components of palliative and end-of-life care too often are overlooked. We thank you and the cosponsors of the legislation for raising the visibility of this essential aspect of care and for proposing immediate improvements in our health systems as well as research and demonstration projects that will inform us about better ways to care for people in the last phase of their lives.

We are particularly pleased about the proposal to create an End-of-Life Care Advisory Board to work with CMS and HHS. This provision alone will help make certain that any federal government proposals to reform Medicare, Medicaid or S–CHIP will have the informed contributions of experts in the fields of palliative and hospice medicine. Such a Board is vitally important if these programs and other health care laws and regulations are to adequately address the needs of people who are dying. The Board's diversity will help assure that the unique concerns of minorities, children and young adults, various religious and ethnic groups are heard. Consumers and providers of end-of-life care will both have a voice.

The inclusion of the S–CHIP program in legislation dealing with end-of-life care deserves special thanks. While no one likes to think about children dying, about 53,000 children die each year. Research on caring for terminally ill pediatric patients is minimal and dying children have been woefully underserved in the areas of pain management and hospice care. Mandating that at least one demonstration project focus on pediatric issues is step in the right direction and will benefit thousands of children whose young lives will end too soon.

Medicare beneficiaries have a compelling reason to seek improvements in end-of-life care: everyone who becomes a Medicare beneficiary will die a Medicare beneficiary. Today 27% of all Medicare expenditures are spent caring for people in the last year of their lives, frequently on costly, unnecessary procedures in hospitals and nursing homes. Although hospice care currently accounts for only 1.3% of all Medicare expenditures that percentage will grow as the baby-boomers age and seek a qualitatively different end-of-life scenario than the ones many of them watched their parents and grandparents endure. The demonstration projects authorized by your legislation will allow us to learn more about our choices and become better educated consumers of care.

As you will know, caring for an elderly parent, a sick spouse, or a dying child, can

be emotionally, economically, and physically draining under any circumstance. As a consumer based organization, Partnership for Caring knows first hand how much worse it is for those who have never discussed with their loved ones their wishes for end-of-life care, who do not know what resources are available, or who are unaware of palliative and hospice care and how to access these services. Health care providers, too, are often caught having to make decisions or talk to family members without benefit of knowing their patients' wishes or alternative services in their communities. ''The Compassionate Care and Advance Planning Act of 2002'' will help educate the pubic and providers as well as encourage conversations and advance planning. Insuring that each of us can receive the kind of care we would want for ourselves and our loved ones as we near death should be a priority concern as these programs look to the future.

Again, our thanks to you and all of the senators who join in supporting this bill. Insuring that each of us can receive the kind of care we want for ourselves and our loved ones as we near death should be a national priority as we look to the future of health care. We at Partnership for Caring will be working with you and our partner organizations to assure passage of the ''Compassionate Care Act'' and, more importantly, to assure better quality care for all our loved ones and for ourselves.

Sincerely,

KAREN ORLOFF KAPLAN,
President and CEO.

AMERICAN BAR ASSOCIATION
GOVERNMENTAL AFFAIRS OFFICE,
Washington, DC, July 29, 2002.

Hon. JOHN D. ROCKEFELLER IV,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR ROCKEFELLER: On behalf of the American Bar Association, I am writing to commend you and your co-sponsors for introducing the Advance Planning and Compassionate Care Act of 2002. This legislation takes several important steps beyond the 1990 Patient Self-Determination Act (PSDA) which introduced the term ''Advance Directive'' to the American vernacular. The American Bar Association supported the enactment of the PSDA and has continued to encourage greater access to the tools of advance planning, greater uniformity and portability of advance directives, and greater responsiveness to the needs of patients in health care systems at all stages of life, including end-of-life care.

The Advance Planning and Compassionate Care Act takes several modest but vital steps towards these goals. Under its provisions there will be an opportunity to discuss advance directives with an appropriately trained individual upon admission to a health care facility, which will help transform the existing paper-disclosure requirement into a meaningful vehicle for discussion and understanding. This will do much to combat the misperception that advance planning means merely signing a form. Good advance planning is, in essence, good communication, not mere form-drafting.

The portability and research mandates concerning advance directives are seriously needed to move public policy beyond the current Balkanization of legal formalities that characterizes current advance-directive law. In addition, the mandate to examine the feasibility and desirability of creating a uniform advance directive will generate much-needed fresh thinking on the strategies that may best encourage advance planning. Sadly, twelve years after the PSDA, the majority of adults still avoid the necessary task of planning for end-of-life decision-making.

The National Information Hotline will provide a valuable consumer tool for information about advance directives and end-of-life care options. Finally, the mandates for standards development, evaluation and demonstration projects, as well as coverage provisions, will help fill the inexcusable chasm in current knowledge, regulation, and financing of end-of-life care under Medicare and Medicaid. Historically, end-of-life decision-making and quality of care have been relegated to the shadows of health and long-term care policy. This Act will help the public and policy makers understand the issues and options in the light of day.

The ABA strongly supports this legislation. We commend your leadership in seeking to enhance patient autonomy and end-of-life care, and we stand ready to be a resource in these efforts.

Sincerely,

ROBERT D. EVANS.

Ms. COLLINS. Mr. President, I am pleased to be joining my colleague from West Virginia, Senator ROCKEFELLER, in introducing the Advance Planning and Compassionate Care Act, which is intended to improve the way we care for people at the end of their lives.

Noted health economist, Uwe Reinhardt, once observed that ''Americans are the only people on earth who believe that death is negotiable.'' Advancements in medicine, public health, and technology have enabled more and more of us to live longer and healthier lives. However, when medical treatment can no longer promise a continuation of life, patients and their families should not have to fear that the process of dying will be marked by preventable pain, avoidable distress, or care that is inconsistent with their values or wishes.

The fact is, dying is a universal experience, and it is time to re-examine how we approach death and dying and how we care for people at the end of their lives. Clearly, there is more that we can do to relieve suffering, respect personal choice and dignity, and provide opportunities for people to find meaning and comfort at life's conclusion.

Unfortunately, most Medicare patients and their physicians do not currently discuss death or routinely make advance plans for end-of-life care. As a result, about one-fourth of Medicare funds are now spent on care at the end of life that is geared toward expensive, high-technology interventions and ''rescue'' care. While most Americans say they would prefer to die at home, studies show that almost 80 percent die in institutions where they may be in pain, and where they are subjected to high-tech treatments that merely prolong suffering.

Moreover, according to a Dartmouth study conducted by Dr. Jack Wennberg, where a patient lives has a direct impact on how that patient dies. The study found that the amount of medical treatment Americans receive in their final months varies tremendously in the different parts of the country, and it concluded that the determination of whether or not an older patient dies in the hospital probably has more to do with the supply of hospital beds than the patient's needs or preference.

The Advance Planning and Compassionate Care Act is intended to help us improve the way our health care system serves patients at the end of their lives. Among other provisions, the bill makes a number of changes to the Patient Self-Determination Act of 1990 to facilitate appropriate discussions and individual autonomy in making difficult discussions about end-of-life care. For instance, the legislation requires that every Medicare beneficiary receiving care in a hospital or nursing facility be given the opportunity to discuss end-of-life care and the preparation of an advanced directive with an appropriately trained professional within the institution. The legislation also requires that if a patient has an advanced directive, it must be displayed in a prominent place in the medical record so that all the doctors and nurses can clearly see it.

In addition, the legislation authorizes the Department of Health and Human Services to study end-of-life issues and also to develop demonstration projects to develop models for end-of-life care for Medicare, Medicaid, and State Child Health Insurance Program, S–CHIP, patients. The Institute of Medicine recently released a report that concluded that we need to improve palliative and end-of-life care for children with terminal illnesses. According to the report, far too often children with fatal or potentially fatal conditions and their families fail to receive competent, compassionate, and consistent care that meets their physical, emotional, and spiritual needs. Our legislation therefore requires that at least one of these demonstrations focus particularly on pediatric end-of-life care.

Finally, the legislation establishes a telephone hotline to provide consumer information and advice concerning advance directives, end-of-life issues, and medical decisionmaking and also establishes an End-of-Life Care Advisory Board to assist the Secretary of Health and Human Services in developing outcome standards and measures to evaluate end-of-life care programs and projects.

The legislation we are introducing today is particularly important in light of the debate on physician-assisted suicide. The desire for assisted suicide is generally driven by concerns about the quality of care for the terminally ill; by the fear of prolonged pain, loss of dignity and emotional strain on family members. Such worries would recede and support for assisted suicide would evaporate if better palliative care and more effective pain management were widely available.

Patients and their families should be able to trust that the care they receive at the end of their lives is not only of high quality, but also that it respects their desires for peace, autonomy, and

dignity. The Advanced Planning and Compassionate Care Act that Senator ROCKEFELLER and I are introducing today will give us some of the tools that we need to improve care of the dying in this country, and I urge all of my colleagues to join us as cosponsors.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 2858. A bill to modify the project for navigation, Union River, Maine; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 2859. A bill to deauthorize the project for navigation, Northeast Harbor, Maine; to the Committee on Environment and Public Works.

Ms. SNOWE. Mr. President, I introduce two bills for harbors in Maine, one to deauthorize the Federal Navigation Project in Northeast Harbor, and the second to redesignate the Upper Basin of the Union River Federal Navigational Channel as an anchorage. The bills, cosponsored by Senator COLLINS, will help strengthen the economic viability of these two popular Maine harbors.

Because of changing harbor usage over the last 45 years, the Town of Mount Desert has requested that Northeast Harbor be withdrawn from the Federal Navigation Project. This removal will allow the town to adapt to the high demand for moorings and will allow residents to obtain moorings in a more timely manner. The Harbor has now reached capacity for both moorings and shoreside facilities and has a waiting list of over sixty people along with commercial operators who have been waiting for years to obtain a mooring for their commercial vessels.

The Harbor was authorized in 1945 and constructed in 1954 as a mixed-use commercial fishing/recreational boating harbor—and it still is today. It was dredged in the early 1950s to provide more space for recreational boating and the U.S. Army Corps of Engineers has informed the town that Northeast Harbor would be very low on its dredging priority list as it has become primarily a recreational harbor. The town says it realizes that, once it is no longer part of the Federal Navigational Project, any further dredging within the harbor would be carried out at town expense.

The language will not only allow for more recreational moorages and commercial activities, it will also be an economic boost to Northeast Harbor, which is surrounded by Acadia National Park, one of the nation's most visited parks—both by land and by water.

My second bill supports the City of Ellsworth's efforts to revitalize the Union River navigation channel, harbor, and shoreline. The modification called for in my legislation will redesignate a portion of the Union River as an anchorage area. This redesignation will allow for a greater number of moorings in the harbor without interfering with navigation and will further improve the City's revitalization efforts for the harbor area.

I have worked with the New England Division of the Corps to draft these bills and the language has been approved by Army Corps Headquarters in Washington. I look forward to working with my colleagues for their passage, either as stand alone bills or as separate provisions in the Corps reauthorization bill, the Water Resources Development Act of 2002, that Congress is currently drafting.

By Mr. ROCKEFELLER (for himself, Mr. CHAFEE, Mr. KENNEDY, and Mr. HATCH):

S. 2860. A bill to amend title XXI of the Social Security Act to modify the rules for redistribution and extended availability of fiscal year 2000 and subsequent fiscal year allotments under the State children's health insurance program, and for other purposes; to the Committee on France.

Mr. ROCKEFELLER. Mr. President, I introduce a bill that will improve and protect health insurance for our nation's children. The Children's Health Improvement and Protection Act of 2002, CHIP Act, brings us back to the basics of health care—the fundamental philosophy that no child should go without needed health care. I'm pleased to be joined by my good friends Senator CHAFEE and Senator KENNEDY to introduce the Children's Health Insurance Improvement and Protection Act of 2002.

Established in 1997 to reduce the number of uninsured children, the Children's Health Insurance Program has been an unqualified success. Last year, 4.6 million children were enrolled in CHIP and the percentage of children without health insurance has declined in recent years. In my state of West Virginia, the CHIP program provides health coverage to over 20,000 children. Health insurance coverage is key to assuring children's access to appropriate and adequate health care, including preventive services. Research demonstrates that uninsured children are more likely to lack a usual source of care, to go without needed care, and to experience worse health outcomes than children with coverage. Uninsured children who are injured are 30 percent less likely than insured children to receive medical treatment and three times more likely not to get a needed prescription.

However, the continued success of the CHIP program is now in serious jeopardy. The Bush Administration projects that 900,000 children will lose their health coverage between fiscal years 2003 and 2006, if Congress does not take appropriate action. This is because even as state enrollment and spending rapidly increases, federal CHIP funding dropped by more than $1 billion this year and will be reduced in each of the next two years. Known as the ''CHIP Dip,'' this reduction has no underlying health policy justification; it was solely the result of the budget compromises we had to make when enacting the balanced budget deal in 1997.

As a result, a number of states will have insufficient federal funding to sustain their enrollment and they will have no choice but to scale back or limit their CHIP programs. As enrollment is cut, the number of uninsured children will increase, and as a consequence, sick children will get sicker. The biggest problem that will result from enrollment cuts in the CHIP program are the future health problems of adults who as children could have received benefits under CHIP. Yet, even as states face this funding shortfall, under federal rules, nearly $3 billion in federal CHIP funding is scheduled to expire and revert back to the Treasury over the next two years. If Congress does not act, in order to maintain our current enrollment levels, West Virginia will run out of CHIP funding in 2005.

We cannot allow this to happen. We need a comprehensive and reasonable approach to shore up CHIP financing in order to avert the devastating enrollment decline and make sure that our children are protected into the future. This legislation will extend the life of the expiring funds and fully restore CHIP funding to the pre- ''dip'' levels. This legislation will provide West Virginia with $117 million over the 2004–2012 period allowing them to strengthen and protect children's access to health care.

I urge Congress to enact this legislation and ensure the continued success of the CHIP program and sustain the significant progress CHIP has made in reducing the ranks of uninsured children. Mr. President I ask unanimous consent that the full 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. 2860

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 ''Children's Health Improvement and Protection Act of 2002''.

SEC. 2. CHANGES TO RULES FOR REDISTRIBUTION AND EXTENDED AVAILABILITY OF FISCAL YEAR 2000 AND SUBSEQUENT FISCAL YEAR ALLOTMENTS.

Section 2104(g) of the Social Security Act (42 U.S.C. 1397dd(g)) is amended—

(1) in the subsection heading—

(A) by striking ''AND'' after ''1998'' and inserting a comma; and

(B) by inserting '', AND 2000 AND SUBSEQUENT FISCAL YEAR'' after ''1999'';

(2) in paragraph (1)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by inserting ''or for fiscal year 2000 by the end of fiscal year 2002, or allotments for fiscal year 2001 and subsequent fiscal years by the end of the last fiscal year for which such allotments are available under subsection (e), subject to paragraph (2)(C)'' after ''2001,''; and

(II) by striking ''1998 or 1999'' and inserting ''1998, 1999, 2000, or subsequent fiscal year'';

(ii) in clause (i)—

(I) in subclause (I), by striking ''or'' at the end;

(II) in subclause (II), by striking the period and inserting a semicolon; and

(III) by adding at the end the following:

''(III) the fiscal year 2000 allotment, the amount by which the State's expenditures under this title in fiscal years 2000, 2001, and 2002 exceed the State's allotment for fiscal year 2000 under subsection (b);

''(IV) the fiscal year 2001 allotment, the amount by which the State's expenditures under this title in fiscal years 2001, 2002, and 2003 exceed the State's allotment for fiscal year 2001 under subsection (b); or

''(V) the allotment for any subsequent fiscal year, the amount by which the State's expenditures under this title in the period such allotment is available under subsection (e) exceeds the State's allotment for that fiscal year under subsection (b).''; and

(iii) in clause (ii), by striking ''1998 or 1999 allotment'' and inserting ''1998, 1999, 2000, or subsequent fiscal year allotment'';

(B) in subparagraph (B)—

(i) in the matter preceding clause (i), by striking ''with respect to fiscal year 1998 or 1999'';

(ii) in clause (ii)—

(I) by inserting ''with respect to fiscal year 1998 or 1999,'' after ''subsection (e)''; and

(II) by striking ''and'' at the end;

(iii) by redesignating clause (iii) as clause (iv); and

(iv) by inserting after clause (ii), the following:

''(iii) notwithstanding subsection (e), with respect to fiscal year 2000 or any subsequent fiscal year, shall remain available for expenditure by the State through the end of the fiscal year in which the State is allotted a redistribution under this paragraph; and'';

(3) in paragraph (2)—

(A) in the paragraph heading, by striking ''1998 AND 1999'' and inserting ''1998, 1999, 2000, AND SUBSEQUENT FISCAL YEAR'';

(B) in subparagraph (A), by adding at the end the following:

''(iii) FISCAL YEAR 2000 ALLOTMENT.—Of the amounts allotted to a State pursuant to this section for fiscal year 2000 that were not expended by the State by the end of fiscal year 2002, the amount specified in subparagraph (B) for fiscal year 2000 for such State shall remain available for expenditure by the State through the end of fiscal year 2003.

''(iv) FISCAL YEAR 2001 ALLOTMENT.—Of the amounts allotted to a State pursuant to this section for fiscal year 2001 that were not expended by the State by the end of fiscal year 2003, the amount specified in subparagraph (B) for fiscal year 2001 for such State shall remain available for expenditure by the State through the end of 2004.

''(v) SUBSEQUENT FISCAL YEAR ALLOTMENTS.—Of the amounts allotted to a State pursuant to this section for any fiscal year after 2001, that were not expended by the State by the end of the last fiscal year such amounts are available under subsection (e), the amount specified in subparagraph (B) for that fiscal year for such State shall remain available for expenditure by the State through the end of the fiscal year following the last fiscal year such amounts are available under subsection (e).'';

(C) in subparagraph (B), by striking ''The'' and inserting ''Subject to subparagraph (C), the'';

(D) by redesignating subparagraph (C) as subparagraph (D); and

(E) by inserting after subparagraph (B), the following:

''(C) FLOOR FOR FISCAL YEARS 2000 AND 2001.—For fiscal years 2000 and 2001, if the total amounts that would otherwise be redistributed under paragraph (1) exceed 60 percent of the total amount available for redistribution under subsection (f) for the fiscal year, the amount remaining available for expenditure by the State under subparagraph (A) for such fiscal years shall be—

''(i) the amount equal to—

''(I) 40 percent of the total amount available for redistribution under subsection (f) from the allotments for the applicable fiscal year; multiplied by

''(II) the ratio of the amount of such State's unexpended allotment for that fiscal year to the total amount available for redistribution under subsection (f) from the allotments for the fiscal year.''; and

(4) in paragraph (3), by adding at the end the following: ''For purposes of calculating the amounts described in paragraphs (1) and (2) relating to the allotment for any fiscal year after 1999, the Secretary shall use the amount reported by the States not later than November 30 of the applicable calendar year on HCFA Form 64 or HCFA Form 21, as approved by the Secretary.''.

SEC. 3. ESTABLISHMENT OF CASELOAD STABILIZATION POOL AND ADDITIONAL REDISTRIBUTION OF ALLOTMENTS.

Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following:

''(h) REDISTRIBUTION OF CASELOAD STABILIZATION POOL AMOUNTS.—

''(1) ADDITIONAL REDISTRIBUTION TO STABILIZE CASELOADS.—

''(A) IN GENERAL.—With respect to fiscal year 2003 and any subsequent fiscal year, the Secretary shall redistribute to an eligible State (as defined in subparagraph (B)) the amount available for redistribution to the State (as determined under subparagraph (C)) from the caseload stabilization pool established under paragraph (3).

''(B) DEFINITION OF ELIGIBLE STATE.—For purposes of subparagraph (A), an eligible State is a State whose total expenditures under this title through the end of the previous fiscal year exceed the total allotments made available to the State under subsection (b) or subsection (c) (not including amounts made available under subsection (f)) through the previous fiscal year.

''(C) AMOUNT OF ADDITIONAL REDISTRIBUTION.—For purposes of subparagraph (A), the amount available for redistribution to a State under subparagraph (A) is equal to—

''(i) the ratio of the State's allotment for the previous fiscal year under subsection (b) or subsection (c) to the total allotments made available under such subsections to eligible States as defined under subparagraph (A) for the previous fiscal year; multiplied by

''(ii) the total amounts available in the caseload stabilization pool established under paragraph (3).

''(2) PERIOD OF AVAILABILITY.—Amounts redistributed under this subsection shall remain available for expenditure by the State through the end of the fiscal year in which the State receives any such amounts.

''(3) CASELOAD STABILIZATION POOL.—For purposes of making a redistribution under paragraph (1), the Secretary shall establish a caseload stabilization pool that includes the following amounts:

''(A) Any amount made available to a State under subsection (g) but not expended within the periods required under subparagraphs (g)(1)(B)(ii), (g)(1)(B)(iii), or (g)(2)(A).

''(B) Any amount made available to a State under this subsection but not expended within the period required under paragraph (2).''.

SEC. 4. RESTORATION OF SCHIP FUNDING FOR FISCAL YEARS 2003 AND 2004.

(a) IN GENERAL.—Paragraphs (6) and (7) of section 2104(a) of the Social Security Act (42 U.S.C. 1397dd(a)) are amended by striking ''$3,150,000,000'' each place it appears and inserting ''$4,275,000,000''.

(b) ADDITIONAL ALLOTMENT TO TERRITORIES.—Section 2104(c)(4)(B) of the Social Security Act (42 U.S.C. 1397dd(c)(4)(B)) is amended by striking ''$25,200,000 for each of fiscal years 2002 through 2004'' and inserting ''$25,200,000 for fiscal year 2002, $34,200,000 for each of fiscal years 2003 and 2004''.

Mr. CHAFEE. Mr. President, I am pleased to join Senator ROCKEFELLER in introducing the Children's Health Improvement and Protection Act of 2002.

The Children's Health Improvement and Protection Act of 2002 will finally provide long-term stability to the State Children's Health Insurance Program. While SCHIP has been extremely successful at enrolling and insuring low-income and uninsured children since its inception in 1997, the continued success of this program is in question. In fact, it is estimated that almost a million children will lose their SCHIP coverage over the next three years if a legislative remedy is not signed into law to prevent this from happening.

When SCHIP was created by the Balanced Budget Act of 1997, states were given their annual SCHIP allotment based on the number of uninsured and low-income children in each state. According to the Centers for Medicare and Medicaid Services, these state allotments range from $3.5 million for Vermont to $855 million for California. While the percentage of children without health insurance has declined over the past couple of years due to these allotments, the SCHIP allotments for all states are 26 percent lower for Fiscal Years 2002, 2003, and 2004. Each of these years results in a decline of $1 billion for state SCHIP allotments. This phenomenon is known as the ''CHIP-Dip.'' There was no hidden policy agenda behind this steady decline in funding; it was based on a lack of federal funding for SCHIP at the time this program was enacted.

In addition, BBA gave states only three years to roll-over unexpended funds before these funds are given back to the federal treasury for redistribution to other states that have used up their entire allotments. According to the Department of Health and Human Services, a total of $3.2 billion in federal SCHIP funds is scheduled to expire and revert to Treasury over the next two years.

These funding inadequacies not only create instability in the program, but they pose negative consequences for each state over the long-haul due to the uncertainty of federal commitment to SCHIP. The likely result will be that states will either have to cap enrollment in their SCHIP programs, push children out of their programs, or scale back benefits to make up for these budget shortfalls. The end result

will be that children who once had access to health insurance will no longer get the care they need.

Our bill will remedy these funding problems. It will do so by fixing the ''CHIP-Dip'' and by extending the life of expiring funds to states that need the assistance to take care of funding shortfalls. This legislation is crucial to my state of Rhode Island. Without this legislative remedy, Rhode Island is set to run out of SCHIP funds by FY 2004. At 4.5 percent, Rhode Island currently has the lowest uninsured rate of any state in the nation for children. This bill will enable Rhode Island to continue offering health coverage to this vulnerable population.

I urge my colleagues to join Senator ROCKEFELLER and me in supporting this important legislation. It is a crucial step in ensuring that our nation's children will have long-term access to quality health insurance.

Mr. KENNEDY. Mr. President, I am pleased to introduce the Children's Health Improvement and Protection Act today, along with my good friends Senator ORRIN HATCH, Senator JAY ROCKEFELLER, and Senator LINCOLN CHAFEE. This bill will provide needed funding to keep children enrolled in the Children's Health Insurance Program and to allow the program to grow. Without this legislation, hundreds of thousands of children will lose their CHIP coverage and rejoin the ranks of the uninsured.

Monday is the fifth anniversary of the Children's Health Insurance Program. Senator HATCH and I have worked together on many proposals, but none has had more lasting benefit for millions of American children than our legislation to create CHIP. We first proposed CHIP after we became acutely aware of the health defects facing children and the need to assure that every child got a healthy start in life. Before we passed CHIP, 500,000 children with asthma never saw a doctor. Another 600,000 children with earaches and 600,000 with sore throats never received medical care.

A sick child can't learn. A child who can't hear the teacher can't learn. A child who can't see the doctor when they're sick can't learn. That's why uninsured children are more likely to fall behind or drop out of school altogether.

We also became aware of the ravages of smoking on health, and that the key to addressing this problem was to discourage children from starting to smoke. In my own state of Massachusetts, there had been a very successful campaign to raise money to expand children's health coverage by raising the cigarette tax. This united anti-tobacco activists and child health advocates.

So Senator HATCH and I decided that the winning, fiscally responsible, right health policy approach was to develop a major expansion of children's health insurance and finance it with an increase in the tobacco tax.

And what a success CHIP has been. This legislation has touched every community in America. Last year, over 4.5 million children received health insurance through either Children's Health Insurance Program or through Medicaid expansions under the CHIP program. Last year, 105,000 children in Massachusetts were covered through these programs, and many other states have had similar successes.

Despite the clear evidence that health insurance provides children with a healthier start, funding cuts to the CHIP program of more than $1 billion this year and each of the next two years puts the gains we have made in insuring children at risk. This ''CHIP dip'' is a result of the budget constraints when CHIP was enacted in 1997 as part of the Balanced Budget Act. This funding cut comes at the same time enrollment in the program is rising and will cause 900,000 children to lose the health insurance they have today through CHIP.

While states are facing a drop in funding that will cause them to drop insured children, almost $3 billion in unspent CHIP funds will be lost if we do nothing. CHIP funds must be spent within three years of allocation. Because of a mismatch between the time unspent funds were reallocated to the states and when the states needed the funds, some states will not be able to use all of their CHIP funds within the allocation period.

It makes no sense to have funds expire and revert to the Treasury when we know states will be facing a funding drop that will cause them to cut children from their programs. One of this nation's most fundamental guarantees should be that every child has the opportunity to succeed in life. But that commitment rings hollow if children are doomed to a lifetime of disability and illness because they lack needed health care in their early years.

That is why we are introducing the Children's Health Insurance Program. This bill will allow states to maintain and expand their CHIP programs. It lets states keep a portion of their unspent funds that would otherwise expire. It also establishes a new caseload stabilization pool with funds that would otherwise expire. The pool will direct unspent funds to states that are expected to use up all their CHIP funds. Finally, the bill provides additional CHIP funding for fiscal years 2003 and 2004 so that CHIP enrollment can be maintained and expanded. This legislation will move us one important step closer to fulfilling the promise that no child in America will be left behind because of inadequate health care coverage.

I urge my colleagues to support this important legislation.

Mr. HATCH. Mr. President, today, Senators ROCKEFELLER, CHAFEE, KENNEDY, and I are introducing legislation to make certain that States have adequate funding for the Children's Health Insurance Program, otherwise known as CHIP.

I cosponsor this legislation to reflect my concern that, unless the Congress addresses this issue, thousands of children may risk losing their health insurance coverage. CHIP has proven to be an enormously popular program, which has provided much needed health insurance to literally millions of low-income children. It helps the poorest of the poor families who are not Medicaid-eligible.

We cannot afford to stand back now and watch those efforts be undermined because of funding problems that Congress should correct. That is the intent, as I understand it, of the Rockefeller-Chafee bill.

As most of my colleagues are aware, when CHIP was established in 1997, Congress committed $20 billion over five years and a total of $40 billion over 10 years for the program. For each fiscal year 1999 through 2001, Congress allocated $4.3 billion; yet for the fiscal years 2002 through 2004, Congress allocated $3 billion per year for CHIP programs. This so-called ''CHIP'' dip may reduce funding levels in States that are just beginning to ramp up their programs.

I am concerned that while States will have some unspent CHIP moneys available to them, that those funds still might not be enough to address the ''CHIP dip'' and the expanding CHIP population. We need to deal with this issue and we need to deal with the nearly $3 billion in federal CHIP moneys scheduled to revert back to the Treasury in fiscal year 2002 and 2003.

My cosponsorship of this legislation reflects my commitment to address these issues, although I recognize that there are a number of issues associated with this legislation that will need to be worked out. I accept the assurances of my fellow cosponsors that they will work with me to address those issues as the bill moves forward in the Finance Committee.

Let me also add that I am aware that many of my colleagues have additional policy issues regarding the CHIP program that they feel should be addressed. Know I do. I am particularly concerned by recent legislation, approved by the Finance Committee, which would extend coverage under the CHIP program to pregnant women. Now, I wholeheartedly support providing expectant mothers health care assistance. But, I believe that before we extend coverage under CHIP to any adult, States need to demonstrate that they are covering, to the greatest extend possible, all eligible children.

The CHIP program is one of my proudest accomplishments. I want to continue to maintain the integrity of this program. The only purpose of CHIP was to extend access to health insurance to poor kids. As one of the prime authors of the legislation, I can assure my colleagues that it was not our intent that the program be expanded to address the entire problem of health care for the uninsured a piece at a time. Covering the uninsured is a worthy goal and one which we need to address, but that was not the purpose

of CHIP. We were dealing with a special problem: the up to 10 million children who did not have access to health insurance. We ought not lose sight of this. I am confident we can come to an agreement on measures to ensure that needy children receive the health care they deserve and thus I am pleased to join with my colleagues today.

By Mr. INHOFE:

S. 2861. A bill to empower States with authority for most taxing and spending for highway programs and mass transit programs, and for other purposes; to the Committee on Finance.

Mr. INHOFE. Mr. President; I introduce The Transportation Empowerment Act which will allow states to keep a majority of the federal gas tax dollars raised in their state. Similar to legislation introduced by our former colleague Connie Mack, ''The Transportation Empowerment Act'' restores to states and local communities the ability to make their own transportation decisions without the interference of Washington.

This proposal is very straightforward. It streamlines the federal-aid highway program into four core areas: Interstate, Federal Lands, Safety and Research. The proposed bill provides for continued general fund support for transit grants and authorizes states to enter into multi state compacts for planning and financing regional transportation needs.

The federal tax is kept in place for a four-year transition period, beginning in FY04. After funding the core programs and paying off outstanding bills, the balance is returned to the states in a block grant. At the end of the transition period, in FY07, the federal tax is reduced to two cents per gallon.

I have long believed that the best decisions are those made at the local level. Unfortunately, many of the transportation choices made by cities and states are governed by federal rules and regulations. This bill returns to states the responsibility and resources to make their own transportation decisions.

By Mr. McCAIN (for himself, Mr. HOLLINGS, Ms. CANTWELL, and Mr. BIDEN):

S. 2862. A bill to provide for the establishment of a scientific basis for new firefighting technology standards, improve coordination among Federal, State, and local fire officials in training for and responding to terrorist attacks and other national emergencies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Mr. President, I am pleased to be joined by Senators HOLLINGS, CANTWELL, and BIDEN in introducing the Firefighting Research and Coordination Act. This legislation would provide for the establishment of the scientific basis for new firefighting technology standards; improved coordination between Federal, state, and local fire officials in training and response to a terrorist attack or a national emergency; and authorize the National Fire Academy to offer training to improve the ability of firefighters to respond to events such as the tragedy of September 11, 2001.

The purpose of this legislation is to act upon some of the lessons learned from the tragic terrorist attacks of September 11, 2001, and address other problems faced by the fire services. On September 11, the New York City fire fighters and emergency service personnel acted with great heroism in selflessly rushing to the World Trade Center and saving the lives of many Americans. Tragically, 343 firefighters and EMS technicians paid the ultimate price in the service of their country. While we strive to prevent any future attack in the United States, it is our duty to ensure that we are adequately prepared for any future catastrophic act of terrorism. In addition, we must recognize that many of the preparations we make to improve the response to national emergencies will also prepare our firefighters for their everyday role in protecting our families and homes.

Today's firefighters use a variety of technologies including thermal imaging equipment, devices for locating firefighters and victims, and state-of-the-art protective suits to fight fires, clean up chemical or hazardous waste spills, and contend with potential terrorist devices. The Federal government's Firefighter Investment and Response Enhancement, FIRE, program is authorized for $900 million this year to assist local fire departments in purchasing this high-tech equipment. It is important that the American taxpayers' money is used for effective new equipment that will protect our local communities.

Unfortunately, there are no uniform technical standards for this new equipment for combating fires. Without such standards, local fire companies may purchase equipment that does not satisfy their needs, or even purchase faulty equipment. For example, Montgomery County, MD, spent $40,000 on ''Level B'' protective suits that they cannot use, because these suits have ''booties'' that are not compatible with the firefighter's boots. Currently, local fire departments also have problems using each other's fire hoses and air bottles for self-contained breathing apparatuses because of inconsistent equipment standards. It is important that new equipment performs properly and is compatible with older equipment.

This bill seeks to address the need for new equipment standards by establishing a scientific basis for voluntary consensus standards. It would authorize the U.S. Fire Administrator to work with the National Institute of Standards and Technology, the Inter-Agency Board for Equipment Standardization and Inter-Operability, and other interested parties to establish measurement techniques and testing methodologies for new firefighting equipment. These new techniques and methodologies will act as a scientific basis for the development of voluntary consensus standards. This bill would allow the Federal government to cooperate with the private sector in developing the basic uniform performance criteria and technical standards to ensure that effectiveness and compatibility of these new technologies.

Many issues regarding coordination surfaced on September 11. Titan Systems Corporation recently issued an after-action report, on behalf of the fire department of Arlington County, VA, which highlighted problems between the coordination of Washington D.C., and Arlington County fire departments. The report also cited the confusion caused by a large influx of self-dispatched volunteers, and increased risk faced by the ''bonafide responders.'' These conclusions are consistent with an article by the current U.S. Fire Administrator, R. David Paulison, in the June 1993 issue of Fire Chief magazine, where he described being overwhelmed by the number of uncoordinated volunteer efforts that poured into Florida after Hurricane Andrew. Additionally, many fire officials and the General Accounting Office have highlighted the duplicative nature of many Federal programs and the need for better coordination between federal, state, and local officials.

The bill also seeks to address these problems by directing the U.S. Fire Administrator to work with state and local fire service officials to establish nationwide and state mutual aid systems for responding to national emergencies. These mutual aid plans would include collection of accurate asset and resource information to ensure that local fire services could work together to deploy equipment and personnel effectively during an emergency. This legislation would also establish the U.S. Fire Administrator as the primary point of contact within the Federal government for state and local firefighting units, in order to ensure greater Federal coordination and interface with state and local officials in preparing and responding to terrorist attacks, hurricanes, earthquakes, or other national emergencies. In addition, the bill would direct the U.S. Fire Administrator to report on the need for a strategy for deploying volunteers, including the use of a national credentialing system. Currently, there is a system for credentialing volunteers to fight wildfires that has proven effective, and the development of a similar system may prevent some of the confusion that occurred at the World Trade Center and Pentagon on September 11.

Finally, the bill would improve the training of state and local firefighters. The bill would authorize the National Fire Academy to offer courses in building collapse rescue; the use of technology in response to fires caused by

terrorist attacks and other national emergencies; leadership and strategic skills including integrated management systems operations; deployment of new technology for fighting forest and wild fires; fighting fires at ports; and other courses related to tactics and strategies for responding to terrorist incidents and other fire services' needs.

This bill would also direct the U.S. Fire Administrator to coordinate the National Fire Academy's training programs with the Attorney General, Secretary of Health and Human Services and other Federal agencies to prevent the duplication in training programs that has been identified by the General Accounting Office.

I am pleased to announce that this legislation is supported by the National Volunteer Fire Council; the Congressional Fire Services Institute; the National Fire Protection Association; the International Association of Fire Chiefs; the International Association of Fire Fighters; the International Association of Arson Investigators; and the International Fire Service Training Association. I look forward to working with my colleagues to ensure passage of this legislation. I am aware that some issues, including funding of this legislation, need to be addressed.

Last year, we were caught unprepared and paid a terrible price as a result. We must ensure that future firefighters are adequately equipped and trained, and are working in coordination to respond to any future national emergencies. Every day firefighters rush into burning buildings to save the lives of their fellow Americans. It is our duty to adequately equip and protect them.

Mrs. LINCOLN. Mr. President, I introduced legislation designating the year beginning February 1, 2003, as the Year of the Blues and requesting that the President issue a proclamation calling on the people of the United States to observe the ''Year of the Blues'' with appropriate ceremonies, activities, and educational programs. I am joined by Senators COCHRAN, THOMPSON, and FRIST and ask unanimous consent that it be printed in the RECORD.

It has been said that ''Blues is more than music; Blues is culture. Blues is America.'' As a native of Helena, Arkansas, I could not agree more. Growing up in the Delta, I often listened to the blues during the famous ''King Biscuit Time'' show on my hometown station, KFFA radio. The songs I heard often told stories of both celebration and triumph, as well as sorrow and struggle.

Although its roots are in the tradition of the primitive songs of the old Southern sharecroppers, the blues has left an important cultural legacy in our country and has documented African-American history in the last century. As the blues began to transform in style and content throughout the twentieth century, its evolution paralleled the migration of American life from a rural, agricultural society to an urban industrialized nation. The blues has also left an indelible impression on other forms of music with its influence heard in jazz, rock and roll, rhythm and blues, country, and even classical music. Despite these facts, though, many young people today do not understand the rich heritage of the blues or recognize its impact on our nation and our world.

That is why I am delighted to introduce this resolution and participate in the Year of the Blues project. Coordinated by The Blues Foundation and Experience Music Project, The Year of the Blues is a multi-faceted entertainment, education, and outreach program recently formed to both celebrate and create greater awareness for the blues and its place in the history and evolution of music and culture, both in the United States and around the world. The program is anchored by high profile events, and beginning next year, it will feature a wide array of participants, projects, and components designed to reach a large audience, as well as support blues oriented education and outreach programs, such as Blues in the Schools.

This project also takes on a special meaning for me because I am a ''daughter of the Delta,'' and my hometown of Helena has played a large role in the development of the blues. Today, Helena serves as a temporary blues Mecca each October when the three day King Biscuit Blues Festival takes place. And as I noted earlier, it is also the site of one of the longest running daily music shows, ''King Biscuit Time,'' which continues to air every weekday at 12:15 pm on KFFA radio from the Delta Cultural Center Visitors' Center. As long as I can remember, ''King Biscuit Time'' has been an integral part of life and culture in the Delta. Debuting in November 1941, ''King Biscuit Time'' originally featured famous harmonica player Sonny Boy Williamson, guitarist Robert Junior Lockwood, and the King Biscuit Entertainers. When recently noting the uniqueness of the show, long-time host ''Sunshine'' Sonny Payne recalled that many of the songs played on ''King Biscuit Time'' originated during the live broadcasts, and in some cases, words to the songs were known to change day to day. After becoming involved with this project, I recently came across an article ''Pass the biscuits, cause it's King Biscuit Time . . . '' written by freelance writer Lex Gillespie. I believe this article provides an accurate account of the development of blues in the South, and I ask unanimous consent to submit it for the RECORD.

So as you can see, the blues has been an important part of my life and the life of many others. It's a style of music that is, in its essence, truly American. But as we move into a new century and embrace new forms and styles of music, we must not allow today's youth to forget the legacy of our past. By teaching the blues, promoting the blues, and celebrating the blues, we can ensure that the rich culture and heritage of our forefathers will always live on. I urge my colleagues to support this resolution.

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

AUGUST 1, 2002.

Hon. JOHN MCCAIN,
Senate Commerce Committee,
Washington, DC.

DEAR SENATOR MCCAIN: The tragic events of September 11th certainly underscored the important need for additional training and advanced technologies for our nation's fire and emergency services. They are equal components in our efforts to prepare our nation for future large-scale emergencies that require rapid deployment of local first responders.

In the area of technology, we have witnessed an emergence of new technologies designed to improve our level of readiness to future terrorist events and other large-scale disasters. Some of this technology has the potential to address the immediate needs of our nation's public safety agencies; while other requires additional scrutiny and testing before the fire and emergency services can be assured of its intended performance.

We extend our appreciation for your interest in this matter and for introducing the Firefighter Research and Coordination Act. We support this legislation as a crucial step towards developing and deploying advanced technologies our nation's first responders need in this period of heightened risk and security.

Working as partners, the United States Fire Administration, National Institute of Standards and Technology, the Interagency Board and other interested parties, including the National Fire Protection Association, can develop a scientific basis for the private sector development of standards for new fire fighting technology. Your legislation will not undermine or duplicate the standards-making process that has served the fire service for over a hundred years, but rather strengthen it in areas of new technologies necessitated by the events of September 11th.

We also support the other two sections of your legislation calling for coordination of response to national emergencies and for increased training. Our organizations strongly believe that the United States Fire Administrator should serve as the primary point of contact for state and local firefighting units during national emergencies. We have expressed this message repeatedly, including in the Blue Ribbon Panel report presented to then-FEMA Director James Lee Witt in 1998 and most recently in a white paper, titled ''Protecting Our Nation'' that we presented to Congress last year. To ensure the success of this legislation, it is imperative that Congress appropriate additional dollars to carry-out this new role of the Administrator.

As the threats to our nation's security intensify, so must the level of training for our nation's first responders. We must expose our firefighters and rescue personnel to advanced levels of training and technologies so they can safely respond to all acts of terrorism and other major disasters. The final section of your legislation will help us attain this goal.

We look forward to working with you in advancing this legislation through Congress. Again, we thank you for your continued support.

Sincerely,

Congressional Fire Services Institute, International Association of Arson Investigators, International Association

of Fire Chiefs, International Association of Fire Fighters, International Fire Service Training Association, National Fire Protection Association, National Volunteer Fire Council.

NATIONAL VOLUNTEER FIRE COUNCIL,
WASHINGTON, DC, JULY 29, 2002.

Hon. JOHN MCCAIN,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The National Volunteer Fire Council (NVFC) is a non-profit membership association representing the more than 800,000 members of America's volunteer fire, EMS, and rescue services. Organized in 1976, the NVFC serves as the voice of America's volunteer fire personnel in over 28,000 departments across the country. On behalf of our membership, I would like to express our full support for the Firefighting Research and Coordination Act.

This legislation would allow the U.S. Fire Administrator to develop measurement techniques and testing methodologies to evaluate the compatibility of new firefighting technology. In addition, it would require new equipment purchased under the FIRE Grant program to meet or exceed these standards.

The bill would also direct the U.S. Fire Administrator to establish a national plan for training and responding to national emergencies and it would designate the Administrator as the contact point for State and local firefighting units in the event of a national emergency. It would also direct the Administrator to work with state and local fire service officials to establish nationwide and state mutual aid systems for dealing with national emergencies that include threat assessment, and means of collecting asset and resource information for deployment.

Finally, the bill authorizes the Superintendent of the National Fire Academy to train fire personnel in building collapse rescue, the use of new technology, tactics and strategies for dealing with terrorist incidents, the use of the national plan for training and responding to emergencies, leadership skills, and new technology tactics for fighting forest fires.

Once again, the NVFC commends your efforts to train and equip America's volunteer firefighters and we thank you for the leadership role you have taken on this issue. We look forward to working with you in the 107th Congress to pass this important piece of legislation. If you have any questions or comments feel free to contact Craig Sharman, NVFC Government Affairs Representative at (202) 887–5700.

Sincerely,

PHILIP C. SITTLEBURG,
Chairman.

S. 2862

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 ''Firefighting Research and Coordination Act''.

SEC. 2. NEW FIREFIGHTING TECHNOLOGY.

Section 8 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2207) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

''(e) DEVELOPMENT OF NEW TECHNOLOGY.—

''(1) IN GENERAL.—In addition to, or as part of, the program conducted under subsection (a), the Administrator, in consultation with the National Institute of Standards and Technology, the Inter-Agency Board for Equipment Standardization and Inter-Operability, national voluntary consensus standards development organizations, and other interested parties, shall—

''(A) develop new, and utilize existing, measurement techniques and testing methodologies for evaluating new firefighting technologies, including—

''(i) thermal imaging equipment;

''(ii) early warning fire detection devices;

''(iii) personal protection equipment for firefighting;

''(iv) victim detection equipment; and

''(v) devices to locate firefighters and other rescue personnel in buildings;

''(B) evaluate the compatibility of new equipment and technology with existing firefighting technology; and

''(C) support the development of new voluntary consensus standards through national voluntary consensus standards organizations for new firefighting technologies based on techniques and methodologies described in subparagraph (A).

''(2) NEW EQUIPMENT MUST MEET STANDARDS.—The Administrator shall, by regulation, require that equipment purchased through the assistance program established by section 33 meet or exceed applicable voluntary consensus standards.''.

SEC. 3. COORDINATION OF RESPONSE TO NATIONAL EMERGENCY.

(a) IN GENERAL.—Section 10 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2209) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

''(b) COORDINATION OF RESPONSE FOR NATIONAL EMERGENCIES.—

''(1) IN GENERAL.—The Administrator shall establish a national plan for training and responding to national emergencies under which the Administrator shall be the primary contact point for State and local firefighting units in the event of a national emergency. The Administrator shall ensure that the national plan is consistent with the master plans developed by the several States and political subdivisions thereof.

''(2) MUTUAL AID SYSTEMS.—The Administrator shall work with State and local fire service officials to establish, as part of the national plan, nationwide and State mutual aid systems for dealing with national emergencies that—

''(A) include threat assessment and equipment deployment strategies;

''(B) include means of collecting asset and resource information to provide accurate and timely data for regional deployment; and

''(C) are consistent with the national plan established under paragraph (1) for Federal response to national emergencies.''.

(b) REPORT ON STRATEGIC NEEDS.—Within 90 days after the date of enactment of this Act, the Administrator of the United States Fire Administration shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science on the need for a strategy concerning deployment of volunteers and emergency response personnel (as defined in section 6 of the Firefighters' Safety Study Act (15 U.S.C. 2223e), including a national credentialing system, in the event of a national emergency.

SEC. 4. TRAINING.

(a) IN GENERAL.—Section 8(d)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206(d)(1)) is amended—

(1) by striking ''and'' after the semicolon in subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (N); and

(3) by inserting after subparagraph (E) the following:

''(F) strategies for building collapse rescue;

''(G) the use of technology in response to fires, including terrorist incidents and other national emergencies;

''(H) response, tactics, and strategies for dealing with terrorist-caused national catastrophes;

''(I) use of and familiarity with the national plan developed by the Administrator under section 10(b)(1);

''(J) leadership and strategic skills, including integrated management systems operations and integrated response;

''(K) applying new technology and developing strategies and tactics for fighting forest fires;

''(L) integrating terrorism response agencies into the national terrorism incident response system;

''(M) response tactics and strategies for fighting fires at United States ports, including fires on the water and aboard vessels; and''.

(b) COORDINATION WITH OTHER PROGRAMS TO AVOID DUPLICATION.—The Administrator of the United States Fire Administration shall coordinate training provided under section 8(d)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206(d)(1)) with the Attorney General, the Secretary of Health and Human Services, and the heads of other Federal agencies to ensure that there is no duplication of that training with existing courses available to fire service personnel.

By Mr. MCCAIN:

S. 2863. A bill to provide for deregulation of consumer broadband services; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I introduce the Consumer Broadband Deregulation Act of 2002. This legislation takes a comprehensive, deregulatory, but measured approach to providing more Americans with more broadband choices. By ensuring that the market, not government, regulates the deployment of broadband services, the legislation will promote investment and innovation in broadband facilities—and consumers will benefit.

The bill would create a new title in the Communications Act of 1934 that would ensure that residential broadband services exist in a minimally regulated environment. The new section of the Act would also make certain that providers of broadband services are treated in a similar fashion without regard to the particular mode of providing service. The bill includes provisions that would take the following actions:

Deregulate the retail provision of residential broadband services; dictate a hands-off approach to the deployment of new facilities by telephone companies while maintaining competitors' access to legacy systems; resist government-mandated open access while providing a safety net to ensure consumers enjoy a competitive broadband services market; ensure that local and state barriers to broadband deployment are removed; facilitate deployment of broadband services to rural and unserved communities by creating an information clearing house in the federal government; maximize wireless technology as a platform for broadband services; ensure access to broadband services by people with disabilities; enhance the enforcement tools

available to the FCC; and put the federal government in the role of stimulator, rather than regulatory, of broadband services.

In 1996, Congress passed the first major overhaul of telecommunications policy in 62 years. Supporters of the Telecommunications Act argued that it would create increased competition, provide consumers with a variety of new and innovative services at lower prices, and reduce the need for regulation. My principal objection to the Act was that it fundamentally regulated, not deregulated, the telecommunications industry and would lead inevitably to prolonged litigation. It has been six years since the passage of the Act, but consumers have yet to benefit. Competition denied by excessive regulation is costly to consumers.

The latest legislative debate in the communications industry has focused on the availability of high-speed Internet access services, often called ''broadband.'' Indeed, Federal Communications Commission Chairman, Michael Powell, has called broadband, ''the central communications policy objective in America.''

There is stark disagreement about the state of affairs of broadband services in the United States. Depending on who is speaking, there is a supply problem, a demand problem, a combination of the two, or no problem at all. All parties agree, however, that Americans and our national economy will benefit greatly from the widespread use of broadband services. Accelerated broadband deployment reportedly could benefit our nation's economy by hundreds of billions of dollars.

With such tremendous opportunity comes no shortage of ''solutions.'' Many want a national industrial policy to drive broadband deployment—they suggest multi-billion dollar central planning efforts aimed to deliver services to consumers regardless of whether those consumers want or need such services. Others have focused on narrow issues affecting only a subset of all providers of broadband services.

This legislation takes a different approach. It takes a comprehensive look at the proper role of the government with respect to these new services. It reduces government interference with market forces that lead to consumer welfare, and looks for ways that government can facilitate, not dictate or control, the development of broadband technologies.

Mr. President, I am a firm believe in free market principles. In 1995, I introduced a series of amendments during the floor debate on the Telecommunications Act that would have made the bill truly deregulatory. As I said at the time, I believe that ''[i]n free markets, less government usually means more innovation, more entrepreneurial opportunities, more competition, and more benefits to consumers.'' Likewise, in 1998, I introduced the Telecommunications Competition Act that would have allowed competition to flourish and brought true deregulation to the telecommunications market. In 1999, I introduced the Internet Regulatory Freedom Act that would have eliminated certain regulation of telephone companies' deployment of broadband facilities. And in 1999 and 2000, I was a leading advocate in the Senate for the Internet Tax Freedom Act ensuring a moratorium on taxation of the Internet.

I stand by the legislation and amendments I previously introduced and believe that they represented the right approach at the right time. In fact, if I had it my way, I would throw out the 1996 Act and start from scratch. I am mindful, however, that broadband has been an issue that has polarized policymakers to the point of legislative paralysis. Now is the time for a measured approach that focuses on achieving what can be done to improve the deployment of services to all consumers. I believe that this legislation is such an approach.

The bill has multiple components designed to address all aspects of broadband deployment and usage, and also provides adequate safety nets in the event that there proves to be a market failure that is harmful to consumers.

Broadband services can be provided over multiple platforms including telephone, cable, wireless, satellite, and perhaps one day soon, power lines, Each of these platforms is regulated differently based on the nature of the service the platform was originally designed to provide. This legislation would move us closer to a harmonization of regulatory ancestry of a particular platform.

First, the bill makes clear that the retail provision of high-speed Internet service remains unregulated. The Internet's tremendous growth is a testament to the exercise of regulatory restraint.

Some have suggested a need for government regulation of consumer broadband service quality. They allege that service deficiencies inhibit the development of these new offerings. But we must remember that these are new services, and new services will have problems. This legislation allows for these services to mature. If upon maturity, the FCC determines that there is a need to protect consumers from service quality shortcomings related to the technical provision of service. Then the states can enforce uniform requirements. This provides a measured approach to service quality—a safety net without a presumption of regulation.

Next, we must clarify that new services offered by varied providers, regardless of mode, will not be subject to the micromanagement of government regulation. Recognizing that upgrading networks requires substantial investment not free of risk, this bill begins this process by relaxing the obligations on telephone companies that invest in facilities that will bring better broadband services to more consumers. Nothing in this legislation, however, will undermine competitors' efforts to provide services using the telephone companies' legacy facilities. This approach strikes a balance between the interests of those who have invested capital on the promise of government-managed competition and those who will invest in the future of broadband facilities on the promise of government restraint and market-driven competition.

The bill also grapples with the government-managed wholesale market for consumer broadband services—the so-called ''open access'' debate. Mr. President, there is perhaps no more difficult issue addressed in this bill.

The Internet has thrived because it is an open platform. The presence of numerous ISPs in the narrowband market certainly contributed to the vitality of this open network, particularly at the inception of the Internet. Those providers have depended on access to customers guaranteed by FCC rules. As a result, many have suggested the need for government-mandated access to customers served over broadband connections. They raise significant concerns about carriers becoming screeners of content, and anti-competitive threats to web site operators if consumers do not have a choice of ISP or are limited in their ability to access particular web sites.

However tempting it may be to believe that government mandates will produce desired policy outcomes, such intervention too often comes at the price of market inefficiencies, stifled innovation, and increased regulatory costs. Moreover, regulators are often slow to respond to dynamic industry changes.

The bill would rely on market forces to resolve access issues by establishing the general rule that the FCC may not impose open access requirements on any provider—no matter what platform is used to provide the consumer broadband service. Again, the bill takes a measured approach by creating a safety net for consumers. Today a multitude of ISPs rely on access mandated by the FCC to serve their customers. The bill would allow the FCC to continue to enforce these obligations during a transition period, but would mandate the sunset of such requirements unless the FCC determines their continued enforcement is necessary to preserve competition for consumers.

I firmly believe that market forces will guide the development of a wholesale market producing sustainable, not government-managed, competition. The bill is sufficiently flexible to ensure that consumers are protected, whole sending a clear signal to those parties willing to make the significant investment necessary to provide broadband services that the government will not lie in wait only to reward their risk-taking with regulation.

I note again, however, that this issue raises challenging and complex policy questions. We should ensure the continued open nature of the Internet. To

the extent that market forces prove incapable of preventing restrictions on consumers' use of the Internet or limitations on devices that consumers wish to attach to their Internet connection, we may need to consider a different approach. I look forward to continue debate on these difficult questions.

The potential for government interference with market forces is not limited to federal regulation. State and local governments are also capable of obstructing the deployment of broadband. The bill would address this threat by precluding any state or local regulation from prohibiting the ability of any entity to provide consumer broadband service. It would also prevent localities from transforming their legitimate interest in managing their rights of way into an imposition of additional, revenue-generating financial burdens on broadband deployment.

Consumer broadband services should be accessible to all people, regardless of where they live, what they do, or how much they earn. We must be realistic, however, about how quickly this can occur. The bill recognizes the important role that government can play as facilitator to accelerate universal deployment by using its resources to allow communities to share information about successful efforts to attract broadband deployment.

Government can facilitate broadband deployment and use in other ways as well. Wireless technologies like Wi-Fi and mesh networks hold tremendous promise for the delivery of consumer broadband services. Given its role in the management of spectrum, the government can impact the use of these technologies. The bill would require the FCC to examine the best role for government in fully exploiting wireless technologies as a broadband platform for the benefit of consumers.

Although government should limit its role to those circumstances where market failure is demonstrated, Chairman Powell has suggested that the Commission must be prepared to better enforce its existing rules by increasing the Commission's ability to impose penalties on parties that act in a manner that is anticompetitive. This bill would given him the tools to do so.

Some claim that there is a demand ''problem'' with broadband that is caused by the dearth of available broadband content. Here, too, government can play an important role. Certainly content is one of the factors that will drive consumers to subscribe to high-speed Internet services. Given the prominent role that the federal government plays in the lives of most Americans, it can be a source of substantial broadband content. The bill would ensure that the federal government is fully exploiting its ability to provide this content.

Finally, I recognize that many will look at the bill and ask about broadband services used by businesses. Why treat those services differently? It is a fair question. I have stated previously that most of the advantages of the Telecommunications Act have accrued not to the average consumer who has seen only higher prices for existing services, but to business customers. It is these business customers that many competitors have attempted to serve using the facilities of the incumbent telephone companies. Moreover, whereas the cable platform is the source of robust, facilities-based competition in the consumer market, it has not developed to a similar extent in the market for business customers. Given these factors, and a desire to take a measured approach, I have generally limited the scope of this bill to the consumer broadband services market. This focus does not reflect my lack of support for a similarly deregulatory approach to the business market. Indeed, I strongly encourage Chairman Powell to be aggressive in using the tools at his disposal to remove regulations wherever appropriate in the business broadband services market.

Mr. President, technological progress has too often been constrained by government policies that seek to control it and dictate its course. Such policies have often had the perverse effect of slowing technological advancements. The growth of the Internet demonstrates what happens when governments choose to learn from the mistakes of the past in order to build a better and richer future for our citizens. The choice we have made is to adapt our mechanisms for governance to facilitate and encourage technological change—to facilitate rather than to control—to monitor rather than dominate. This bill continues that course.

I urge my colleagues to join with me in supporting this deregulatory legislation to help advance broadband in the United States.

Mr. President, 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. 2863

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

SECTION 1. SHORT TITLE; AMENDMENT OF COMMUNICATIONS ACT OF 1934; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Consumer Broadband Deregulation Act''.

(b) AMENDMENT OF COMMUNICATIONS ACT OF 1934.—Except as otherwise expressly 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, the reference shall be considered to be made to a section or other provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

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

Sec. 1. Short title; amendment of Communications Act of 1934; table of contents.
Sec. 2. Findings.
Sec. 3. Deregulation of consumer broadband services.
Sec. 4. Unbundled access and collocation requirements.
Sec. 5. National clearinghouse for high-speed Internet access.
Sec. 6. Enforcement.
Sec. 7. Spectrum reform study.
Sec. 8. Study on ways to promote broadband through e-government.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) All consumer broadband service markets should be open to competition.

(2) Consumer broadband service can be provided over numerous different platforms.

(3) All providers of consumer broadband services should be able to provide such services and be subject to harmonized regulation when offering such services.

(4) Consumer broadband services can enhance the quality of life for Americans and promote economic development, job creation, and international competitiveness.

(5) Advancements in the nation's Internet infrastructure will enhance the public welfare by helping to speed the delivery of services such as telemedicine, distance learning, remote medical services, and distribution of health information.

(6) Government regulations that affect high-speed Internet access should promote investment and innovation in all technological platforms.

(b) PURPOSE.—It is the purpose of this Act to allow market forces to introduce investment and innovation in consumer broadband services for the benefit of all Americans.

SEC. 3. DEREGULATION OF CONSUMER BROADBAND SERVICES.

(a) IN GENERAL.—The Act is amended—

(1) by redesignating title VII as title VIII;

(2) by redesignating sections 701 through 714 as sections 801 through 814, respectively;

(3) by striking ''section 714'' in section 309(j)(8)(C)(iii) and inserting ''section 814'';

(4) by striking ''section 705'' in section 712(b) and inserting ''section 805''; and

(5) by inserting after title VI the following:

''TITLE VII—CONSUMER BROADBAND SERVICES

''SEC. 701. RETAIL CONSUMER BROADBAND SERVICE.

''(a) FREEDOM FROM REGULATION.—Except as provided in subsection (c), neither the Commission, nor any State, shall have authority to regulate the rates, charges, terms, or conditions for the retail offering of consumer broadband service.

''(b) OTHER SERVICES AND FACILITIES.—Nothing in this section precludes the Commission, or a State or local government, from regulating the provision of any service other than consumer broadband service, even if that service is provided over the same facilities as are used to provide consumer broadband service.

''(c) SERVICE QUALITY.—

''(1) COMMISSION DETERMINATION REQUIRED.—The Commission shall initiate a study within 2 years after the date of enactment of the Consumer Broadband Deregulation Act to determine whether State regulation of consumer broadband service quality is appropriate or necessary for the protection of consumers.

''(2) REGULATIONS; STATE ENFORCEMENT.—If the Commission determines that State regulation of consumer broadband service quality is appropriate or necessary for the protection of consumers, the Commission shall promulgate regulations establishing uniform national guidelines regulating consumer broadband service quality that may be enforced by States. Any regulations promulgated under this paragraph may not take effect before the date that is 2 years after the date of enactment of the Consumer Broadband Deregulation Act.

''(3) PREEMPTION OF OTHER STATE SERVICE QUALITY REGULATION.—

''(A) IN GENERAL.—Unless the Commission promulgates regulations under paragraph (2), no State may regulate the quality of consumer broadband services provided to its citizens or residents.

''(B) LIMITATION.—If the commission promulgates regulations under paragraph (2), no State may regulate the quality of consumer broadband services provided to its citizens or residents except as provided in those regulations.

''(4) NO INFERENCE.—Nothing in this section shall affect a State's ability to enforce consumer protection laws and regulations unrelated to the technical provision of consumer broadband service.

''SEC. 702. WHOLESALE CONSUMER BROADBAND SERVICE.

''(a) IN GENERAL.—Except as provided in subsection (b), neither the Commission nor any State or political subdivision thereof shall have authority to require a consumer broadband service provider to afford an Internet service provider access to its facilities or services for the purpose of offering a consumer broadband service.

''(b) EXCEPTION.—To the extent that any entity is required by the Commission to afford an Internet service provider access to its facilities or services for the purpose of providing consumer broadband service on the date of enactment of the Consumer Broadband Deregulation Act, the Commission may require that entity to continue to afford such access.

''(c) REPORT.—The Commission shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce within 2 years after the date of enactment of the Consumer Broadband Deregulation Act on the state of the wholesale market for consumer broadband services and its effect on retail competition for these services.

''(d) SUNSET PROVISION.—Subsection (b) shall cease to be effective 5 years after the date of enactment of such Act, unless the Commission finds that the continued exercise of its authority under that subsection is necessary to preserve and protect competition in the provision of consumer broadband services.

''SEC. 703. LIMIT ON STATE AND LOCAL AUTHORITY; PUBLIC RIGHTS-OF-WAY CHARGES.

''(a) REMOVAL OF BARRIERS TO ENTRY.—No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any consumer broadband service.

''(b) COST-BASED COMPENSATION FOR RIGHTS-OF-WAY.—A State or local government may not require compensation from consumer broadband service providers for access to, or use of, public rights-of-way that exceeds the direct and actual costs reasonably allocable to the administration of access to, or use of, public rights-of-way.

''(c) PUBLIC DISCLOSURE.—A State or local government shall disclose to the public, on a timely basis and in an easily understood format, any compensation required from consumer broadband service providers for access to, of use of, public rights-of-way.

''SEC. 704. ACCESS BY PERSONS WITH DISABILITIES.

''(a) MANUFACTURERS.—A manufacturer of equipment used for consumer broadband services shall ensure that equipment is designed, developed, and fabricated to be accessible to and usable by persons with disabilities, unless the manufacturer demonstrates that taking such steps would result in an undue burden.

''(b) CONSUMER BROADBAND SERVICE PROVIDERS.—A provider of consumer broadband services shall ensure that its services are accessible to and usable by persons with disabilities, unless the provider demonstrates that taking such steps would result in an undue burden.

''(c) COMPATIBILITY.—Whenever the requirements of subsections (a) and (b) constitute an undue burden, a manufacturer or provider shall ensure that the equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by persons with disabilities to achieve access, unless the manufacturer or provider demonstrates that taking such steps would result in an undue burden.

''(d) REGULATIONS.—Within 18 months after the date of enactment of the Consumer Broadband Deregulation Act, the Commission shall prescribe such regulations as are necessary to implement this section. The regulations shall ensure consistency across multiple service platforms with respect to access by persons with disabilities. The regulations also shall provide that neither broadband services, broadband access services, nor the equipment used for such services may impair or impede the accessibility of information content when accessibility has been incorporated in that content for transmission through broadband services, access services, or equipment.

''(e) DEFINITIONS.—In this section—

''(1) DISABILITY.—The term 'disability' has the meaning given to it by section 3(2)(A) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)(A)).

''(2) UNDUE BURDEN.—The term 'undue burden' means significant difficulty or expense. In determining whether the requirements of this paragraph would result in an undue burden, the factors to be considered include—

''(A) the nature and cost of the steps required for the manufacturer or provider;

''(B) the impact on the operation of the manufacturer or provider;

''(C) the financial resources of the manufacturer or provider; and

''(D) the type of operations of the manufacturer or provider.''.

''SEC. 705. RELATIONSHIP TO TITLES II, III, AND VI.

''If the application of any provision of title II, III, or VI of this Act is inconsistent with any provision of this title, then to the extent the application of both provisions would conflict with or frustrate the application of the provision of this title—

''(1) the provision of this title shall apply; and

''(2) the inconsistent provision of title II, III, or VI shall not apply.''.

(b) CONSUMER BROADBAND SERVICES DEFINED.—Section 3 (47 U.S.C. 153) is amended by inserting after paragraph (12) the following:

''(12A) CONSUMER BROADBAND SERVICES.—

''(A) IN GENERAL.—The term 'consumer broadband services' means interstate residential high-speed Internet access services.

''(B) HIGH-SPEED.—The Commission shall establish by rule the criterion, in terms of megabits per second, to be used for the purpose of determining whether residential Internet services are high-speed Internet services. In establishing that criterion, the Commission shall consider whether the speed is sufficient to support existing applications and to encourage the development of new applications. The Commission shall revise the criterion as necessary and shall review any criterion established by it no less frequently than each 18 months.

''(C) INTERNET ACCESS SERVICE.—The term 'Internet access service' means a service that combines computer processing, information storage, protocol conversion, and routing with telecommunications to enable users to access Internet content and services.''.

SEC. 4. UNBUNDLED ACCESS AND COLLOCATION REQUIREMENTS.

(a) UNBUNDLED ACCESS.—Section 251(c)(3) (47 U.S.C. 251(c)(3)) is amended to read as follows:

''(3) UNBUNDLED ACCESS.—

''(A) IN GENERAL.—The duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252. An incumbent local exchange carrier shall provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service.

''(B) EXCEPTION.—The duty to provide access under subparagraph (A) does not require an incumbent local exchange carrier to provide access to a fiber local loop or fiber feeder subloop to a requesting carrier to enable the requesting carrier to provide a telecommunications service that is an input to a consumer broadband service unless the incumbent local exchange carrier has removed or rendered useless a previously existing cooper loop necessary to provide such services.''.

(b) COLLOCATION.—Section 251(c)(6) (47 U.S.C. 251(c)(6)) is amended to read as follows:

''(6) COLLOCATION.—

''(A) IN GENERAL.—The duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.

''(B) EXCEPTION.—The duty to provide for collocation under subparagraph (A) does not require an incumbent local exchange carrier to provide for collocation in a remote terminal.''.

SEC. 5. NATIONAL CLEARINGHOUSE FOR HIGH-SPEED INTERNET ACCESS.

(a) IN GENERAL.—The Secretary of Commerce shall establish a national clearinghouse within the Department of Commerce that allows communities throughout the United States, particularly rural communities, to find data and information relating to the deployment of facilities capable of supporting high-speed Internet services.

(b) EXCHANGE FUNCTION.—The Secretary shall solicit and accept data, information, and advice from communities that have succeeded in attracting the deployment of broadband services and infrastructure in order to make that data, information, and advice available to other communities that are seeking to deploy high-speed Internet services.

SEC. 6. ENFORCEMENT.

(a) CEASE AND DESIST AUTHORITY.—Section 501 of the Communications Act of 1934 (47 U.S.C. 501) is amended—

(1) by striking ''Any person'' and inserting ''(a) FINES AND IMPRISONMENT.—Any person'';

(2) by adding at the end the following new subsection:

''(b) CEASE AND DESIST ORDERS.— If, after a hearing, the Commission determines that any common carrier or consumer broadband service provider is engaged in an act, matter,

or thing prohibited by this Act, or is failing to perform any act, matter, or thing required by this Act, the Commission may order such common carrier or provider to cease or desist from such action or inaction.''.

(b) FORFEITURE PENALTIES.—Section 503(b) of the Communications Act of 1934 (47 U.S.C. 503(b)) is amended—

(1) in paragraph (2)(B)—

(A) by striking ''exceed $100,000'' and inserting ''exceed $1,000,000''; and

(B) by striking ''of $1,000,000'' and inserting ''of $10,000,000'';

(2) in paragraph (2)(C), by striking ''subparagraph (A) or (B)'' and inserting ''subparagraph (A), (B), or (C)'';

(3) by redesignating subparagraphs (C) and (D) of paragraph (2) as subparagraphs (D) and (E), respectively;

(4) by inserting after subparagraph (B) of paragraph (2) the following new subparagraph:

''(C) If a common carrier or consumer broadband service provider has violated a cease and desist order or has previously been assessed a forfeiture penalty for a violation of a provision of this Act or of any rule, regulation, or order issued by the Commission, and if the Commission or an administrative law judge determines that such common carrier has willfully violated the same provision, rule, regulation, that this repeated violation has caused harm to competition, and that such common carrier or consumer broadband service provider has been assessed a forfeiture penalty under this subsection for such previous violation, the Commission may assess a forfeiture penalty not to exceed $2,000,000 for each violation or each day of continuing violation; except that the amount of such forfeiture penalty shall not exceed $20,000,000.''; and

(5) in paragraph (6)(B), by striking ''1 year'' and inserting ''2 years''.

SEC. 7. WIRELESS BROADBAND STUDY.

(a) IN GENERAL.—The Federal Communications Commission shall conduct a study—

(1) on wireless technology to determine the appropriate role of the Federal government in facilitating greater consumer access to consumer broadband services using evolving advanced technology; and

(2) what, if any, action by the Federal government is needed to increase the deployment of new wireless technology to facilitate high-speed Internet access.

(b) FOCUS.—In conducting the study, the Commission shall focus on consumer broadband services utilizing wireless technology.

(c) CONSIDERATION OF WIRELESS INDUSTRY VIEWS.—In conducting the study, the Commission shall consider the views of, among other interested parties, representatives of the telecommunications industry (as defined in section 714(k)(3) of the Communications Act of 1934 (47 U.S.C. 614(k)(3)) involved in wireless communications.

(d) REPORT.—

(1) IN GENERAL.—The Commission shall transmit a report, containing its findings, conclusions, and recommendations from the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce within 18 months after the date of enactment of this Act.

(2) REPORT TO BE AVAILABLE TO PUBLIC.—The Commission shall make its report available to the public.

SEC. 8. STUDY ON WAYS TO PROMOTE BROADBAND THROUGH E-GOVERNMENT.

The Secretary of Commerce, in consultation with the Director of the Office of Management and Budget, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce within 6 months after the date of enactment of this Act on how the Federal government can promote the use of broadband services through e-government, including—

(1) online delivery of government services;

(2) video-streaming of government press events and open public events, such as announcements and administrative proceedings;

(3) e-health and online education initiatives;

(4) access to government documents; and

(5) the ramifications of enhanced government online services on user privacy and the security of the Federal government's electronic infrastructure.

By Mr. THURMOND:

S. 2865. A bill to establish Fort Sumter and Fort Moultrie National Historical Park in the State of South Carolina, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. THURMOND. Mr. President, I introduced a bill establishing the Fort Sumter and Fort Moultrie National Historical Park. These sites are presently managed by the National Park Service as the Fort Sumter National Monument. The bill clarifies the boundaries of the park and will more accurately reflect the resources that are recognized, protected, and interpreted at these sites.

Both of these forts were pivotal sites in the history of South Carolina and the Nation. Fort Moultrie was the centerpiece of the Battle of Sullivan's Island on June 28, 1776, just six days prior to the signing of the Declaration of Independence. The valiant defense of the fort by South Carolina militia units resulted in the first decisive victory over British forces in the Revolutionary War. The fort is named after the commander of those units, Colonel William Moultrie.

Colonel Moultrie's forces constructed the first fort out of Palmetto trees and sand. The Palmettos were used because of the lack of proper building materials. Though initially thought to be inadequate for protection, the Palmettos repelled salvo after salvo from the British naval forces. Such excellent fortifications allowed Colonel Moultrie's militia to return fire with devastating results.

Fort Moultrie also played a part in the events leading up to the Civil War. It was the site of the batteries that bombarded Fort Sumter. After the war, the fort was to remain an integral part of America's coastal defenses until World War II, when it was used to guard the port of Charleston against German U-boats. Indeed, it is the only site in the National Park System that preserves the history of the Nation's coastal defense system from 1776 to 1947. Although its days of conflict are over, the fort stands as a reminder that the cost of freedom is constant vigilance and stalwart resolve, even in the face of overwhelming odds.

Fort Sumter is also an important part of American history. The bombardment of the fort on April 12, 1861 was the opening engagement of the Civil War. The evacuation of the fort by its commanding officer, Major Robert Anderson, left the fort in Confederate hands until the fall of Charleston in February of 1865. Fort Sumter was also an integral part of the Nation's coastal defense system until the end of World War II. Fort Sumter is a fine example of the historical significance of National Park Service work.

The passage of this bill will allow for the more efficient administration of the two forts. The present arrangement does not adequately reflect the boundaries or management authority for the site. For example, Fort Moultrie was acquired by the Secretary of the Interior from the State of South Carolina in 1960, but no boundaries were established for the property, nor were any directives given to the National Park Service for administering the site. This bill will establish the boundaries of the site and provide long-overdue management authority for the National Park Service.

Hopefully, this bill will facilitate more efficient management of the forts and allow many more Americans to learn from these living monuments to America's history. The Department of Interior supports this bill and has urged its enactment. I urge my colleagues to join me in supporting this bill.

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

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

S. 2865

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 ''Fort Sumter and Fort Moultrie National Historical Park Act of 2002''.

SEC. 2. FINDINGS.

Congress finds that—

(1) Fort Sumter National Monument was established by the Joint Resolution entitled ''Joint Resolution to establish the Fort Sumter National Monument in the State of South Carolina'', approved April 28, 1948 (62 Stat. 204, chapter 239; 16 U.S.C. 450ee), to commemorate historic events in the vicinity of Fort Sumter, the site of the first engagement of the Civil War on April 12, 1861;

(2) Fort Moultrie—

(A) was the site of the first defeat of the British in the Revolutionary War on June 28, 1776; and

(B) was acquired by the Federal Government from the State of South Carolina in 1960 under the authority of the Act of August 21, 1935 (49 Stat. 666, chapter 593);

(3) since 1960, Fort Moultrie has been administered by the National Park Service as part of the Fort Sumter National Monument without a clear management mandate or established boundary;

(4) Fort Sumter and Fort Moultrie played important roles in the protection of Charleston Harbor and in the coastal defense system of the United States;

(5) Fort Moultrie is the only site in the National Park System that preserves the history of the United States coastal defense

system during the period from 1776 through 1947; and

(6) Sullivan's Island Life Saving Station, located adjacent to the Charleston Light—

(A) was constructed in 1896; and

(B) is listed on the National Register of Historic Places.

SEC. 3. DEFINITIONS.

In this Act:

(1) CHARLESTON LIGHT.—The term ''Charleston Light'' means the Charleston Light and any associated land and improvements to the land that are located between Sullivan's Island Life Saving Station and the mean low water mark.

(2) MAP.—The term ''map'' means the map entitled ''Boundary Map, Fort Sumter and Fort Moultrie National Historical Park'', numbered 392/80088, and dated November 30, 2000.

(3) PARK.—The term ''Park'' means the Fort Sumter and Fort Moultrie National Historical Park established by section 4(a).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of South Carolina.

SEC. 4. FORT SUMTER AND FORT MOULTRIE NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—There is established the Fort Sumter and Fort Moultrie National Historical Park in the State as a unit of the National Park System to preserve, maintain, and interpret the nationally significant historical values and cultural resources associated with Fort Sumter and Fort Moultrie.

(b) BOUNDARY.—

(1) IN GENERAL.—The boundary of the Park shall be comprised of the land, water, and submerged land depicted on the map.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) ACQUISITIONS.—

(1) LAND.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may acquire any land or interest in land (including improvements) located within the boundaries of the Park by—

(i) donation;

(ii) purchase with appropriated or donated funds;

(iii) exchange; or

(iv) transfer from another Federal agency.

(B) LIMITATION.—Any land or interest in land (including improvements) located within the boundaries of the Park that is owned by the State (including political subdivisions of the State) shall be acquired by donation only.

(2) PERSONAL PROPERTY.—The Secretary may acquire by donation, purchase with appropriated or donated funds, exchange, or transfer from another Federal agency, personal property associated with, and appropriate for, interpretation of the Park.

(d) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary, acting through the Director of the National Park Service, shall administer the Park in accordance with this Act and the laws generally applicable to units of the National Park System, including—

(A) the Act of August 25, 1916 (16 U.S.C. 1 et seq.); and

(B) the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

(2) INTERPRETATION OF HISTORICAL EVENTS.—The Secretary shall provide for the interpretation of historical events and activities that occurred in the vicinity of Fort Sumter and Fort Moultrie, including—

(A) the Battle of Sullivan's Island on June 28, 1776;

(B)(i) the bombardment of Fort Sumter by Confederate forces on April 12, 1861; and

(ii) any other events of the Civil War that are associated with Fort Sumter and Fort Moultrie;

(C) the development of the coastal defense system of the United States during the period from the Revolutionary War to World War II; and

(D) the lives of—

(i) the free and enslaved workers who built and maintained Fort Sumter and Fort Moultrie;

(ii) the soldiers who defended the forts;

(iii) the prisoners held at the forts; and

(iv) captive Africans bound for slavery who, after first landing in the United States, were brought to quarantine houses in the vicinity of Fort Moultrie in the 18th Century, if the Secretary determines that the quarantine houses and associated historical values are nationally significant.

(e) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with public and private entities and individuals to carry out this Act.

SEC. 5. CHARLESTON LIGHT.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Transportation shall transfer to the Secretary, for no consideration, administrative jurisdiction over, and management of the Charleston Light for inclusion in the Park.

(b) CONDITION.—Before transferring the Charleston Light under subsection (a) the Secretary of Transportation shall repair, paint, remove hazardous substances from, and improve the condition of the Charleston Light in any other manner that the Secretary may require.

(c) IMPROVEMENTS.—The Secretary shall make improvements to the Charleston Light only to the extent necessary to—

(1) provide utility service; and

(2) maintain the existing structures and historic landscape.

SEC. 6. REPEAL OF EXISTING LAW.

Section 2 of the Joint Resolution entitled ''Joint Resolution to establish the Fort Sumter National Monument in the State of South Carolina'', approved April 28, 1948 (62 Stat. 204, chapter 239; 16 U.S.C. 450ee–1), is repealed.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. GREGG (for himself, Mr. HUTCHINSON, Mr. CRAIG, and Mr. BROWNBACK):

S. 2866. A bill to provide scholarships for District of Columbia elementary and secondary students, and for other purposes; to the Committee on Governmental Affairs.

Mr. GREGG. Mr. President, like many of my colleagues in the House and the Senate, I applaud the Supreme Court's recent ruling in Zelman v. Simmons-Harris. The Court found that a publically funded private school choice program was Constitutional and does not violate the establishment clause of the Constitution. The Court's decision finally puts to rest the constitutionality arguments which have long been raised by those who oppose providing choice to low-income families.

Within hours of the Court decision, Congressman Armey introduced H.R. 5033, the District of Columbia Student Opportunity Scholarship Act of 2002. I join my House colleague in introducing the companion bill, here in the Senate. Specifically, these bills provide scholarships to some of the District's poorest students to enable them to select the public or private school of their choice from participating schools in the District and the surrounding areas. This program, like the Cleveland program upheld by the Supreme Court, would allow families to choose from a wide variety of providers, including religious schools.

Both bills are nearly identical to the 1997 D.C. Student Scholarship Act. Although that bill had passed both houses of the Congress and more than a thousand D.C. families had expressed interest in the scholarship program, President Clinton vetoed the bill.

Why should we extend the option of private schools to poor families? Because, as is true in many urban areas, thousands of students in the District of Columbia are in need of high quality educational options. Seventy-two percent of D.C. fourth graders tested below basic proficiency in reading and seventy-six percent tested below basic proficiency in mathematics. This means that three quarters of 4th graders do not possess elementary reading skills and can not complete simple arithmetic problem. Unfortunately, these statistics do not improve dramatically as children grow older. Even in the older grades, the majority of students are found to be struggling with math and reading.

Tragically, lagging academic performance isn't the only problem plaguing many of the public schools in D.C., there is also the issue of safe, secure classrooms. In 1999, nearly one in five D.C high school students reported, that at some point in the preceding month, they felt too unsafe to go to school, while nearly one in every seven students admitted to bringing a weapon to school.

Although the creation of charter schools in the District has led to some choice for families lucky enough to get a spot for their child, there are simply not enough charter schools to accommodate the growing clamor of D.C. parents to obtain a better education for their children. Interestingly enough, the lack of space in charter schools is compounded by the City's refusal to free a handful of the 30 surplus public school buildings—buildings, which in some cases, are just sitting there abandoned and unused.

D.C. parents have witnessed superintendents come and go, and have been given the promise of education reform and improvements that never materialized. Yet, all the while their children remain trapped in failing schools. This is unacceptable to them and should be wholly unacceptable to my colleagues. The thousands of families clamoring for better educational opportunities for their children in our nation's capital need an immediate solution.

As Frederick Douglass, quoted by Justice Clarence Thomas in the recent Zelman decision, said, ''Education. . . . means emancipation. It means light and liberty. It means the uplifting of

the soul of the man into the glorious light of truth, the light by which men can only be made free.''

Unfortunately, for many families, that freedom remains unobtainable within D.C.'s current educational system. I encourage my colleagues to seriously consider this important bill. We have allowed too many students to languish in failing schools. Let's provide a way for real education, and doing so, help make the freedom Douglass refers to a reality for some of the district's neediest children.

By Mr. GRASSLEY (for himself and Mr. FEINGOLD):

S. 2867. A bill to amend the Agricultural Marketing Act of 1946 to increase competition and transparency among packers that purchase livestock from producers; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. GRASSLEY. Mr. President, as everyone knows, I pushed the packer ban because I want more competition in the marketplace. While I don't think packers should be in the same business as independent livestock producers, it's not the fact that the packers own the livestock that bothers me as much as the fact that the packers' livestock competes for shackle space and adversely impacts the price independent producers receive.

My support of the packer ban is based in the belief that independent producers should have the opportunity to receive a fair price for their livestock. The last few years have led to widespread consolidation and concentration in the packing industry. Add on the trend toward vertical integration among packers and there is no question why independent producers are losing the opportunity to market their own livestock during profitable cycles in the live meat markets.

The past CEO of IBP in 1994 explained that the reason packers own livestock is that when the price is high the packers use their own livestock for the lines and when the price is low the packers buy livestock. This means that independent producers are most likely being limited from participating in the most profitable ranges of the live market. This is not good for the survival of the independent producer.

My new legislative concept would guarantee that independent producers have a share in the marketplace while assisting the mandatory price reporting system. The proposal would require that 25 percent of a packer's daily kill comes from the spot market. By requiring a 25 percent spot market purchase daily, the mandatory price reporting system which has been criticized due to reporting and accuracy problems would have consistent, reliable numbers being purchased from the spot market, improving the accuracy and transparency of daily prices. In addition, independent livestock producers would be guaranteed a competitive position due to the packers need to fill the daily 25 percent spot/cash market requirement.

This isn't the packer ban. The intent of this piece is to improve price transparency and hopefully the accuracy of the daily mandatory price reporting data. I feel strongly that packers should NOT be able to own or feed livestock, but this approach is not intended to address my concern with packer ownership.

The packs required to comply would be the same packs required to report under the mandatory price reporting system. Those are packs that kill either 125,000 head of cattle, 100,000 head of hogs, or 75,000 lambs annually, over a 5 year average.

Packers are arguing that this will hurt their ability to offer contracts to producers, but the fact of the matter is that the majority of livestock contracts pay out on a calculation incorporating mandatory price reporting data. If the mandatory price reporting data is not accurate, or open to possible manipulation because of low numbers on the spot market, contracts are not beneficial tools for producers to manage their risk. This legislative proposal will hopefully give confidence to independent livestock producers by improving the accuracy and viability of the mandatory price reporting system and secure fair prices for contracts based on that data.

It's just common sense, when there aren't a lot of cattle and pigs being purchased on the cash market, it's easier for the mandatory price reporting data to be inaccurate or manipulated. The majority of livestock production contracts are based on that data, so if that information is wrong the contract producers suffer. That's why the Iowa Pork Producers, Iowa Cattlemen, Iowa Farm Bureau, R–CALF, the Organization for Competitive Markets, and the Center for Rural Affairs have all endorsed this proposal.

Mr. President, this legislation will guarantee independent livestock producers market access and a fair price. It will accomplish these goals by making it more difficult for the mandatory price reporting system to be manipulated because of low numbers being reported by the packs.

I ask consent the bill be printed in the RECORD.

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

S. 2867

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

SECTION 1. SPOT MARKET PURCHASES OF LIVESTOCK BY PACKERS

Chapter 5 of subtitle B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636 et seq.) is amended by adding at the end the following:

''SEC. 260. SPOT MARKET PURCHASES OF LIVESTOCK BY PACKERS.

''(a) DEFINITIONS.—In this section:

''(1) COOPERATIVE ASSOCIATION OF PRODUCERS.—The term 'cooperative association of producers' has the meaning given the term in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

''(2) COVERED PACKER.—

''(A) IN GENERAL.—The term 'covered packer' means a packer that is required under this subtitle to report to the Secretary each reporting day information on the price and quantity of livestock purchased by the packer.

''(B) EXCLUSION.—The term 'covered packer' does not include a packer that owns only 1 livestock processing plant.

''(3) NONAFFILIATED PRODUCER.—The term 'nonaffiliated producer' means a producer of livestock—

''(A) that sells livestock to a packer;

''(B) that has less than 1 percent equity interest in the packer and the packer has less than 1 percent equity interest in the producer;

''(C) that has no officers, directors, employees or owners that are officers, directors, employees or owners of the packer;

''(D) that has no fiduciary responsibility to the packer; and

''(E) in which the packer has no equity interest.

''(4) SPOT MARKET SALE.—The term 'spot market sale' means an agreement for the purchase and sale of livestock by a packer from a producer in which—

''(A) the agreement specifies a firm base price that may be equated with a fixed dollar amount on the day the agreement is entered into;

''(B) the livestock are slaughtered not more than 7 days after the date of the agreement;

''(C) a reasonable competitive bidding opportunity existed on the date the agreement was entered into;

''(5) REASONABLE COMPETITIVE BIDDING OPPORTUNITY.—The term 'reasonable competitive bidding opportunity' means that

''(A) no written or oral agreement precludes the producer from soliciting or receiving bids from other packers; and

''(B) no circumstances, custom or practice exist that establishes the existence of an implied contract, as defined by the Uniform Commercial Code, and precludes the producer from soliciting or receiving bids from other packers.

''(b) GENERAL RULE.—Of the quantity of livestock that is slaughtered by a covered packer during each reporting day in each plant, the covered packer shall slaughter not less than the applicable percentage specified in subsection (c) of the quantity through spot market sales from nonaffiliated producers.

''(c) APPLICABLE PERCENTAGES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the applicable percentage shall be:

''(A) 25 percent for covered packers that are not cooperative associations of producers; and

''(B) 12.5 percent for covered packers that are cooperative associations of producers.

''(2) EXCEPTIONS.—

''(A) In the case of covered packers that reported more than 75 percent captive supply cattle in their 2001 annual report to Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture, the applicable percentage shall be the greater of:

''(i) the difference between the percentage of captive supply so reported and 100; and

''(ii) the following numbers (applicable percentages):

''(a) during each of the calendar years of 2004 and 2005, 5 percent;

''(b) during each of the calendar years of 2006 and 2007, 15 percent; and

''(c) during the calendar year 2008 and each calendar year thereafter, 25 percent.

''(B) In the case of covered packers that are cooperative associations of producers and

that reported more than 87.5 percent captive supply cattle in their 2001 annual report to Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture, the applicable percentage shall be the greater of:

''(iii) the difference between the percentage of captive supply so reported and 100; and

''(iv) the following numbers (applicable percentages):

''(a) during each of the calendar years of 2004 and 2005, 5 percent;

''(b) during each of the calendar years of 2006 and 2007, 7.5 percent; and

''(c) during the calendar year 2008 and each calendar year thereafter, 12.5 percent.

''(d) NONPREEMPTION.—Notwithstanding section 259, this section does not preempt any requirement of a State or political subdivision of a State that requires a covered packer to purchase on the spot market a greater percentage of the livestock purchased by the covered packer than is required under this section.''

''(e) Nothing in this section shall affect the interpretation of any other provision of this Act, including but not limited to section 202 (7 U.S.C. §192).''.

By Mr. DOMENICI (for himself, Mr. CAMPBELL, and Mr. ALLARD):

S. 2868. A bill to direct the Secretary of the Army to carry out a research and demonstration program concerning control of salt cedar and other nonnative phreatophytes; to the Committee on Environment and Public Works.

Mr. DOMENICI. Mr. President, I rise today to introduce a piece of legislation that is of paramount importance to the State of New Mexico. Specifically, this bill will address the mounting pressures brought on by the growing demands, on all fronts, of a diminishing water supply.

As you may know the water situation in the west can be described at this time, as difficult at best. Annual snow packs were abnormally low this year causing many areas in the west to be plagued by severe drought conditions.

The seriousness of the water situation in New Mexico becomes more acute every single day. The chance of this drought effecting every New Mexican in some way is substantial. Wells are running dry, farmers are being forced to sell livestock, many of our cities are in various stages of conservation and many, many acres have been charred by catastrophic wildfires.

The drought conditions also have other consequences. For example, the lack of stream flow makes it very difficult for New Mexico to meet its compact delivery obligations to the state of Texas.

The bill that I am introducing today deals more specifically with the issue of in stream water flows. To compound the drought situation, New Mexico is home to a vast amount of Salt Cedar. Salt Cedar is a water-thirsty non-native tree that continually strips massive amounts of water out of New Mexico's two predominant water supplies—the Pecos and the Rio Grande rivers.

Estimates show that one mature salt cedar tree can consume as much as 200 gallons of water per day. In addition to the excessive water consumption, salt cedars increase fire and flood frequency, increase river channelization, decrease water flow and increase water and soil salinity along the river. Studies indicate that eradication of the salt cedars could increase river flows. Increasing river flows could help alleviate mounting pressure to meet compact delivery obligations—especially on the Pecos.

This bill that I am introducing today would authorize the Army Corps of Engineers to establish a research and demonstration program to help with the eradication of this non-native species. In addition to projects along the Pecos and the Rio Grande, the bill allows other states with similar problems, including Texas, Colorado, Utah and Arizona to develop and participate in similar projects as well.

The drought and the mounting legal requirements on both the Pecos and Rio Grande rivers are forcing us toward a severe water crisis. Solving such water problems has become one of my top priorities for the state.

I ask unanimous consent that a copy of the bill and my statement be printed in the RECORD.

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

S. 2868

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

SECTION 1. SALT CEDAR CONTROL.

(a) FINDINGS.—Congress finds that—

(1) States are having increasing difficulty meeting their obligations under interstate compacts to deliver water;

(2) it is in the best interest of States to minimize the impact of and eradicate invasive species that extort water in the Rio Grande watershed, the Pecos River, and other bodies of water in the Southwest, such as the salt cedar, a noxious and nonnative plant that can use 200 gallons of water a day; and

(3) as drought conditions and legal requirements relating to water supply accelerate water shortages, innovative approaches are needed to address the increasing demand for a diminishing water supply.

(b) DEFINITIONS.—In this section:

(1) CONTROL METHOD.—

(A) IN GENERAL.—The term ''control method'' means a method of controlling salt cedar (Tamarix) or any other nonnative phreatophyte.

(B) INCLUSIONS.—The term ''control method'' includes the use of herbicides, mechanical means, and biocontrols such as goats and insects.

(2) DEMONSTRATION PROJECT.—The term ''demonstration project'' means a demonstration project carried out under this section.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Army, acting through the Chief of Engineers.

(c) PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date on which funds are made available to carry out this section, the Secretary shall—

(A) complete a program of research, including a review of past and ongoing research, concerning a control method for use in—

(i) the Rio Grande watershed in the State of New Mexico;

(ii) the Pecos River in the State of New Mexico; and

(iii) other bodies of water in the States of Arizona, Colorado, New Mexico, Texas, and Utah that are affected by salt cedar or other nonnative phreatophytes; and

(B) commence a demonstration program of the most effective control methods.

(2) AVAILABLE EXPERTISE.—

(A) IN GENERAL.—In carrying out the programs under paragraph (1), the Secretary shall use the expertise of institutions of higher education and nonprofit organizations—

(i) that are located in the States referred to in paragraph (1)(A)(iii); and

(ii) that have been actively conducting research or carrying out other activities relating to the control of salt cedar.

(B) INCLUSIONS.—Institutions of higher education and nonprofit organizations under subparagraph (A) include—

(i) Colorado State University;

(ii) Diné College in the State of New Mexico;

(iii) Mesa State College in the State of Colorado;

(iv) New Mexico State University;

(v) Northern Arizona University;

(vi) Texas A&M University;

(vii) University of Arizona;

(viii) Utah State University; and

(ix) WERC: A Consortium for Environmental Education and Technology Development.

(d) FEDERAL EXPENSE.—The research and demonstration program under subsection (c) shall be carried out at full Federal expense.

(e) CONSULTATION.—The activities under this section shall be carried out in consultation with—

(1) the Secretary of Agriculture;

(2) the Secretary of the Interior;

(3) the Governors of the States of Arizona, Colorado, New Mexico, Texas, and Utah;

(4) tribal governments; and

(5) the heads of other Federal, State, and local agencies, as appropriate.

(f) RESEARCH.—To the maximum extent practicable, the research shall focus on—

(1) supplementing and integrating information from past and ongoing research concerning control of salt cedar and other nonnative phreatophytes;

(2) gathering experience from past eradication and control projects;

(3) arranging relevant data from available sources into formats so that the information is accessible and can be effectively brought to bear by land managers in the restoration of the Rio Grande watershed;

(4) using control methods to produce water savings; and

(5) identifying long-term management and funding approaches for control of salt cedar and watershed restoration.

(g) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—The Secretary shall carry out not fewer than 10 demonstration projects, of which not fewer than 2 shall be carried out in each of the States referred to in subsection (c)(1)(A)(iii).

(2) COST.—Each demonstration project shall be carried out at a cost of not more than $7,000,000, including costs of planning, design, and implementation.

(3) RELATIONSHIP TO OTHER CONTROL PROJECTS.—Each demonstration project shall be coordinated with control projects being carried out as of the date of enactment of this Act by other Federal, State, tribal, or local entities.

(4) PERIOD OF PROJECT IMPLEMENTATION.—Each demonstration project shall be carried out—

(A) during a period of not less than 2 but not more than 5 years, depending on the control method selected; and

(B) in a manner designed to determine the time period required for optimum use of the control method.

(5) DESIGN.—

(A) CONTROL METHODS.—Of the demonstration projects—

(i) at least 1 demonstration project shall use primarily 1 or more herbicides;

(ii) at least 1 demonstration project shall use primarily mechanical means;

(iii) at least 1 demonstration project shall use a biocontrol such as goats or insects; and

(iv) each other demonstration project may use any 1 or more control methods.

(B) MEASUREMENT OF COSTS AND BENEFITS.—Each demonstration project shall be designed to measure all costs and benefits associated with each control method used by the demonstration project, including measurement of water savings.

(6) MONITORING AND MAINTENANCE.—After completion, each demonstration project shall be monitored and maintained for a period of not more than 5 years, at a cost of not more than $100,000 per demonstration project per year.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 2003; and

(2) such sums as are necessary for each of fiscal years 2004 through 2007.

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

S. 2869. A bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers; to the Committee on Commerce, Science, and Transportation.

Mr. KERRY. Mr. President, I am introducing legislation which I hope will create an equitable solution to the dilemma facing many wireless companies in America. Unfortunately, due to the uncertain legal status of licenses related to that FCC Auction No. 35, several companies have contingent liabilities in the millions or billions of dollars. These contingent liabilities are damaging the companies' ability to acquire additional spectrum to meet the urgent needs of wireless consumers and to roll out new and innovative services to consumers. The affected providers are the successful bidders for wireless spectrum that the Federal Communications Commission auctioned in Auction No. 35. Some of the spectrum had previously been licensed to companies, including NextWave Personal Communications Inc., whose bankruptcy filings and subsequent failure to pay amounts due to the FCC for their licenses led to the cancellation of those licenses.

The status of NextWave's licenses has been the subject of extended litigation in the Bankruptcy Court, the United States Court of Appeals for the Second Circuit, the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court of the United States. In June 2001, after the FCC had conducted Auction No. 35, the D.C. Circuit held that ''the Commission violated the provision of the Bankruptcy Code that prohibits governmental entities from revoking debtors' licenses solely for failure to pay debts dischargeable in bankruptcy,'' effectively nullifying the FCC ability to deliver the licenses to winning bidder. In August 2001, after the issuance of that court's mandate, the FCC restored the NextWave licenses to active status. More recently, the Supreme Court granted the FCC's petition for a writ of certiorari to review the D.C. Circuit's judgment. The Supreme Court will not hear arguments in the case until the fall of 2002 and is unlikely to announce a decision until the spring of 2003. If the Court reverses the D.C. Circuit's decision, there will be further litigation on remand in the D.C. Circuit to resolve issues that the court did not reach in its first decision. The result is that there is not likely to be a final resolution of the status of the NextWave licenses and the FCC therefore will not be in a position to deliver licenses to the winners of Auction No. 35—until three or more years from the time the auction was concluded. Although the FCC recently returned most of the down payment funds previously deposited by successful bidders, it continues to hold without interest substantial sums equal to three percent of the total amount of the winning bids. It apparently intends to hold those sums indefinitely. Despite the lengthy delay in delivering the licenses, moreover, the FCC takes the position that the successful bidders remain obligated, on a mere 10 days' notice, to pay the full amount of their successful bids if and when the FCC at some unknown future date establishes its right to deliver those licenses.

The situation is grossly unfair to those who bid on these licenses in good faith. Companies calibrate their bids on the understanding, implicit in any commercial arrangement, that delivery of the licenses will occur in a reasonable time following the auction. That expectation is especially crucial in the context of spectrum licenses, given the recent volatility we have seen in market prices for spectrum. It is particularly burdensome to such companies for the FCC to hold even a portion of their enormous down payments without paying interest for such extended periods. Even more troubling, the companies' contingent obligation to pay on very short notice the remaining $16 billion they bid for the licenses at issue adversely affects their capacity to serve the needs of their customers. Such large contingent liabilities impede the companies' ability to take interim steps, such as building out its network further or leasing spectrum from others, that may be urgently needed to improve service for its customers. The FCC's failure to respond appropriately to alleviate these serious burdens disserves the public interest.

This bill addresses these problems in two ways. It requires the FCC promptly to refund to the winning bidders the full remaining amount of their deposits and down payments. In addition, it gives each winning bidder an opportunity to elect, within 15 days after enactment, to relinquish its rights and to be relieved of all further obligations under Auction No. 35. Those who choose to retain their rights and obligations under Auction No. 35 will nonetheless be entitled to the return of their deposits and down payments in the interim. If and when the FCC is in a position to deliver the licenses at issue to those who remain obligated, they will be required to pay the full amount of their bid in accordance with the FCC's existing regulations. Those who elect to terminate their rights and obligations under Auction No. 35 will be free to pursue other opportunities to acquire spectrum and serve consumers.

I want to make this next point especially clear, nothing in the bill's provisions would affect the FCC's legal position in the Supreme Court with respect to the validity of its original cancellation of the NextWave licenses. If the FCC prevails in the Supreme Court, it will reestablish its right to allocate the spectrum at issue. It may then grant licenses to Auction No. 35 winning bidders who have declined to relinquish their rights under the bill. It will also be free to conduct a re-auction of any spectrum won by Auction No. 35 bidders who have in the meantime elected to relinquish their auction rights.

By Mr. KERRY:

S. 2870. A bill to amend titles 10 and 14, United States Code, to provide for the use of gold in the metal content of the Medal of Honor; to the Committee on Armed Services.

Mr. KERRY. Mr. President, today I rise to introduce legislation to bring greater honor and prestige to our most valiant veterans. This legislation, the Congressional Medal of Honor Act, will require the use of 90 percent gold in the metal content of the Medal of Honor.

You may be surprised to learn that while foreign dignitaries, famous singers, and other civilians receive an approximately $30,000 medal—the Congressional Gold Medal, our most valued veterans receive a $30 medal. The cost difference lies in that the Medal of Honor consists primarily of brass plated slightly with gold. These American heroes deserve better and it's certainly the least we can do to honor their service.

The cost of the proposal would be minimal. According to the Congressional Budget Office, the total cost of the bill would be $2 million for a five-year period during which the new medals would be designed, produced and stockpiled. Our legislation would allow the approximately less than 1,000 living recipients awarded the Medal, or their next of kin, to receive a replacement Medal.

Amelia Earhart once said that ''Courage is the price that life exacts for granting peace.'' In helping us win our peace, we should truly honor our bravest heroes by giving them the Medals they deserve.

By Mr. FITZGERALD:

S. 2872. A bill to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois; to the Committee on Energy and Natural Resources.

Mr. FITZGERALD. Mr. President, I introduce a bill to reinstate a license surrendered to the Federal Energy Regulatory Commission that authorized the construction of a hydroelectric power plant in Carlyle, Illinois. In order to facilitate the construction of the hydroelectric power plant, the bill also contains a provision that extends the deadline for beginning construction of the plant.

Carlyle, IL, is a small community of 3,406 people in Southwestern Illinois, fifty miles east of St. Louis. Carlyle is situated on the Kaskaskia River at the southern tip of Carlyle Lake, which was formed in 1967 when the U.S. Army Corps of Engineers completed construction of a dam on the river. Carlyle Lake is 15 miles long and 3½ miles wide—the largest man-made lake in Illinois.

When the Army Corps of Engineers constructed the dam, it failed to build a hydroelectric power plant to capitalize on the energy available from water flowing through the dam. A hydroelectric power facility in Carlyle would produce 4,000 kilowatts of power and provide a renewable energy source for surrounding communities. Furthermore, the environmental impact of adding a hydroelectric facility would be minimal, and such a facility, located at a site near the existing dam, would not produce harmful emissions.

In 1997, Southwestern Electric Cooperative obtained a license from the FERC to begin work on a hydroelectric project in Carlyle. In 2000, Southwestern Electric Cooperative surrendered their license because they were unable to begin the project in the required time period. The City of Carlyle is interested in constructing the hydroelectric power plant and is seeking to obtain Southwestern Electric Cooperative's license.

The bill I am introducing today is required for the construction of the facility. Legislation is necessary to authorize FERC to reinstate Southwestern Electric Cooperative's surrendered license. Because there is not enough time remaining on the license to conduct studies, produce a design for the facility, and begin construction of the project, the bill includes a provision that allows FERC to extend the applicable deadline.

This legislation is an easy and environmentally safe approach to meeting the energy needs of Southwestern Illinois. Please join me in supporting this measure to provide a clean alternative energy source for this part of the Midwest.

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

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

S. 2872

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

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 11214, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section—

(1) reinstate the license for the construction of the project as of the effective date of the surrender of the license; and

(2) extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods beyond the date that is 4 years after the date of issuance of the license.

By Mr. WELLSTONE (for himself, Mr. DAYTON, and Ms. MIKULSKI):

S. 2875. A bill to amend the Employee Retirement Income Security Act of 1974 to increase the maximum levels of guaranteed single-employer plan benefits, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. WELLSTONE. Mr. President, I introduced an extremely important bill, the Pension Guarantee Improvement Act of 2002. I urge my colleagues to join me in pressing for its swift consideration and passage.

For over a quarter of a century, the federal government has run an insurance system for private ''defined benefit'' pension plans. The agency that administers this system, the Pension Benefit Guarantee Corporation, PBGC, has worked hard to live up to its statutory obligations to protect benefits in the event that the plan sponsor goes bankrupt and is forced to terminate the plan.

In my home state of Minnesota, I have worked closely with former LTV workers whose plans have been taken over to facilitate a dialogue with the PBGC. I am very grateful to Joe Grant, Steven Kandarian, Michael Rae and all the other PBGC staff who have provided invaluable assistance to my office and my constituents over the past few moths. I have been greatly impressed with their responsiveness, dedication and hard work.

Yet the experiences of the LTV workers in Minnesota—and other manufacturing workers around the country I suspect—have exposed some serious though limited gaps in the guarantees that PBGC is permitted to provide.

These guarantees are predicated on a certain set of assumptions regarding retirement that unfortunately do not hold true for all workers. For example, the vast majority of all workers that retire at age 65 having earned a defined benefit pension are guaranteed their full earned pension, regardless of whether or not the sponsoring company is still in business. In most white-collar jobs this arrangement works well; the nature of the employment permits most employees to continue in their jobs through age 65 and the terms of their private pension plans are generally set up for retirement at that age.

In labor-intensive industries such as steel and other manufacturing sectors, however,workers have never been expected to endure as many years of active employment as their white-collar counterparts. Again, the expectations of workers as they enter these industries are well-known. Employees are generally promised a secure retirement in exchange for their 25–30 years of service and they work for decades under the assumption that that promise will be kept.

What has happened to many of the former LTV employees in Minnesota is their hard-earned benefits have been unexpectedly—and in a few cases, dramatically—reduced as a result of their company being forced into bankruptcy. This is because their plan was taken over by the PBGC which is not allowed to provide as comprehensive a guarantee to these workers as they can offer to their white-collar counterparts.

The shorter working lives of steelworkers and others who labor in our rapidly-shrinking manufacturing sector effectively means that they will often not receive the full measure of their earned benefit if their company happens to go bankrupt before they reach age 65. The reductions in benefits that many of these workers suffer occur regardless of how hard they worked, how productive an employee they were—anything that they have any control over.

These losses are inflicted on these workers because they labored in the manufacturing sector and because they happened to be employed by a company that was forced into bankruptcy. There is no other reason. Given that we insure defined benefit plans, I see no reason why we should have one standard of coverage for white-collar workers and another, lesser guarantee for manufacturing workers. If a worker has fully earned the pension that they were originally promised I see no reason why we should pull the rug out from under them just because their company happens to go under.

Mr. President, we must strengthen the guarantees that the PBGC is required to provide in order to protect this small subset of all workers from unfair and unreasonable cuts in their earned benefits—cuts that all too often come at a tremendously difficult time in their lives when health or geographic location may prevent them from finding alternative employment. In my state of Minnesota, I saw firsthand how LTV workers in their 50s, who had qualified for a full retirement benefit under the terms of their original plan, had to struggle to survive the loss of their health insurance, and

some substantial reduction in their earned benefits as a result of PBGC takeover of their plan.

This legislation is designed to provide some relief to those workers who often suffer unexpected benefit reductions as a result of a PBGC takeover. Let me be quite clear that the affected workers represent only a very small fraction of all those covered by PBGC. The CBO has issued a preliminary score for this proposal that puts its cost at $110 million over the next ten years. Colleagues, this very modest proposal would allow PBGC to provide guarantees to these workers that more closely reflect what they earned under the terms of the plan that they had signed onto. It would help bring the level of guarantees provided to manufacturing-sector workers closer to that provided to their white-collar counterparts.

This bill involves three changes to the rules that determine how much of an earned benefit is guaranteed by the PBGC.

First, it would increase the maximum benefit guarantee level for single employer plans by adjusting an indexed formula that would boost the monthly maximum payable for retired workers of all ages by some 13 percent. This would translate into an increase of approximately $150–200/month for retirees over the age of 50 whose benefits are often reduced by the current maximum payable limitation.

Second, this bill directs the PBGC to cover supplemental benefits such as social security ''bridge'' payments as basic pension benefits. Again, this benefit is often earned by workers in steel and other labor-intensive industries and is specially provided to tide them over until they become eligible for Social Security.

Finally, this proposal would index the $20/year option on the 5-yr phase-in rule for recent benefit increases—which would put it at $95 using the same 4.773 social security index multiplier as is used to calculate the maximum payable. The current $20/year figure was part of the original 1975 ERISA statute and was intended to represent normal benefit increase. It has become essentially meaningless because it has never been increased. This would allow workers who received a ''normal'' benefit increase within the last 5 years to receive the entire raise instead of a percentage of it.

Mr. President, defined benefits plans and the manufacturing sector have both suffered serious declines in recent years. At the very least we owe it to these hard-working men and women to improve their access to meaningful pensions guarantees should their company be forced out of business. This bill would make a huge difference to people who need it the most—and do so without in any way threatening the solvency of the PBGC. I urge my colleagues to join me in supporting this modest yet meaningful relief for these workers.

By Mrs. MURRAY (for herself and Mr. WELLSTONE):

S. 2876. A bill to amend part A of title IV of the Social Security Act to promote secure and healthy families under the temporary assistance to needy families program, and for other purposes; to the Committee on Finance.

Mrs. MURRAY. Mr. President since the 1996 welfare reform, our nation has experienced one of the longest economic booms in history, but families are still struggling to make ends meet, and children are still living in poverty.

Now, with the recession, working families are facing even more barriers on the path toward self-sufficiency, and states are struggling to maintain their existing programs. In my own state of Washington, we've seen the results of the recession: good jobs are more difficult to find, welfare rolls are up, and state budget cuts have taken a chunk out of childcare and other critical supports for our most disadvantaged families. It is with this in mind that I introduce Senate bill S. 2876, the Secure and Healthy Families Act of 2002.

The Secure and Healthy Families Act will help build on the successes of welfare reform. This bill gives us an important opportunity to reaffirm that we value America's families and that we will protect our children. This bill takes what we know from our own experiences as parents, aunts, uncles, and grandparents and what research has proven to be effective to help us move toward the goal of building healthy families. It does not impose inflexible top-down strategies. Instead, it allows states to support work and engage families on assistance. It will help build secure and healthy families in a number of ways.

First, this legislation will create the Promoting Healthy Families Fund that enables the Secretary of HHS to fund state activities to promote and support secure families. For example, the fund would support state and local efforts to provide family counseling, income enhancement programs for working poor families—like the successful Minnesota Family Investment Program, or teen pregnancy prevention programs that help young people avoid the poverty that often comes with these unplanned pregnancies.

Second, this act will ensure states recognize that secure and healthy families come in all shapes and sizes. The federal government has long led the way in opposing discrimination, and this bill will continue that critical role.

Next, this bill puts in place several provisions to help the parents build a better future for themselves and their children. The bill encourages teen parents to remain in school by not counting the time that they are in school against their five-year lifetime limit. Under this legislation, a teen mother would also be given the chance to get on her feet, get settled in school, and find a safe place for her and her baby to live without losing assistance.

Mr. President, in families where children are chronically ill or disabled, parents are confronted with special challenges. Most cannot find appropriate affordable care, and cannot leave sick and vulnerable children alone. They run from the doctor's office and emergency rooms—trying to keep their jobs while dealing with the sudden and frequent life-threatening health problems that these children face. This bill would offer support for these families by recognizing that full time care of a chronically sick or disabled child is hard work, and by giving parents the opportunity to meet their children's special needs.

The bill also strengthens support for those families who are victims of domestic or sexual violence. We know that as many as 70 percent of welfare recipients are or have been victims of domestic violence. This bills sends a clear message to states that they must protect there vulnerable families in several ways including: having comprehensive standards and procedures to address domestic and sexual violence, training caseworkers so that they are sensitive to the unique needs of victims of domestic violence, and informing survivors of domestic and family violence of the existing protections to ensure their privacy and safety.

Most states are approaching domestic violence prevention and assistance in interesting and innovative ways. The bill will provide funding for a national study of best practices on the ways states are addressing domestic violence. In addition, states will be able to continue to provide services to domestic and family violence survivors without worrying about federal exemption caps. The bill will allow these survivors to receive the services they need when they are making the transition out of dangerous situations to safe and successful lives.

Finally, the bill would support relatives who take in underprivileged children. A growing number of children, 2.16 million in 2000, are being cared for solely by grandparents and other relatives. Although some of these children are involved with the child welfare system, many more of these children are able to remain outside of the system because their relatives are able to care for them.

Last week a young man named Eustaquito Beltran came to my office to talk to me about the importance of supporting foster children. He told me that he had lived in more than one hundred homes since he was a toddler. The results for children like him are heartbreaking. Fewer than half graduate from high school, and many become homeless after they turn 18.

Prior to being abandoned by or taken away from their parents, most of these children live in poverty with families devastated by substance abuse, mental health disorders, poor education, unemployment, violence, lack of parenting skills, and involvement with the criminal justice system. A 1990 study

found that the incidence of emotional, behavioral, and developmental problems among children in foster care was three to six times greater than the incidence of these problems among children not in care.

If care by a relative can help children like Eustaquito avoid the foster care system, then we should be grateful for the assistance that relative is offering. Instead, relatives who care for children with support form TANF are often trapped in a Catch-22. If a grandmother takes in her grandchild, but needs support herself and receives TANF assistance, federal time limits and work requirements apply. It doesn't make sense to require this grandmother, who may have worked for years and finally reached retirement, to return to work in order to help her grandchild stay out of the foster care system.

My bill would exempt kinship care families from federal time limits and work requirements to help ensure ongoing support for these children. This will allow relative caregivers to provide the additional supervision and care that children who have been abused and neglected often need.

Mr. President, the strength of our nation lies in how we care for our most vulnerable. Coming together to support victims of domestic violence, children abandoned by their parents, and teen mothers can make it clear that welfare reform is about helping all Americans succeed, not about punishing the needy.

The Senate must focus our crucial federal welfare dollars on programs and practices that create a bridge to self-sufficiency and productivity while keeping families secure and healthy. I am committed to strengthening the safety net our families depend on so that parents have the skills they need to find work and succeed once they are in the workplace. This bill will ensure that children grow up in secure and healthy families. It is a critical step in our work to leave no child behind.

By Mr. LIEBERMAN (for himself and Mrs. BOXER):

S. 2877. A bill to amend the Internal Revenue Code of 1986 to ensure that stock options of public companies are granted to rank and file employees as well as officers and directors, and for other purposes; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, I rise in strong support of stock option reforms, and propose legislation that will make stock options, a powerful tool in the democratization of capitalism, even more effective as an incentive to spur innovation and create wealth.

The waves of corporate abuse that our economy has suffered over the past ten months have been devastating to so many employees, shareholders, and families across America. The investments that people have counted upon to safeguard their retirement, send their children to college, buy a home, start a business-trillions of dollars have gone up in smoke, turned to ash while, for a few executives, those misfortunes turned to cash.

That's maddening, as a result, the most productive economy in the world-in the history of the world-has been scarred. The American corporation, a great institution of democratic capitalism in which the public owns the company, has been stained. Potentially empowering innovations that enable individual investment, like the 401-k account, have been skewered.

Today, I want to talk about another fundamentally decent idea that has been dragged into the quicksand of corporate corruption: stock options. We've discovered over the last ten months that too many companies and executives have been misusing and abusing them. In far too many cases, options have been turned into mere feed in the corporate trough by the greed of corporate executives.

Stock options are a hammer. They can be used well or used poorly. We've seen corporate executives use this hammer to weaken the foundations of their companies, build rickety and top-heavy structures ready to collapse, and build themselves nice, secure shelters from the damage. That's unconscionable.

The bill I propose today will correct this abuse by ensuring that the tool of stock options is put in the hands of more and more employees so it can be used as it was initially intended-to construct wealth, to build fortunes, to strengthen companies, and to incentivize the long-term soundness and stability of a company.

The way to fix this problem is not, as some have suggested, to require stock option expensing at the time an option is granted. That would, in fact, make the problem worse. It would disincentive the dissemination of options in the first place-and in the end, those at the top of the corporate food chain will still take care of themselves. No, the way to fix this problem is to ensure that stock options are more broadly shared by more and more employees of American corporations-that they truly are the democratizing tool that they can be.

Our challenge is to fix the flaws that have been exposed without hurting stock options themselves. In the name of addressing this serious crisis in corporate accountability, let's not make the mistake of pushing through unwise reforms that threaten to further confuse investors and endanger the engines of entrepreneurship that make America's economy, for all its faults and flaws, the envy of history and of the world. It would be a terrible shame if we threw out the stock options baby with the corporate corruption bathwater.

That's the spirit of my legislation: to mend, not end, stock option distribution.

My legislation focuses on three critical reform issues regarding stock options, distribution, shareholder approval, and disposition by senior executives. I believe that my proposed reforms will ensure that stock options serve their highest purpose: that we give shareholders more control to ensure that stock options are issued consistent with their interests, while we do away with the perverse incentive for senior executives to cash in and bail out of their companies.

The bill does not address the elephant in the room-the issue of whether or not companies should be required to account for stock options. That is because I remain firmly convinced that would fail to address the fundamental problems we face-and would, in fact, create new problems with which we will have to grapple.

If the Congress were to require expensing of stock options, we can be sure that the fat cats would still get their milk. Top corporate executives would still take care of themselves. But the middle-income employees, who represent the vast majority of Americans who benefit from stock options, would have no option but to accept no options.

Requiring the expensing of options will not give shareholders a greater say in approving stock option plans or ensuring that they are focused on effective incentives for growth. The reforms I propose today will. And requiring the expensing of options will not address the incentives that executives may have to manipulate earnings immediately prior to selling shares acquired through a stock option plan. The reforms I propose today will.

The reform issues addressed in my bill are ones that are well suited for Congress because they are policy matters, not accounting rules.

I have little doubt that FASB will again take up the stock option accounting issue. When it does, I think it will find, again, that expensing options at the time they are granted is not possible. This is the unsung issue with stock option accounting.

There is no doubt that stock options are a form of compensation, but this happens when they are exercised, not when they are granted. Options that go ''underwater'', when the stock price drops, never become compensation and the options are worthless. We only know if options are compensation when they are exercised and only then do we know how much compensation has been received.

This is the issue I have raised about expensing, not whether they are compensation, but when they become compensation and when the amount of the compensation can be measured. I said in 1994 and I say it again today, I do not believe at the time an option is granted that we know if or how much it is worth as compensation.

I doubt if the champions of expensing can point to a single case where a company's disclosure of stock option costs at grant, now included in footnotes to the company's P&L statement, proved

to be accurate. The Enron footnotes estimated stock option costs that proved to wildly inflated and inaccurate because they did not anticipate the decline in Enron's stock price. In this bear market, I would think that every company's footnote estimates have proven to be wildly inflated and inaccurate.

I doubt if the champions of expensing can cite a single stock broker or analyst who uses the Black-Scholes estimating method to pick stocks.

I do not believe that these champions would be willing to put their own money behind a stock based on the Black-Scholes estimates. Anyone who finds a reliable way to estimate the price of a stock three to ten years in the future is bound to be rich, and will certainly win the Nobel Prize for Economics.

These are issues that FASB will review and it is not an appropriate subject for this or any other legislation. This legislation focuses on reforms that address abuses. Expensing of stock options, whatever its merits as an accounting standard, do not address any of the key reform issues addressed in this legislation. Expensing is quite irrelevant to these reforms; it's a sideshow and a diversion. It's a false surrogate for reform.

I have long championed broad-based stock option plans and I believe they are a great spur to productivity and competitiveness. A study by two Rutgers University professors found that over a three-year post-plan period, companies that grant options to most or all employees show a 17 percent improvement in productivity over what would have been expected had they not set up such a plan. The return on assets of these companies went up 2.3 percent per year over what would have been expected, while their stock performance is either better or about the same than comparable companies, depending on how performance is measured. These were companies that granted options broadly, which unfortunately is still not the norm.

On June 29, 1993, I introduced the ''Equity Expansion Act,'' S. 1175, to provide a tax incentive in favor broad-based stock option plans, options I referred to as ''performance'' stock options. The incentives were available only for options where ''immediately after the grant of the option, employees who are not highly compensated employees hold * * * share options which permit the acquisition of at least 50 percent of all shares which may be acquired * * *:

In my statement about this bill I stated that the bill could ''spur the competitiveness and profitability of American companies by expanding the number of employees in all industries who will have the opportunity to receive part of their remuneration in the form of stock options.'' I argued that that bill was appealing because it ''America's best companies learned long ago that the key to success in the world's toughest markets is a dedicated work force that shares the common goals for their company.'' The bill required shareholders to approve the plans and the employees were required to hold the shares for at least two years. I noted that ''much of the criticism of stock options revolves around horror stories about a small number of extravagantly compensated executives.''

My 1993 bill provided incentives for broad-based plans. It proposed a special capital gains incentive for the stock option shares. At the time, there was no capital gains preference; it had been repealed in 1986. Since then, of course, the capital gains preference has been restored. At that time, and at all times since then, companies can deduct the ''spread'' on an option at the time the option is exercised. The ''spread'' is the difference between the grant price and the market price, the discount.

There is a trend in favor of broad-based stock option plans. The National Center for Employee Ownership estimates that 7–10 million employees now hold stock options. The number of people who hold options has grown dramatically since 1992, when only about one million people held options. Stock options are a way to provide productivity incentives to many middle-class employees.

Despite the trend in favor of broad-based stock option plans, I am not satisfied with the status quo. In companies with broad-based plans, NCOE finds that 34 percent of the options go to senior management, the average grant value for senior executives was more than $500,000 compared to only about $8,000 for hourly employees and $35,000 for technical employees. In non-broad-based plans, of course, the distribution is even more skewed to senior management. The NCOE estimates that ''While the growth of broad-based options has been an important economic trend, our data nonetheless indicate that even in plans that do share options widely, executives still get an average of 65 percent to 70 percent of the total options granted.''

Similarly, estimates by the National Association Stock Plan Professionals finds in a 2000 survey that 26 percent of the plans only grant options to senior and middle management, and 43 percent to all employees. For high tech companies, the percentage of these top-heavy plans is only 4 percent, and 73 percent of the plans provide options to all of the employees. For non-high tech companies, the percentage of these top-heavy plans is 36 percent, and 29 percent of the plans provide options to all of the employees. So the prevalence of top-heavy plans seems to be concentrated in the non-high tech companies.

If options are justified as incentives for company performance and as a way of giving employees a stake in the company performance, which I believe they are, then this is not fair and not appropriate. This is why we need to go beyond enacting an incentive in favor of broad-based plans. As the NCOE has stated, ''Options for ordinary employees can work out to a new car, college tuition, a down payment on a house, a great vacation, and maybe even a more secure retirement. Options for executives can amount to enough money to fund a small nation. The option packages some executives have received would amount to tens of thousands of dollars per employee in their company.'' This imbalance is not good public policy.

In addition, if it turns out that companies are forced to expense their options at the time of grant, many of us fear that the first options that would be cut are those for middle-income and rank and file employees. We fear that the senior executives and their allies on the Board would take care of themselves, and drop or not enact broad-based plans. The legislation I propose here would help to ensure that this will not happen.

The bill I introduce today takes a direct and forceful approach and provides that this tax deduction is limited to the spread on options that are granted on a broad-basis to the employees of the firm. The intent and thrust of the bill is the same as the one I introduced in 1993, and the definitions are the same. The approach is more direct and forceful.

The bill, called the ''Rank and File Stock Option Act'', states that the ordinary and necessary business expense deduction attributed to the spread on the exercise of stock options (deducting the ''spread'' between the strike and exercise price) is limited on a pro rata basis to the extent stock option grants for the taxpayer are not broad-based. So, when the three-year average of the stock option grants is broad-based, as defined in the bill, there is no limitation on the deduction. In terms of a pro-rata reduction, the deduction would be limited by the same percentage to which the percentage of highly compensated employees options exceeded the broad-based standard.

This test goes to the number of options granted, not the exercise price or any other weighting or valuation. No deduction is allowed if the options granted to senior management are different in form and superior to those granted to rank and file employees, which will help ensure that there are no efforts to evade the purpose of this legislation.

The stock option grants are deemed to be broad-based when, immediately after the grant of the options, employees who are not highly compensated employees hold share options that permit the acquisition of at least 50 percent of all shares that may be acquired pursuant to all stock options outstanding (whether or not exercisable) as of such time. The bill does not require that stock option grants be made to literally every employee, but as a practical matter such grants to every employee may be necessary to meet

the test. Requiring that all employees receive some options involves complex issues about part-time employees and new employees. The 50 percent test is tough enough to ensure that the options are broad-based.

The definition of a ''highly compensated employee'' includes all employees who earn $90,000 or more and are among the firm's top 20 percent highest paid employees. This is similar to the current test applied to prevent ''discrimination'' in 401K plans.

In addition, under the legislation no deduction is allowed if more than 5 percent of the total number of options is granted to any one individual. And no deduction is allowed if more than 15 percent of the stock option grants go to the top 10 officers and directors of the firm.

The legislation applies only to public companies. The Treasury Department shall issue regulations to implement this provision. The effective date is for stock grants after December 31 of this year. During the remainder of the year, corporations granting stock options must disclose grants in filings to the SEC within 3 days.

To be clear, the legislation does not prevent a company from adopting a stock option plan that does not meet the terms of this legislation. It simply denies them a tax deduction on the spread when they do so. This should ensure that broad-based stock option plans become the norm and that senior executives do not hoard the options for themselves to the detriment of their companies and shareholders.

There is ample precedent for the limitation on deductions. Deductions are only permitted for ''ordinary and necessary'' business expenses and Congress has frequently intervened to define what this means. There is no right for corporations, or any other taxpayer, to avoid taxes on any and all expenses that they choose to incur.

There is also ample precedent for limiting the deduction for non-broad based stock option plans. We have similar limitations in the law defining contributions for 401K plans, the compensation in closely held corporations is regulated to prevent abuse, and we have limits on excessive compensation paid to executives of non-profit entitles.

To make sure that an employer's 401(k) plan does not unfairly favor its higher-paid workers, there are also rules governing highly-compensated employees or HCEs. The term highly-compensated employees may include a person who was a 5 percent owner at any time during the current or prior year or an employee who earned more than $90,000. An employee whose salary ranked in the top 20 percent of payroll for the prior year might also be considered an HCE. Generally, to make sure a 401(k) plan is compliant, each year the plan must pass a non-discrimination test.

These tests generally compare the amounts contributed by and on behalf of highly compensated employees to those contributed by and on behalf of the non-highly compensated employees. As long as the difference between the percentages of these two groups is within the Internal Revenue Code's guidelines, the plan retains its tax-qualified status. If the plan does not pass the tests, the plan must take corrective action or lose its tax-favored status.

With regard to closely held corporations, the deduction for ordinary and necessary expenses is limited to ''reasonable'' compensation for services performed by the shareholders/employees. A corporation paying excessive compensation to a shareholder-employee is required to reclassify the excess as a dividend (provided there are adequate corporate earnings and profits). This has unfavorable tax consequences, since dividends are not deductible. In addition to an employee's salary, employer-provided benefits should be considered in determining whether an employee's compensation is reasonable. This includes pension and welfare benefits, as well as fringe benefits such as the use of a company car.

Finally, the 1993 Taxpayer's Bill of Rights enacted Section 4958 which imposes an excise tax on transactions that provide excessive economic benefits to top executives of non-profit charitable groups. The Internal Revenue Service finalized regulations implementing this law on January 10, 2001. The regulations define what constitutes excessive compensation and benefits.

The limitation on the deduction proposed in my legislation serves a constructive public policy purpose. The only purpose of the limitation on deduction we find in S. 1940, the lead bill on expensing of stock options, is to coerce companies into expensing their options at grant. If the companies do not expense options at grant, as S. 1940 prefers that they do despite FASB's current rule that this is not necessary, then they lose their tax deduction. If this legislation is effective, and companies are forced to expense their options at grant, the likely result is that fewer options will be granted, especially to rank and file employees, although not for top executives. My legislation is directed at protecting the stock options of rank and file employees.

In addition to ensuring that stock options are broad-based and performance oriented and not just allocated to the top executives, we need to make sure that shareholders are involved in the decision to implement these stock option plans.

The legislation provides that not later than one year after the date of enactment of this Act, the Commission shall finalize rules pursuant to the Securities and Exchange Act of 1934 to ensure that shareholder approval is required for stock option plans and grants, stock purchase plans, and other arrangements by public companies by which any person may acquire an equity interest in the company in exchange for consideration that is less than the fair market value of the equity interest at the time of the exchange.

This approval would apply to any stock option plan, not just a stock option plan that meets the terms for a broad-based plan.

In securing this approval, prior to submission of such plans to shareholders for approval, the company must give its shareholders detailed information about the stock option plans and grants, including (a) the economic rationale and interest of shareholders in the plan or grant; (b) a detailed description of the anticipated distribution of the plan or grant among directors, officers, and employees and the rationale such distribution; (c) the total number of options reserved or intended for grants to each director and officer, and to different classes of employees; (d) the maximum potential future earnings per share dilution of investors' shareholdings assuming the exercise of all in-the-money options with no adjustment for the use of the Treasury stock method, as stock price varies; (e) the terms under which stock option grants may be cancelled or reissued; and (f) the number, weighted average exercise prices, and vesting schedule of all options previously approved or outstanding.

The Commission shall ensure that all disclosures required by this Section shall increase the reliability and accuracy of information provided to shareholders and investors.

Such shareholder approval requirement may exempt stock option grants to individual employees under terms and conditions specified by the Commission. Such exemptions shall be available only where the grant is (1) made to an individual who is not a director or officer of the company at the time the grant is approved; (2) necessary, based on business judgment; (3) represents a deminimus potential dilution of future earnings per share of investors' shareholdings; and (4) made on terms disclosed to shareholders of the grant that is made in the next filing with the Securities and Exchange Commission.

Such approval requirement may exempt stock option plans and grants of any registrant that qualifies as a small business issuer under applicable securities laws and regulations or to such additional small issuers as the Commission determines would be unduly burdened by such requirements as compared to the benefit to shareholders. The Commission is authorized to phase in the applicability of this rule both as to the applicability and to its effective date so that it can determine the size of issuer to which this rule will apply and the extent to which the rule should apply to plans that exclude officers and directors.

The bill also focuses on the issue of the incentives stock options give to executives as they manage a company.

Questions have been raised about whether the options are partly responsible for the deception and fraud that has occurred at Enron and other companies. The charge is that the options gave these executives an irresistible rationale to deceive shareholders and investors to pump up the stock price and increase the value of the options. Charges have been made that these manipulations were timed to occur immediately before options were exercised and shares were sold.

While there is intuitive appeal to this argument, it is difficult to establish the role of stock options in these acts of deceptions, fraud and manipulation. The concerns are sufficient, however, that we need to turn to the Securities and Exchange Commission to evaluate them and determine what restrictions might be imposed on the sale of stock acquired through stock options. The bill directs the SEC to conduct an analysis and make regulatory and legislative recommendations on the need for new stock holding period requirements for senior executives. The Commission is directed to make recommendations regarding minimum holding periods after exercise of options to purchase stock and maximum percentage of stock purchased through options that may be sold. These recommendations would include transactions involving sales to company, sales on public markets, and derivative sales.

We need the expertise of the Commission on this complicated issue. It would probably not be reasonable to bar executives from selling any shares during their employment with the firm. Executives may need the proceeds of these sales to finance the college education of their children and many other completely legitimate reasons. The Commission is in a better position to evaluate the incentives, the opportunities for fraud, and other key factual and policy questions.

Stock options have been under attack. We need to focus on how to prevent abuse of stock options, not just abandon these incentives. They are a uniquely American idea, they provide a way to increase productivity and broaden the winner's circle. As with any economic incentive, they can be abused and we need to focus on these abuses. By reforming stock options, we can ensure that these incentives will be even more effective.

I believe that the reforms I have proposed will address the abuses we have seen. It is unfortunate that the accounting for stock options has become a surrogate for any and all issues regarding stock options. I continue to believe that accounting for stock options as an expense at the time they are granted is not appropriate or possible. But irrespective of the outcome of this debate, the reforms I have proposed here address the real issues, the real abuses, and the real opportunities to ensure that stock options continue to provide a powerful incentive in favor of economic growth and democratic capitalism.

I ask unanimous consent than the following outline of the legislation and the text of the legislation be printed in the RECORD.

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

RANK AND FILE STOCK OPTION ACT

Legislation focuses on three critical reform issues regarding stock options—distribution, shareholder approval, and disposition by senior executives.

Requiring expensing of stock options at the time they are granted is likely to discourage the use of stock options, but it will not prevent senior executives from hoarding options—it will probably encourage it. It will not give shareholders a greater say in approving stock option plans and ensuring that they are focused on effective incentives for growth. And expensing will not address the incentives that executives may have to manipulate earnings immediately prior to selling shares acquired through a stock option plan.

A. Broad-based Options. This provision of the bill is based on the structure and elements of a bill introduced by Senator LIEBERMAN on June 29, 1993, the ''Equity Expansion Act,'' S. 1175.

This bill limits the ordinary and necessary business expense deduction attributed to the spread on the exercise of stock options to the extent stock option grants for the taxpayer are not broad-based.

The stock option grants are deemed to be broad-based when, immediately after the grant of the options, employees who are not highly compensated employees hold share options that permit the acquisition of at least 50 percent of all shares that may be acquired pursuant to all stock options outstanding (whether or not exercisable) as of such time. The bill does not require that stock option grants be made to literally every employee, but as a practical matter such grants to every employee may be necessary to meet the test. Requiring that all employees receive some options involves complex issues about part-time employees and new employees. The 50% test is tough enough to ensure that the options are broad-based.

The definition of a highly compensated employee includes all employees who earn $90,000 or more and are among the firm's top 20 percent highest paid employees. This is similar to the current test applied to prevent ''discrimination'' in 401K plans.

B. Shareholder Approval. The bill provides that not later than one year after the date of enactment of this Act, the Commission shall finalize rules pursuant to the Securities and Exchange Act of 1934 to ensure that shareholder approval is required for stock option plans and grants, stock purchase plans, and other arrangements by public companies by which any person may acquire an equity interest in the company in exchange for consideration that is less than the fair market value of the equity interest at the time of the exchange.

C. Holding Period For Executives. Finally, the bill requires the Securities and Exchange Commission to conduct an analysis and make regulatory and legislative recommendations on the need for new stock holding period requirements for senior executives to reduce incentives for earnings manipulations.

S. 2877

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 ''Rank and File Stock Option Act of 2002''.

SEC. 2. DENIAL OF DEDUCTION FOR STOCK OPTION PLANS DISCRIMINATING IN FAVOR OF HIGHLY COMPENSATED EMPLOYEES.

(a) IN GENERAL.—Section 162 of the Internal Revenue Code of 1986 (relating to deduction for trade and business expenses) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) DEDUCTIBILITY OF STOCK OPTIONS NOT WIDELY AVAILABLE TO ALL EMPLOYEES.—

''(1) IN GENERAL.—If—

''(A) an applicable taxpayer grants stock options during any taxable year, and

''(B) the taxpayer fails to meet the overall concentration test of paragraph (2) or the individual concentration tests of paragraph (3) for such taxable year with respect to the granting of such options,

then the deduction allowable to such taxpayer for any taxable year in which any such option is exercised shall be limited as provided in this subsection.

''(2) OVERALL CONCENTRATION TEST.—If the total number of shares which may be acquired pursuant to options granted to applicable highly compensated employees by an applicable taxpayer during a taxable year exceeds 50 percent of the aggregate share amount, then the deduction allowable under this chapter with respect to the exercise of any option granted by the applicable taxpayer during such taxable year to any employee shall be reduced by the product of—

''(A) the amount of such deduction computed without regard to this subsection, and

''(B) a percentage equal to the number of percentage points (including any fraction thereof) by which such total number exceeds 50 percent.

''(3) INDIVIDUAL CONCENTRATION TESTS.—

''(A) OPTIONS GRANTED TO SINGLE EMPLOYEE.—If the total number of shares which may be acquired pursuant to options granted to any applicable highly compensated employee by an applicable taxpayer during a taxable year exceeds 5 percent of the aggregate share amount, then no deduction shall be allowable under this chapter with respect to the exercise of any options granted by the applicable taxpayer to such employee during such taxable year.

''(B) OPTIONS GRANTED TO TOP EMPLOYEES.—

''(i) IN GENERAL.—If the total number of shares which may be acquired pursuant to options granted to employees who are members of the top group by an applicable taxpayer during a taxable year exceeds 15 percent of the aggregate share amount, then no deduction shall be allowable under this chapter with respect to the exercise of any options granted by the applicable taxpayer to such employees during such taxable year.

''(ii) TOP GROUP.—For purposes of this subparagraph, an employee shall be treated as a member of the top group if the employee is a covered employee (within the meaning of section 162(m)(3)).

''(C) EXCEPTION.—Subparagraphs (A) and (B) shall not apply to any taxable year if the applicable taxpayer granted an equal number of identical options to each employee without regard to whether the employee was highly compensated or not.

''(4) RULES RELATING TO TESTS.—For purposes of this subsection—

''(A) AGGREGATE SHARE AMOUNT.—

''(i) IN GENERAL.—The aggregate share amount for any taxable year is the total number of shares which may be acquired pursuant to options granted to all employees by an applicable taxpayer during the taxable year.

''(ii) CERTAIN OPTIONS DISREGARDED.—Except as provided in regulations, if the terms of any option granted to an employee other than a highly compensated employee during

any taxable year are not substantially the same as, or more favorable than, the terms of any option granted to any highly compensated employee, then such option shall not be taken into account in determining the aggregate share amount.

''(B) OPTIONS GRANTED ON DIFFERENT CLASSES OF STOCK.—Except as provided in regulations, this subsection shall be applied separately with respect to each class of stock for which options are granted.

''(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) APPLICABLE TAXPAYER.—The term 'applicable taxpayer' means any taxpayer which is an issuer (as defined in section 3 of the Securities Exchange Act of 1934; 15 U.S.C. 78c)—

''(i) the securities of which are registered under section 12 of that Act (15 U.S.C. 78l), or

''(ii) which—

''(I) is required to file reports pursuant to section 15(d) of that Act (15 U.S.C. 78o(d)), or

''(II) will be required to file such reports at the end of a fiscal year of the issuer in which a registration statement filed by such issuer has become effective pursuant to the Securities Act of 1933 (15 U.S.C. 77a et seq.), unless its securities are registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) on or before the end of such fiscal year.

''(B) APPLICABLE HIGHLY COMPENSATED EMPLOYEE.—The term 'applicable highly compensated employee' means—

''(i) any highly compensated employee who is described in subparagraph (B) of section 414(q)(1), and

''(ii) any director of the applicable taxpayer.

''(C) INCENTIVE STOCK OPTIONS NOT TAKEN INTO ACCOUNT.—An incentive stock option (as defined in section 422(b)) shall not be taken into account for purposes of applying this section.

''(D) AGGREGATION.—All corporations which are members of an affiliated group of corporations filing a consolidated return shall be treated as 1 taxpayer.

''(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to prevent the avoidance of this subsection through the use of phantom stock, restricted stock, or similar instruments.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 3. SHAREHOLDER APPROVAL.

(a) RULES REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Securities and Exchange Commission shall finalize rules pursuant to the Securities Exchange Act of 1934 to ensure that—

(1) shareholder approval is required for stock option plans and grants, stock purchase plans, and other arrangements by public companies by which any person may acquire an equity interest in the company in exchange for consideration that is less than the fair market value of the equity interest at the time of the exchange; and

(2) prior to submission of such plans to shareholders for approval, such shareholders are given detailed information about the stock option plans and grants, including—

(A) the economic rationale and interest of shareholders in the plan or grant;

(B) a detailed description of the anticipated distribution of the plan or grant among directors, officers, and employees and the rationale of such distribution;

(C) the total number of options reserved or intended for grants to each director and officer, and to different classes of employees;

(D) the maximum potential future earnings per share dilution of investors' shareholdings, assuming the exercise of all in-the-money options with no adjustment for the use of the Treasury stock method, as stock price varies;

(E) the terms under which stock option grants may be canceled or reissued; and

(F) the number, weighted average exercise prices, and vesting schedule of all options previously approved or outstanding.

(b) RELIABILITY AND ACCURACY.—The Commission shall ensure that all disclosures required by this section shall increase the reliability and accuracy of information provided to shareholders and investors.

(c) EXEMPTION AUTHORITY.—Shareholder approval rules issued in accordance with this section—

(1) may exempt stock option grants to individual employees under terms and conditions specified by the Commission, except that such exemptions shall be available only in cases in which the grant—

(A) is made to an individual who is not a director or officer of the company at the time the grant is approved;

(B) is necessary, based on business judgment;

(C) represents a de minimus potential dilution of future earnings per share of investors' shareholdings; and

(D) is made on terms disclosed to shareholders in the next filing with the Commission; and

(2) may exempt stock option plans and grants of any registrant that qualifies as a small business issuer under applicable securities laws and regulations, or to such additional small issuers as the Commission determines would be unduly burdened by such requirements as compared to the benefit to shareholders, except that such exemption may be phased in, both as to applicability and to its effective date, so that the Commission may determine the size of issuer to which such exemptions will apply and the extent to which the rule should apply to plans that exclude officers and directors.

SEC. 4. HOLDING PERIOD FOR EXECUTIVES.

Not later than 1 year after the date of enactment of this Act, the Securities and Exchange Commission shall conduct an analysis of, and make regulatory and legislative recommendations on, the need for new stock holding period requirements for senior executives, including—

(1) recommendations to set minimum holding periods after the exercise of options to purchase stock and to set a maximum percentage of stock purchased through options that may be sold; and

(2) an analysis of sales to company, sales on public markets, and derivative sales.

By Mr. FEINGOLD:

S. 2878. A bill to amend part A of title IV of the Social Security Act to ensure fair treatment and due process protections under the temporary assistance to needy families program, to facilitate enhanced data collection and reporting requirements under that program, and for other purposes; to the Committee on Finance.

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

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

S. 2878

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; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Fair Treatment and Due Process Protection Act of 2002''.

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

Sec. 1. Short title; table of contents; references.

TITLE I—ACCESS TO TRANSLATION SERVICES AND LANGUAGE EDUCATION PROGRAMS

Sec. 101. Provision of interpretation and translation services.

Sec. 102. Assisting families with limited English proficiency.

TITLE II—SANCTIONS AND DUE PROCESS PROTECTIONS

Sec. 201. Sanctions and due process protections.

TITLE III—DATA COLLECTION AND REPORTING REQUIREMENTS

Sec. 301. Data collection and reporting requirements.

Sec. 302. Enhancement of understanding of the reasons individuals leave State TANF programs.

Sec. 303. Longitudinal studies of TANF applicants and recipients.

Sec. 304. Protection of individual privacy.

TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date.

(c) REFERENCES.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the amendment or repeal shall be considered to be made to a section or other provision of the Social Security Act.

TITLE I—ACCESS TO TRANSLATION SERVICES AND LANGUAGE EDUCATION PROGRAMS

SEC. 101. PROVISION OF INTERPRETATION AND TRANSLATION SERVICES.

(a) IN GENERAL.—Section 408(a) (42 U.S.C. 608(a) is amended by adding at the end the following:

''(12) PROVISION OF INTERPRETATION AND TRANSLATION SERVICES.—A State to which a grant is made under section 403(a) for a fiscal year shall, with respect to the State program funded under this part and all programs funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)), provide appropriate interpretation and translation services to individuals who lack English proficiency if the number or percentage of persons lacking English proficiency meets the standards established under section 272.4(b) of title 7 of the Code of Federal Regulations (as in effect on the date of enactment of this paragraph).''.

(b) PENALTY.—Section 409(a) (42 U.S.C. 609(a)) is amended by adding at the end the following:

''(15) PENALTY FOR FAILURE TO PROVIDE INTERPRETATION AND TRANSLATION SERVICES.—

''(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 408(a)(12) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to up to 5 percent of the State family assistance grant.

''(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.''.

SEC. 102. ASSISTING FAMILIES WITH LIMITED ENGLISH PROFICIENCY.

(a) IN GENERAL.—Section 407(c)(2) is amended by adding at the end the following:

''(E) INDIVIDUALS WITH LIMITED ENGLISH PROFICIENCY.—In the case of an adult recipient who lacks English language proficiency, as defined by the State, the State shall—

''(i) advise the adult recipient of available programs or activities in the community to address the recipient's education needs;

''(ii) if the adult recipient elects to participate in such a program or activity, allow the recipient to participate in such a program or activity; and

''(iii) consider an adult recipient who participates in such a program or activity on a satisfactory basis as being engaged in work for purposes of determining monthly participation rates under this section, except that the State—

''(I) may elect to require additional hours of participation or activity if necessary to ensure that the recipient is participating in work-related activities for a sufficient number of hours to count as being engaged in work under this section; and

''(II) shall attempt to ensure that any additional hours of participation or activity do not unreasonably interfere with the education activity of the recipient.''.

(b) PENALTY.—Section 409(a) (42 U.S.C. 609(a)), as amended by section 101(b), is amended by adding at the end the following:

''(16) PENALTY FOR FAILURE TO PROVIDE INTERPRETATION AND TRANSLATION SERVICES.—

''(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(c)(2)(E) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to up to 5 percent of the State family assistance grant.

''(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.''.

TITLE II—SANCTIONS AND DUE PROCESS PROTECTIONS

SEC. 201. SANCTIONS AND DUE PROCESS PROTECTIONS.

(a) IN GENERAL.—Section 408(a) (42 U.S.C. 608(a)), as amended by section 101(a), is amended by adding at the end the following:

''(13) SANCTION PROCEDURES.—

''(A) PRE-SANCTION REVIEW PROCESS.—Prior to the imposition of a sanction against an individual or family receiving assistance under the State program funded under this part or under a program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)) for failure to comply with program requirements, the State shall take the following steps:

''(i) Provide or send notice to the individual or family, and, if the recipient's native language is not English, through a culturally competent translation, of the following information:

''(I) The specific reason for the proposed sanction.

''(II) The amount of the proposed sanction.

''(III) The length of time during which the proposed sanction would be in effect.

''(IV) The steps required to come into compliance or to show good cause for noncompliance.

''(V) That the agency will provide assistance to the individual in determining if good cause for noncompliance exists, or in coming into compliance with program requirements.

''(VI) That the individual may appeal the determination to impose a sanction, and the steps that the individual must take to pursue an appeal.

''(ii)(I) Ensure that, subject to clause (iii)—

''(aa) an individual other than the individual who determined that a sanction be imposed shall review the determination and have the authority to take the actions described in subclause (II); and

''(bb) the individual or family against whom the sanction is to be imposed shall be afforded the opportunity to meet with the individual who, as provided for in item (aa), is reviewing the determination with respect to the sanction.

''(II) An individual to which this subclause applies may—

''(aa) modify the determination to impose a sanction;

''(bb) determine that there was good cause for the individual or family's failure to comply;

''(cc) recommend modifications to the individual's individual responsibility or employment plan; and

''(dd) make such other determinations and take such other actions as may be appropriate under the circumstances.

''(iii) The review required under clause (ii) shall include consideration of the following:

''(I) To the extent applicable, whether barriers to compliance exist, such as a physical or mental impairment, including mental illness, substance abuse, mental retardation, a learning disability, domestic or sexual violence, limited proficiency in English, limited literacy, homelessness, or the need to care for a child with a disability or health condition, that contributed to the noncompliance of the person.

''(II) Whether the individual or family's failure to comply resulted from failure to receive or have access to services previously identified as necessary in an individual responsibility or employment plan.

''(III) Whether changes to the individual responsibility or employment plan should be made in order for the individual to comply with program requirements.

''(IV) Whether the individual or family has good cause for any noncompliance.

''(V) Whether the State's sanction policies have been applied properly.

''(B) SANCTION FOLLOW-UP REQUIREMENTS.—If a State imposes a sanction on a family or individual for failing to comply with program requirements, the State shall—

''(i) provide or send notice to the individual or family, in language calculated to be understood by the individual or family, and, if the individual's or family's native language is not English, through a culturally competent translation, of the reason for the sanction and the steps the individual or family must take to end the sanction;

''(ii) resume the individual's or family's full assistance, services, or benefits provided under this program (provided that the individual or family is otherwise eligible for such assistance, services, or benefits) once the individual who failed to meet program requirements that led to the sanction complies with program requirements for a reasonable period of time, as determined by the State and subject to State discretion to reduce such period;

''(iii) if assistance, services, or benefits have not resumed, as of the period that begins on the date that is 60 days after the date on which the sanction was imposed, and end on the date that is 120 days after such date, provide notice to the individual or family, in language calculated to be understood by the individual or family, of the steps the individual or family must take to end the sanction, and of the availability of assistance to come into compliance or demonstrate good cause for noncompliance with program requirements.''.

(b) PENALTY.—Section 409(a) (42 U.S.C. 609(a)), as amended by section 102(b), is amended by adding at the end the following:

''(17) PENALTY FOR FAILURE TO FOLLOW SANCTION PROCEDURES.—

''(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 408(a)(13) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to up to 5 percent of the State family assistance grant.

''(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.''.

(c) STATE PLAN REQUIREMENT TO DESCRIBE HOW STATES WILL NOTIFY APPLICANTS AND RECIPIENTS OF THEIR RIGHTS UNDER THE PROGRAM AND OF POTENTIAL BENEFITS AND SERVICES AVAILABLE UNDER THE PROGRAM.—Section 402(a)(1)(B)(iii) (42 U.S.C. 602(a)(1)(B)(iii)) is amended by inserting '', and will notify applicants and recipients of assistance under the program of the rights of individuals under all laws applicable to program activities and of all potential benefits and services available under the program'' before the period.

(d) REQUIREMENT TO PROVIDE NOTICE TO APPLICANTS AND RECIPIENTS OF RIGHTS AND OF POTENTIAL PROGRAM BENEFITS AND SERVICES, AND TO TRAIN PROGRAM PERSONNEL TO RESPECT SUCH RIGHTS.—

(1) IN GENERAL.—Section 408(a) (42 U.S.C. 608(a)), as amended by subsection (a), is amended by adding at the end the following:

''(14) REQUIREMENT TO PROVIDE NOTICE TO APPLICANTS AND RECIPIENTS OF RIGHTS AND OF POTENTIAL PROGRAM BENEFITS AND SERVICES, AND TO TRAIN PROGRAM PERSONNEL TO RESPECT SUCH RIGHTS.—A State to which a grant is made under section 403 shall—

''(A) notify each applicant for, and each recipient of, assistance under the State program funded under this part or under a program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)) of the rights of applicants and recipients under all laws applicable to the activities of such program (including the right to claim good cause exceptions to program requirements), and shall provide the notice—

''(i) to a recipient when the recipient first receives assistance, benefits, or services under the program;

''(ii) to all such recipients on a semiannual basis; and

''(iii) orally and in writing, in the native language of the recipient and at not higher than a 6th grade level, and, if the recipient's native language is not English, through a culturally competent translation; and

''(B) train all program personnel on a regular basis regarding how to carry out the program consistent with such rights.''.

(2) PENALTY.—Section 409(a) (42 U.S.C. 609(a)), as amended by subsection (b), is amended by adding at the end the following:

''(18) PENALTY FOR FAILURE TO PROVIDE NOTICE TO APPLICANTS AND RECIPIENTS OF RIGHTS AND OF POTENTIAL PROGRAM BENEFITS AND SERVICES, AND TO TRAIN PROGRAM PERSONNEL TO RESPECT SUCH RIGHTS.—

''(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 408(a)(14) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to up to 5 percent of the State family assistance grant.

''(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.''.

TITLE III—DATA COLLECTION AND REPORTING REQUIREMENTS

SEC. 301. DATA COLLECTION AND REPORTING REQUIREMENTS.

Section 411(a)(1) (42 U.S.C. 611(a)(1)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''(except for information relating to activities carried out under section 403(a)(5))'' and inserting '', and, in complying with this requirement, shall ensure that such information is reported in a manner that permits analysis of the information by race, ethnicity or national origin, primary language, gender, and educational level, including analysis using a combination of these factors, and that all data, including Federal, State, and local data (whether collected by public or private local agencies or entities that administer or operate the State program funded under this part) is made public and easily accessible'';

(B) by striking clause (v) and inserting the following:

''(v) The employment status, occupation (as defined by the most current Federal Standard Occupational Classification system, as of the date of the collection of the data), and earnings of each employed adult in the family.'';

(C) in clause (vii), by striking ''and educational level'' and inserting '', educational level, and primary language'';

(D) in clause (viii), by striking ''and educational level'' and inserting '', educational level, and primary language''; and

(E) in clause (xi), in the matter preceding subclause (I), by inserting '', including, to the extent such information is available, information on the specific type of job, or education or training program'' before the semicolon;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A), the following:

''(B) INFORMATION REGARDING APPLICANTS.—

''(i) IN GENERAL.—Each eligible State shall collect on a monthly basis, and report to the Secretary on a quarterly basis, disaggregated case record information on the number of individuals who apply for but do not receive assistance under the State program funded under this part, the reason such assistance were not provided, and the overall percentage of applications for assistance that are approved compared to those that are disapproved with respect to such month.

''(ii) REQUIREMENT.—In complying with clause (i), each eligible State shall ensure that the information required under that clause is reported in a manner that permits analysis of such information by race, ethnicity or national origin, primary language, gender, and educational level, including analysis using a combination of these factors.''.

SEC. 302. ENHANCEMENT OF UNDERSTANDING OF THE REASONS INDIVIDUALS LEAVE STATE TANF PROGRAMS.

(a) CASE CLOSURE REASONS.—Section 411(a)(1) (42 U.S.C. 611(a)(1)), as amended by section 301, is amended—

(1) by redesignating subparagraph (C) (as redesignated by such section 301) as subparagraph (D); and

(2) by inserting after subparagraph (B) (as added by such section 301) the following:

''(C) DEVELOPMENT OF COMPREHENSIVE LIST OF CASE CLOSURE REASONS.—

''(i) IN GENERAL.—The Secretary shall develop, in consultation with States and individuals or organizations with expertise related to the provision of assistance under the State program funded under this part, a comprehensive list of reasons why individuals leave State programs funded under this part. In developing such list, the Secretary shall consider the full range of reasons for case closures, including the following:

''(I) Lack of access to specific programs or services, such as child care, transportation, or English as a second language classes for individuals with limited English proficiency.

''(II) The medical or health problems of a recipient.

''(III) The family responsibilities of a recipient, such as caring for a family member with a disability.

''(IV) Changes in eligibility status.

''(V) Other administrative reasons.

''(ii) OTHER REQUIREMENTS.—The list required under clause (i) shall be developed with the goal of substantially reducing the number of case closures under the State programs funded under this part for which a reason is not known.

''(iii) PUBLIC COMMENT.—The Secretary shall promulgate for public comment regulations that—

''(I) list the case closure reasons developed under clause (i);

''(II) require States, not later than October 1, 2004, to use such reasons in accordance with subparagraph (A)(xvi); and

''(III) require States to report on efforts to improve State tracking of reasons for case closures, including the identification of additional reasons for case closures not included on the list developed under clause (i).

''(iv) REVIEW AND MODIFICATION.—The Secretary, through consultation and analysis of quarterly State reports submitted under this paragraph, shall review on an annual basis whether the list of case closure reasons developed under clause (i) requires modification and, to the extent the Secretary determines that modification of the list is necessary, shall publish proposed modifications for notice and comment, prior to the modifications taking effect.''.

(b) INCLUSION IN QUARTERLY STATE REPORTS.—Section 411 (a)(1)(A) (42 U.S.C. 611(a)(1)(A)) is amended—

(1) in clause (xvi)—

(A) in subclause (IV), by striking ''or'' at the end;

(B) in subclause (V), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(VI) a reason specified in the list developed under subparagraph (C), including any modifications of such list.'';

(2) by redesignating clause (xvii) as clause (xviii); and

(3) by inserting after clause (xvi), the following:

''(xvii) The efforts the State is undertaking, and the progress with respect to such efforts, to improve the tracking of reasons for case closures.''.

SEC. 303. LONGITUDINAL STUDIES OF TANF APPLICANTS AND RECIPIENTS.

(a) IN GENERAL.—Section 413 (42 U.S.C. 613) is amended by striking subsection (d) and inserting the following:

''(d) LONGITUDINAL STUDIES OF APPLICANTS AND RECIPIENTS TO DETERMINE THE FACTORS THAT CONTRIBUTE TO POSITIVE EMPLOYMENT AND FAMILY OUTCOMES.—

''(1) IN GENERAL.—The Secretary, directly or through grants, contracts, or interagency agreements, shall conduct longitudinal studies in at least 5, and not more than 10, States (or sub-State areas, except that no such area shall be located in a State in which a Statewide study is being conducted under this paragraph) of a representative sample of families that receive, and applicants for, assistance under a State program funded under this part or under a program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)).

''(2) REQUIREMENTS.—The studies conducted under this subsection shall—

''(A) follow families that cease to receive assistance, families that receive assistance throughout the study period, and families diverted from assistance programs; and

''(B) collect information on—

''(i) family and adult demographics (including race, ethnicity or national origin, primary language, gender, barriers to employment, educational status of adults, prior work history, prior history of welfare receipt);

''(ii) family income (including earnings, unemployment compensation, and child support);

''(iii) receipt of assistance, benefits, or services under other needs-based assistance programs (including the food stamp program, the medicaid program under title XIX, earned income tax credits, housing assistance, and the type and amount of any child care);

''(iv) the reasons for leaving or returning to needs-based assistance programs;

''(v) work participation status and activities (including the scope and duration of work activities and the types of industries and occupations for which training is provided);

''(vi) sanction status (including reasons for sanction);

''(vii) time limit for receipt of assistance status (including months remaining with respect to such time limit);

''(viii) recipient views regarding program participation; and

''(ix) measures of income change, poverty, extreme poverty, food security and use of food pantries and soup kitchens, homelessness and the use of shelters, and other measures of family well-being and hardship over a 5-year period.

''(3) COMPARABILITY OF RESULTS.—The Secretary shall, to the extent possible, ensure that the studies conducted under this subsection produce comparable results and information.

''(4) REPORTS.—

''(A) INTERIM REPORTS.—Not later than October 1, 2005, the Secretary shall publish interim findings from at least 12 months of longitudinal data collected under the studies conducted under this subsection.

''(B) SUBSEQUENT REPORTS.—Not later than October 1, 2007, the Secretary shall publish findings from at least 36 months of longitudinal data collected under the studies conducted under this subsection.''.

(b) ANNUAL REPORT TO CONGRESS.—

(1) IN GENERAL.—Section 411(b) (42 U.S.C. 611(b)) is amended—

(A) in paragraph (2)—

(i) by inserting ''(including types of sanctions or other grant reductions)'' after ''financial characteristics''; and

(ii) by inserting '', disaggregated by race, ethnicity or national origin, primary language, gender, education level, and, with respect to closed cases, the reason the case was closed'' before the semicolon;

(B) in paragraph (3), by striking ''and'' at the end;

(C) in paragraph (4), by striking the period and inserting ''; and''; and

(D) by adding at the end the following:

''(5) the economic well-being of children and families receiving assistance under the State programs funded under this part and of children and families that have ceased to receive such assistance, using longitudinal matched data gathered from federally supported programs, and including State-by-State data that details the distribution of earnings and stability of employment of such families and (to the extent feasible) describes, with respect to such families, the distribution of income from known sources

(including employer-reported wages, assistance under the State program funded under this part, and benefits under the food stamp program), the ratio of such families' income to the poverty line, and the extent to which such families receive or received noncash benefits and child care assistance, disaggregated by race, ethnicity or national origin, primary language, gender, education level, whether the case remains open, and, with respect to closed cases, the reason the case was closed.''.

(2) CONFORMING AMENDMENTS.—Section 411(a) (42 U.S.C. 611(a)) is amended—

(A) by redesignating paragraph (7) as paragraph (8); and

(B) by inserting after paragraph (6), the following:

''(7) REPORT ON ECONOMIC WELL-BEING OF CURRENT AND FORMER RECIPIENTS.—The report required by paragraph (1) for a fiscal quarter shall include for that quarter such information as the Secretary may specify in order for the Secretary to include in the annual reports to Congress required under subsection (b) the information described in paragraph (5) of that subsection.''.

SEC. 304. PROTECTION OF INDIVIDUAL PRIVACY.

Section 411 of the Social Security Act (42 U.S.C. 611) is amended by adding at the end the following:

''(c) PROTECTION OF INDIVIDUAL PRIVACY.—With respect to any information concerning individuals or families receiving assistance, or applying for assistance, under the State programs funded under this part that is publicly disclosed by the Secretary, the Secretary shall ensure that such disclosure is made in a manner that protects the privacy of such individuals and families.''.

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

The amendments made by this Act take effect on October 1, 2002.

By Mr. BINGAMAN:

S. 2880. A bill to designate Fort Bayard Historic District in the State of New Mexico as a National Historic Landmark, and for other purposes; to the Committee on Energy and Natural Resources

Mr. BINGAMAN. Mr. President, I introduce legislation to designate Fort Bayard in New Mexico as a national historic landmark. I am excited to offer this bill because I believe that the history of the fort deserves Federal recognition. Fort Bayard is significant not only for the role it played as a military post in fostering early settlement in the region, but for its role as a nationally important tuberculosis sanatorium and hospital. During the 99 years spanning its establishment in 1866 through its closing as a Veterans Administration hospital in 1965, Fort Bayard served as the most prominent evidence of the Federal government's role in Southwestern New Mexico. Fort Bayard has recently been listed on the National Register of Historic Places in recognition of the historical significance of the site.

From 1866 to 1899, Fort Bayard functioned as an Army post while its soldiers, many of them African-American, or Buffalo Soldiers, protected settlers working in nearby mining district. These Buffalo Soldiers were a mainstay of the Army during the late Apache wars and fought heroically in numerous skirmishes. Like many soldiers who served at Fort Bayard, some of the Buffalo Soldiers remained in the area following their discharge. Lines of headstones noting the names of men and their various Buffalo Soldier units remain in the older section of what is now the National Cemetery. In 1992, these soldiers were recognized for their bravery when a Buffalo Soldier Memorial statue was dedicated at the center of the Fort Bayard parade ground. It gradually became apparent that the Army's extensive frontier fort system was no longer necessary. By 1890, it was clear that the era of the western frontier, at least from the Army's perspective, had ended. Fort Bayard was scheduled for closure in 1899.

Even as the last detachment of the 9th U.S. Cavalry prepared to depart the discontinued post, new Federal occupants were arriving at Fort Bayard. On August 28, 1899, the War Department authorized the surgeon-general to establish a general hospital for use as a military sanatorium. This would be the first sanatorium dedicated to the treatment of officers and enlisted men of the Army suffering form pulmonary tuberculosis. At 6,100 ft. and with a dry, sunny climate, the fort lay within what proponents of climatological therapy termed the ''zone of immunity.'' By 1919, the cumulative effect of over 15 years of construction and improvement projects was the creation of a small, nearly self-sufficient community.

In 1920, the War Department closed the sanatorium and the United States Public Health Service assumed control of the facility. A second phase occurred in 1922 when a new agency, the Veterans' Bureau, was created within the Treasury Department and charged with operating hospitals throughout the country whose clientele were veterans requiring medical services. As a result, in the summer of 1922 the United States General Hospital at Fort Bayard was transferred to the Veterans' Bureau and became known as United States Veterans' Hospital No. 55. Its mission of treating those afflicted with tuberculosis, however, remained the same.

By 1965, there was no longer a need for a tuberculosis facility located at a high elevation in a dry climate, and the Veterans' Administration decided to close the hospital in that year. However, in part because of the concerns of the local communities that depended upon the hospital, the State of New Mexico assumed responsibility for the facility and 484 acres of the former military reservation. Since then, the State has used it for geriatric, as well as drug and alcohol rehabilitation and orthopedic programs. Because of the extensive cemetery dating to the fort and sanatorium eras at Fort Bayard, the State of New Mexico transferred 16 acres in 1975 for the creation of the Fort Bayard National Cemetery, administered by the Veterans' Administration.

For these and many other reasons, believe it is clear that Fort Bayard is historically significant and merits recognition as a national historic landmark. Fort Bayard illuminates a rich and complex story that is important to the entire nation.

By Mr. CRAIG:

S. 2883. A bill to allow States to design a program to increase parental choice in special education, to fully fund the Federal share of part B of the Individuals with Disabilities Education Act, to help States reduce paperwork requirements under part B of such Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. CRAIG. Mr. President, I introduce The Choice IDEA Act, which would reform the Individuals with Disabilities Education Act, IDEA. The federal government began dealing with special education in the 1970's, and on the whole what has come to be known as IDEA had proven to be a remarkable success. Before federal legislation, many times a child with a disability received little or no education. And if the child did receive an education, it was often sub-standard. IDEA has undoubtedly been a success, and you will find no stronger champion of educating the disabled than I. However, the success of IDEA should not blind us to the problems it, in its current form, causes.

These problems come up every time I meet with educators and education administrators from my state. When we sit down and discuss what we in the federal government can do for them, the discussion invariably turns to IDEA. These educators and school personnel want two things: full funding of the federal government's share of IDEA, like we promised back in the 1970's, and a reduction in paperwork. I have also talked to numerous parents about their experiences with IDEA. While many are happy with the current system, there are also many who are dissatisfied and who want more control and more choice over how their children are educated.

Some of the stories I hear are truly incredible and illustrate the serious need for IDEA reform. For example, there is a school district in North Idaho—in a county which has had very high unemployment and below average per-capita income since the early 1990's—which has well above the national average of children in special education. This district is doing a great job educating those children, but the high costs associated with doing so, and the time it takes to complete the reams of paperwork that must be filled out for every child, are severe drains on that district. I've also heard from a school superintendent in Idaho who is going through a particularly sticky due process hearing and who laments that the paperwork required by this hearing is costly, unnecessary, and takes away teachers' time from the

classroom. Parents have also contacted me with their stories of how school districts have mistreated them and how they can only find the proper program for their special child at a private school. The Choice IDEA Act would help out these parents, teachers, and school administrators by fully funding IDEA by Fiscal Year 2010, giving parents significantly more control over how their children are educated, and by reducing the onerous burden of paperwork that hampers the special education process.

The centerpiece of the bill is a proposal to allow states to set up a special education system based on parental choice. States that want to reform would draw up a list of disability categories and how much it costs to educate and accommodate a child who has that disability. The states would also draw up a menu outlining the educational services each pubic school in the state offers to children with those disabilities, and how much those services costs. These services must equal the quality of the services they offer today, and the states' programs would be approved by the Department of Education. If the Department of Education approves a state's plan, parents of special education children in that state would get a voucher for each child to choose from schools' menus to meet the needs of their children. Or, if parents did not find satisfactory services from the public schools, they could take their vouchers to any private school that could meet their children's needs.

As you can see, parents would have the ultimate control over how their child is educated. Since parents would have the option of taking their voucher and leaving a school if their child was not being educated properly, the due process requirements under IDEA would not be necessary and the school personnel would have their paperwork burden dramatically reduced. Parents and school personnel could work together to find a proper diagnosis for a student who had a disability and to find the right ways to educate this child, instead of being forced into an adversarial relationship as they are today.

It is important to point out, though, that this bill has no mandate on states that they must design the system outlined above. My bill would strengthen states' rights by allowing states one more option in dealing with special education. If states want to design such a special education system, they should have the freedom to do so. As welfare reform has shown us, states are often more innovative than the federal government in solving problems. This bill would give them one more tool to deal with the problems that are associated with IDEA.

Another important provision of this bill is that it would set up a grant program (up to $1 million) within the Department of Education to help school districts which have 15 percent or more of their students in special education hire para-professionals to help deal with the paperwork.

The Choice IDEA Act is not intended to be the final say on IDEA reform. I agree with many of the Presidential Commission's suggestions for IDEA reauthorization and hope to see them enacted into law; however, this reauthorization should include a provision giving states the option of pursuing their own reforms within the structure outlined above. When the Senate begins debating IDEA reauthorization, it is my hope that my bill will be considered and the Senate will reform IDEA so that the concept of ''no child is left behind'' truly includes every child.

By Mr. BAUCUS (for himself, Mr. CRAPO, Mr. JOHNSON, Mr. THOMAS, Mr. CRAIG, Mr. ENZI, Mr. CONRAD, Mr. BINGAMAN, and Mr. ALLARD):

S. 2884. A bill to improve transit service to rural areas, including for elderly and disabled; to the Committee on Banking, Housing, and Urban Affairs.

Mr. BAUCUS. Mr. President I introduce a bill to help rural America. Now I am always trying to help Montana, but this bill will help every state. Today I introduce the MEGA RED TRANS Act. Maximum Economic Growth for America Through Investment in Rural, Elderly and Disabled Transit.

Quite simply, there are transit needs not being met nationwide. This bill addresses those needs.

This is the second bill in a series that I am introducing to highlight my proposals on reauthorization of TEA 21—the Transportation Equity Act for the 21st Century.

Last month I introduced the MEGA TRUST Act—Maximum Growth for America Through the Highway Trust Fund. Today its MEGA RED TRANS.

The Maximum Economic Growth for America Through Investment in Rural, Elderly and Disabled Transit Act or MEGA RED TRANS Act would ensure, that as Federal transit programs are reauthorized, increased funding is provided to meet the needs of the elderly and disabled and of rural and small urban areas.

There is no question that our nation's large metropolitan areas have substantial transit needs that will receive attention as transit reauthorization legislation is developed. But the transit needs of rural and smaller areas, and of our elderly and disabled citizens, also require additional attention and funding.

The bill would provide that additional funding in a way that does not impact other portions of the transit program. For example, while the bill would at least double every State's funding for the elderly and disabled transit program by FY 2004, nothing in the bill would reduce funding for any portion of the transit program or for any State.

To the contrary, the bill would help strengthen the transit program as a whole by providing that the mass Transit Account of the Highway Trust Fund is credited with the interest on its balance. This is a key provision in the MEGA TRUST Act and is also included here in the MEGA RED TRANS Act.

Specifically, the bill would set modest minimum annual apportionments, by State, for the elderly and disabled transit program, the rural transit program, and for urbanized areas with a population of less than 200,000.

It would ensure that each state gets a minimum of $11 million for these three programs.

For my state of Montana that is double what we get for those programs currently. For some other states it is more than four times what they receive.

The bill would also establish a $30 million program for essential bus service, to help connect citizens in rural communities to the rest of the world by facilitating transportation between rural areas and airports and passenger rail stations.

I am very aware of the role that public transit plays in the lives of rural citizens and the elderly and disabled. When most people hear the word ''transit'' they think of a light rail system. But in rural areas transit translates to buses and vanpools. Take Elaine Miller for example.

Elaine is 73 years old and lives in Missoula, MT. She depends upon the city's Mountain Line public transit system for virtually all of her transportation needs. ''It's my car!'' she says.

Twelve years ago, Elaine suffered a stroke and decided that it was simply too dangerous to drive anymore. Today she takes transit to the doctor and to shop. She gets her prescriptions and meets family and friends, all using public transit.

As a regular rider, however, Elaine also understands the current limitations of transit in Missoula. ''Our bus service here needs to offer more service, particularly on the weekends and the evenings. I'd like to be able to take the bus to church,'' she says.

The frequency of bus service in Missoula, too, can often be an issue for Elaine. Last week, for example, she was left waiting more than two hours at a local store for the next bus to take her home.

''We seniors know how important the bus is to our quality of life. We really need more bus service. Without the bus, I know that myself and others would just have to stay home,'' says Elaine.

For Elaine, increased Federal investment in public transit in Montana would mean increased bus service in Missoula. Weekend service and increased frequency on current routes, she believes, are a great need.

I'd like to discuss another example of how rural transit and transit for the elderly and disabled is crucial to Montana. And I am sure we could easily find similar examples in every state.

Let's talk about Kathy Collins of Helena, MT.

Kathy moved to Helena in 1982 from Butte, MT, an area with no accessible transportation. In Helena, she discovered the Dial-A-Ride system, where lift-equipped vehicles could easily transport her in her wheelchair.

''It was terrific. I could get to work on time. And I could even get home on time!'' lauds Collins.

While she owns a minivan that she can drive to the middle school where she teaches, she is thankful to have a transportation option in inclement weather.

''Transit gets me to and from work in the winter time. I couldn't do it without them,'' she says, ''And for people who don't work, it's a godsend. They can't afford a taxi.''

While the Dial-A-Ride system provides Collins with dependable employment transportation on weekdays, she would like to see operations expanded to evenings and weekends.

''The service is essential. You need to give people access. You need to give people control over their lives. You need to give people the mobility that the rest of the country enjoys. Just because we live in the boondocks doesn't mean we don't need to go anywhere.'' she says.

I couldn't agree with her more. The MEGA RED TRANS Act will help these people and millions of others around the country. Considering the enormous impact the MEGA RED TRANS Act will have on the country, it is actually a very modest proposal.

The bill would not set funding levels for the transit program as a whole, or for large transit systems.

Moreover, the call for increases in the elderly and disabled, rural, and small urban area programs are not made in a static setting, but in the context of reauthorization.

In reauthorization the overall transit program undoubtedly will grow by more than the modest increases required by the provisions of this bill. So, nothing in the bill would preclude growth in other aspects of the transit program.

In sum, the bill stands for the proposition that, as the transit program is likely to continue to grow, no less than the funding increases proposed in this bill should be provided in order to better meet the needs of rural and small urban area transit systems and the transit needs of the elderly and disabled.

I would like to thank Senators CRAPO, THOMAS, JOHNSON, ENZI, CONRAD, BINGAMAN and CRAIG for joining me on this important piece of legislation.

I'd also like to thank both the members and staff of the American Bus Association, The Community Transportation Association and the Amalgamated Transit Union, for their assistance with this legislation.

I urge my colleagues to cosponsor this bill and to work to include it in the highway and transit reauthorization, next year.

By Mr. CORZINE (for himself and Mr. AKAKA):

S. 2885. A bill to amend the Electronic Fund Transfer Act to require additional disclosures relating to exchange rates in transfers involving international transactions; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORZINE. Mr. President, along with my distinguished colleague from Hawaii, Senator AKAKA, I am introducing The Wire Transfer Fairness and Disclosure Act, legislation that will protect consumers who send cash remittances through international money wire transfer companies by providing greater disclosure of the fees, including hidden costs, charged for those services.

Every year, thirty million Americans send their friends and relatives $40 billion in cash remittances through wire transfers. The majority of these transfers are remittances sent to their native countries by immigrants to the United States. For these individuals, many of whom are in low-to-minimum wage jobs, sending this money only increases their own personal financial burdens—but they do so to aid their families and their loved ones.

Unfortunately, these immigrants increasingly find themselves being preyed upon by the practices of some money wire transfer providers who not only charge consumers an upfront charge for the transfer service, but also hit them on the back end with hidden costs. Many of these charges are extracted when the dollars sent by the consumer are converted to the foreign currency value that is supposed to be paid out to the friend of the family member.

This exploitation is especially pervasive in Latin American and Caribbean countries. In fact, as many as 10 million Hispanic immigrants in the U.S. send remittances to their family and friends back home. Cumulatively, these individuals send $23 billion annually to some of our hemisphere's poorest economies. This money is used to pay for such basic needs such as food, medicine, and schooling.

In most Latin American and Caribbean countries, remittances far exceed U.S. development assistance. In the case of Nicaragua, Haiti, Jamaica, Ecuador and El Salvador, cash remittances account for more than 10 percent of national GDP.

These large cash flows have proven to be a powerful incentive for greed in the case of some wire transfer companies. Customers wiring money to Latin America and elsewhere in the world lose billions of dollars annually to undisclosed ''currency conversion fees.'' In fact, many large companies aggressively target immigrant communities, often advertising ''low fee'' or ''no fee'' rates for international transfers. But these misleading ads do not always clearly disclose the fees charged when the currency is exchanged.

While large wire service companies typically obtain foreign currencies at bulk rates, they charge a significant currency conversion fee to their U.S. customers. For example, customers wiring money to Mexico are charged an exchange rate that routinely varies from the benchmark by as much as 15 percent. These hidden fees create staggering profits, allowing companies to reap billions of dollars on top of the stated fees they charge for the wire transfer services.

While this practice may not be illegal, it is wrong, and it must be stopped. The Wire Transfer Fairness and Disclosure Act requires financial institutions or money-transmitting businesses that initiate international money transfers to disclose all fees charged in an international wire transfer.

The legislation also requires these companies to provide consumers with important disclosures regarding the exchange rate used in connection with the transaction; the exchange rate prevailing at a major financial center in the foreign country whose currency is involved in the transaction; or the official exchange rate, if any, of the government or central bank of that foreign country.

The bill would additionally require disclosure to the consumer who initiates the transaction of any fees or commissions charged by transfer service providers in connection with any transaction and the exact amount of foreign currency to be received by the recipient in the foreign country, which shall be disclosed to the consumer before the transaction is consummated and printed on the receipt given to customer.

This legislation does more than merely provide better information to consumers—it should also help them financially. Consumers will see increased competition among wire transfer companies because they are better-informed and more knowledgeable. That competition will result in lower fees for the wire transfer services that will free up a greater portion of these cash remittances to go to the friends and families that they were originally intended for.

In short, this is sound public policy that empowers those who do their part to help America's economy move forward.

I hope that my colleagues will support this legislation.

Mr. AKAKA. Mr. President, I cosponsor the Wire Transfer Fairness and Disclosure Act of 2002, introduced by my colleague, Senator CORZINE. I thank Senator CORZINE and Representative LUIS GUTIERREZ for their leadership on this issue. I also want to express my appreciation to the Chairman of the Banking Committee, Senator SARBANES, for conducting a hearing on the issue of remittances.

Immigrants nationwide often send a portion of their hard-earned wages to

relatives and their communities abroad. Remittances can be used to improve the standard of living of recipients by increasing access to health care and education.

Unfortunately, people who send remittances are often unaware of the fees and exchange rates used in the transaction that reduce the amount of money received by their family members. In many cases, fees for sending remittances can be ten to twenty percent of the value of the transaction. In addition to the fees, the exchange rate used in the transaction can be significantly lower than the market rate. The exchange rate used in the transaction is typically not disclosed to customers.

Consumers cannot afford to be uneducated regarding financial service options and fees placed on their transactions. This legislation is needed to provide the necessary information to consumers so that they may make informed decisions about sending money. The Wire Transfer Fairness and Disclosure Act would ensure that each customer is fully informed of all of the fees and the exchange rates used in the transaction.

If consumers are provided additional information about the transaction costs involved with sending money, they may be more likely to utilize banks and credit unions which often can provide lower cost remittances. If unbanked immigrants use the remittance services offered by banks and credit unions, they may be more likely to open up an account. Many immigrants are unbanked and lack a relationship with a mainstream financial services provider. The unbanked are more likely to use check-cashing services which charge an average fee of over nine percent. They are also more likely to utilize the services provided by pay-day and predatory lenders. The unbanked miss the opportunities for saving and borrowing at mainstream financial institutions.

This legislation is particularly important to my home State of Hawaii. Hawaii is home to significant numbers of recent immigrants from many nations, including the Philippines. The Philippines is one of the largest destinations for remittances from the United States. The gross value of remittances to the Philippines is $3.7 billion and a large portion of that amount comes from people in Hawaii.

Mr. President, I encourage all of my colleagues to support this much needed legislation and I ask unanimous consent that a copy of the bill be printed in the RECORD at this point.

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

S. 2885

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 ''Wire Transfer Fairness and Disclosure Act of 2002''.

SEC. 2. DISCLOSURE OF EXCHANGE RATES IN CONNECTION WITH INTERNATIONAL MONEY TRANSFERS.

(a) IN GENERAL.—The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) by redesignating sections 918 through 921 as sections 919 through 922, respectively; and

(2) by inserting after section 917 the following new section:

''SEC. 918. DISCLOSURE OF EXCHANGE RATES IN CONNECTION WITH INTERNATIONAL MONEY TRANSFERS.

''(a) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) INTERNATIONAL MONEY TRANSFER.—The term 'international money transfer' means any money transmitting service involving an international transaction which is provided by a financial institution or a money transmitting business.

''(2) MONEY TRANSMITTING SERVICE.—The term 'money transmitting service' has the same meaning as in section 5330(d)(2) of title 31, United States Code.

''(3) MONEY TRANSMITTING BUSINESS.—The term 'money transmitting business' means any business which—

''(A) provides check cashing, currency exchange, or money transmitting or remittance services, or issues or redeems money orders, travelers' checks, or other similar instruments; and

''(B) is not a depository institution (as defined in section 5313(g) of title 31, United States Code).

''(b) EXCHANGE RATE AND FEES DISCLOSURES REQUIRED.—

''(1) IN GENERAL.—Any financial institution or money transmitting business which initiates an international money transfer on behalf of a consumer (whether or not the consumer maintains an account at such institution or business) shall disclosure, in the manner required under this section—

''(A) the exchange rate used by the financial institution or money transmitting business in connection with such transactions;

''(B) the exchange rate prevailing at a major financial center of the foreign country whose currency is involved in the transaction, as of the close of business on the business day immediately preceding the date of the transaction (or the official exchange rate, if any, of the government or central bank of such foreign country);

''(C) all commissions and fees charged by the financial institution or money transmitting business in connection with such transaction; and

''(D) the exact amount of foreign currency to be received by the recipient in the foreign country, which shall be disclosed to the consumer before the transaction is consummated and printed on the receipt referred to in paragraph (3).

''(2) PROMINENT DISCLOSURE INSIDE AND OUTSIDE THE PLACE OF BUSINESS WHERE AN INTERNATIONAL MONEY TRANSFER IS INITIATED.—The information required to be disclosed under subparagraphs (A), (B), and (C) of paragraph (1) shall be prominently displayed on the premises of the financial institution or money transmitting business both at the interior location to which the public is admitted for purposes of initiating an international money transfer, and on the exterior of any such premises.

''(3) PROMINENT DISCLOSURE IN ALL RECEIPTS AND FORMS USED IN THE PLACE OF BUSINESS WHERE AN INTERNATIONAL MONEY TRANSFER IS INITIATED.—All information required to be disclosed under paragraph (1) shall be prominently displayed on all forms and receipts used by the financial institution or money transmitting business when initiating an international money transfer in such premises.

''(c) ADVERTISEMENTS IN PRINT, BROADCAST, AND ELECTRONIC MEDIA AND OUTDOOR ADVERTISING.—The information required to be disclosed under subparagraphs (A) and (C) of subsection (b)(1) shall be included—

''(1) in any advertisement, announcement, or solicitation which is mailed by the financial institution or money transmitting business and pertains to international money transfers; or

''(2) in any print, broadcast, or electronic medium or outdoor advertising display not on the premises of the financial institution or money transmitting business and pertaining to international money transfers.

''(d) DISCLOSURES IN LANGUAGES OTHER THAN ENGLISH.—The disclosures required under this section shall be in English and in the same language as that principally used by the financial institution or money transmitting business, or any of its agents, to advertise, solicit, or negotiate, either orally or in writing, at that office, if other than English''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 3 months after the date of enactment of this Act.

By Mr. SMITH of New Hampshire (for himself, Mr. HELMS, and Mr. HUTCHINSON):

S. 2886. A bill to amend the Internal Revenue Code of 1986 to ensure the religious free exercise and free speech rights of churches and other houses of worship to engage in an insubstantial amount of political activities; to the Committee on Finance.

Mr. SMITH of New Hampshire. Mr. President, along with my colleagues Senators TIM HUTCHINSON and JESSE HELMS, to introduce the Houses of Worship Political Speech Protection Act.

This bill, introduced by my friend Congressman WALTER B. JONES of North Carolina, H.R. 2357, enjoys broad support on the House side with 128 bipartisan cosponsors.

This bill amends the Internal Revenue Code to permit a church to participate or intervene in a political campaign and maintain its tax-exempt status as long as such participation is not a substantial parts of its activities.

The bill replaces the absolute ban on political intervention with the ''no substantial part of the activities'' test currently used in the lobbying context. This bill would give clergy the freedom to speak out on moral and political issues of our day and to fully educate their congregation on where the candidates stand on the issues without the threat of losing their tax exempt status.

Senator Lyndon Johnson inserted the ban on political speech in 1954 as a floor amendment in order to hamstring certain anticommunist organizations that were opposing him in the Democratic Party. No hearings took place nor was any congressional record developed in order to explain the reasons for the ban. There is no indication that Senator Johnson intended to target churches.

Before 1954, pastors and members of many churches spoke freely about candidates and political issues. The slavery abolitionist organizations and the

civil rights movement are great examples of church inspired political success.

Had the current law been enforced earlier in American history, William Lloyd Garrison could not have spoken out against slavery, nor could Martin Luther King, Jr. have spoken out against segregation.

Currently, the ban on political speech has a dramatic chilling effect on the ability of houses of worship to speak out on moral and political issues, since under Section 501(C)(3), houses of worship may not engage in even a single activity that might be regarded as participating in, or intervening in a campaign on behalf of or in opposition to a candidate for public office.

Thus ultimately restricts the clergy's freedom of speech by threatening to revoke the church's tax-exempt status if they dare to speak out on moral and political questions of our day.

Additionally, the bill seeks to shift the burden of proof from houses of worship to the IRS. Rather than require the house of worship to prove that its activities are not political at all, this bill will force the IRS to prove that its activities are in fact substantially political.

Nothing in this bill ''makes'' a church speak on political issues; it merely gives them the freedom to do so if they choose to.

Since so many of the issues that are debated in the halls of Congress have a moral or religious aspect to them, those who ask for help from a higher power should not be absent from the political process.

America is a religious nation. Religion affects every aspect of our culture, and yes, even our government. The views of our church-going members and their clergy are vital to a well-rounded debate on the important issues of our day.

This substantial portion of the American people who consider themselves religious and practice that religion should not be shut out of the process.

I hope more of my colleagues will join us and cosponsor this important legislation.

By Mrs. FEINSTEIN:

S. 2887. A bill to provide for the sharing of homeland security information by Federal intelligence and law enforcement agencies with State and local entities; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I introduce the Homeland Security Information Sharing Act, a bill to increase state and local access to security information that could save American lives. The House has already passed similar legislation bill sponsored by Representatives HARMAN and CHAMBLISS, and it is my understanding that the Administration supports this legislation as well.

The bill I introduce today will not solve our intelligence problems—we have a long road ahead of us before we can accomplish that. But this legislation will send a clear signal to our federal agencies that information gathered at the federal level must be shared with states and localities if we are to triumph in the battle against terrorism.

State and local law enforcement are first-line defenders of our homeland security. Too often, though, state and local officials do not receive information necessary for them to protect us. If, for instance, there were a terrorist threat against the Golden Gate Bridge in San Francisco, we would want a cooperative effort between the Federal government and local officials.

This bill would:

Direct the President to establish procedures for federal agencies to share homeland security information with state and local officials, and for all government officials to be able to communicate with each other. Local officials should quickly have access to relevant intelligence necessary to prevent or respond to attacks in their communities.

Direct the President to address concerns about too much dissemination of classified or sensitive information, by setting procedures to protect this material. This could include requiring background checks of local officials who seek access to classified information, or perhaps even non disclosure agreements so that secret information stays secret.

Direct the President to ensure that our current information sharing systems and computers are capable of sharing relevant homeland security information with each other and with state and local systems.

Mr. President, we can improve information sharing without re-inventing the wheel. The legislation applies technology already used to share information with our NATO allies and with Interpol. The information can be shared through existing networks, such as the National Law Enforcement Telecommunications System, the Regional Information Sharing Systems, and the Terrorist Threat Warning System. These systems already reach law enforcement offices throughout America.

Better information sharing will result in better homeland security. As a Congress, we are already working on making intelligence gathering and dissemination work better within the federal government. We must not forget to improve communications with state and local law enforcement as well.

I urge my colleagues to support this legislation, and I hope that we can pass it quickly in September. It is non-controversial, and would help send a clear signal that information gathering and dissemination may be our best defense against terror.

By Mrs. BOXER:

S. 2888. A bill to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouse in that country; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, I introduced a bill that will convey the B.F. Sisk Federal Building in Fresno, California to the County of Fresno, when the new federal courthouse is completed and occupied.

Fresno County is a rapidly growing county in the heart of California's Great Central Valley. The County of Fresno's Superior Court has a serious need for new court space that will grow in the years ahead. The Sisk Building contains courtrooms and related space that will help the people of Fresno County meet those needs. The Sisk's building existing security measures are a perfect fit for Fresno County's justice system.

This legislation is a common sense measure that will allow appropriate utilization of the Sisk Building, while contributing to the ongoing revitalization of downtown Fresno. I am proud that it is yet another opportunity for the federal government to improve the lives of Fresno County's people.

By Mr. HUTCHINSON:

S. 2889. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance; to the Committee on Finance.

Mr. HUTCHINSON. Mr. President, there are 39 million uninsured people in America, and that number is predicted to grow to 50 million by 2010. Surprisingly, 80 percent of the uninsured are members of working families, who work hard everyday but simply cannot afford the rising cost of health care.

According to a recent survey by Hewitt Associates, the average insurance premium will increase more than 20 percent in 2003. This is a sharp increase from earlier forecasts. Such an increase is in addition to the double digit increase in premiums anticipated this year.

I am pleased today to introduce the Securing Access Value and Equality in Health Care Act, or SAVE Act. This bill will provide every American with a pre-payable, fully refundable tax credit toward the purchase of health insurance.

The tax credit will be $1,000 for individuals, $2,000 for married couples, and $500 per dependent, up to $3,000 per family. An additional 50 percent will be added for any additional premiums to assist those with higher costs. By being pre-payable, the credit will be available to individuals at the time of purchase, instead of when they receive their annual tax return.

A study by Professor Mark Pauly at the Wharton School at the University of Pennsylvania showed that a credit like that contained in the SAVE Act would remove 20 million Americans from the ranks of the uninsured.

The SAVE Act will provide direct assistance to millions of Americans, and

over 498,000 uninsured Arkansans, in affording health insurance. I urge my colleagues to support this important legislation.

By Mr. DODD (for himself and Mr. DEWINE):

S. 2890. A bill to amend the Public Health Service Act to establish grant programs to provide for education and outreach on newborn screening and coordinated followup care once newborn screening has been conducted, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I join with my colleague, Senator MIKE DEWINE, to introduce legislation to protect the most vulnerable members of our society: newborn infants. About 2 months ago, many families across the country celebrated Father's Day. As a first-time dad of a 10-month-old baby girl, I now know the joy of being able to experience that holiday and every other pleasure that comes along with being a father. What I also now share with parents everywhere is a constant sense of worry about whether our kids are doing well, are feeling well, and are safe. Nothing is of greater importance than the health and well-being of our children.

Thanks to incredible advances in medical technology, it is now possible to test newborns for at least 30 genetic and metabolic disorders. Many of these disorders, if undetected, would lead to severe disability or death. However, babies that are properly diagnosed and treated can go on to live healthy lives. In the most direct sense, newborn screening saves lives.

Frighteningly, the disorders that newborn screening tests for can come without warning. For most of these disorders, there is no medical history of the condition in the family, no way to predict the health of a baby based on the health of the parents. Although the disorders that are tested for are quite rate, there is a chance that any one newborn will be affected. In that sense, this is an issue that has a direct impact on the lives of every family.

Fortunately, screening has become common practice in every state. Each year, over four million infants have blood taken from their heel to detect these disorders that could threaten their life and long-term health. As a result, about one in 4,000 babies is diagnosed with one of these disorders. That means that newborn screening could save approximately 1,000 lives each year. That is 1,000 tragedies that can possibly be averted—families left with the joy of a new infant rather than absolute heartbreak.

That is the good news. However, there is so much more to be done. More than 2,000 babies born are estimated to be born every year in the United States with potentially detectable disorders that go undetected because they are not screened. These infants and their families face the prospect of disability or death from a preventable disorder. Let me repeat that—disability or death from a preventable disorder. The survival of a newborn may very well come down to the state in which it is born. Only two states, including my home state of Connecticut thanks to recent legislation, will test for all 30 disorders. The vast majority test for eight or fewer.

I recently chaired a hearing on this issue during which I related a story that illustrates the impact of newborn screening, or the lack of newborn screening, in a very personal sense. Jonathan Sweeney is a three-year-old from Brookfield, CT. At the time of his birth, the state only tested for eight disorders. He was considered a healthy baby, although he was a poor sleeper and needed to be fed quite frequently. One morning in December of 2000, Jonathan's mother, Pamela, found Jonathan with his eyes wide open but completely unresponsive. He was not breathing and appeared to be having a seizure. Jonathan was rushed to the hospital where, fortunately, his life was saved. He was later diagnosed with L–CHAD, a disorder that prevents Jonathan's body from turning fat into energy.

Despite this harrowing tale, Jonathan and his family are extremely fortunate. Jonathan is alive, and his disorder can be treated with a special diet. He has experienced developmental delays that most likely could have been avoided had he been tested and treated for L–CHAD at birth. This raises a question. Why was he not tested? Why do 47 states still not test for L–CHAD?

The primary reason for this unfortunate reality is the lack of consensus on the federal level about what should be screened for, and how a screening program should be developed. Twenty of the thirty disorders can only be detected using a costly piece of equipment called a tandem mass spectrometer. Currently, only nine states have this resource. Many health care professionals are unaware of the possibility of screening for disorders beyond what their state requires. Parents, and I include myself, are even less well-informed. My daughter Grace was born in Virginia, where they screen for nine disorders. I was extremely relieved when all of those tests came out negative. However, at that time I did not know that this screening was not as complete as it could have been. My ignorance had nothing to do with my love for my daughter or my capability as a parent. The fact is that the majority of parents do not realize that this screening occurs at all, nor are they familiar with the disorders that are being screened for. For that reason, one of the most important first steps that we can take to protect our children is to educate parents and health care professionals.

In the Children's Health Act of 2000, I supported the creation of an advisory committee on newborn screening within the Department of Health and Human Services. The purpose of this committee would be to develop national recommendations on screening, hopefully eliminating the disparities between states that currently exist. The Children's Health Act also included a provision to provide funding to states to expand their technological resources for newborn screening. Unfortunately, funds were not appropriated for either of these provisions. We are told that $25 million in appropriations is needed for this crucial initiative and we need to fight for these dollars as we develop the FY03 budget.

The legislation that we are introducing today, the Newborn Screening Saves Lives Act of 2002, seeks to address the shocking lack of information available to health care professionals and parents about newborn screening. Every parent should have the knowledge necessary to protect their child. The tragedy of a newborn's death is only compounded by the frustration of learning that the death was preventable. This bill authorizes $10 million in fiscal year 2003 and such sums as are necessary through fiscal year 2007 to HRSA for grants to provide education and training to health care professionals, state laboratory personnel, families and consumer advocates.

Our legislation will also provide states with the resources to develop programs of follow-up care for those children diagnosed by a disorder detected through newborn screening. While these families are the fortunate ones, in many cases they are still faced with the prospect of extended and complex treatment or major lifestyle changes. We need to remember that care does not stop at diagnosis. For that reason, this bill authorizes $5 million in fiscal year 2003 and such sums as are necessary through FY 2007 to HRSA for grants to develop a coordinated system of follow-up care for newborns and their families after screening and diagnosis.

Finally, the bill directs HRSA to assess existing resources for education, training, and follow-up care in the states, ensure coordination, and minimize duplication; and also directs the Secretary to provide an evaluation report to Congress two and a half years after the grants are first awarded and then after five years to assess impact and effectiveness and make recommendations about future efforts.

I urge my colleagues to support this important initiative and look forward to working together to accomplish its passage.

By Mr. KERRY (for himself, Mr. HARKIN and Ms. LANDRIEU):

S. 2891. A bill to create a 4-year pilot program that makes small, non-profit child care businesses eligible for SBA 504 loans; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, we have shortage of childcare in this country, and it is a problem for our families, a

problem for our businesses, and a problem for our economy. The Census Bureau estimates that there are approximately 24 million school age children with parents who are in the workforce or pursuing education, and the numbers are growing. There has been a 43 percent increase in dual-earner families and single parent families over the last half a century. As parents leave the home for work and education, the need for quality childcare in America continues to increase.

As Chairman of the Small Business and Entrepreneurship, I think we can foster the establishment and expansion of existing child care businesses through the Small Business Administration. Today with Senators HARKIN and LANDRIEU, I am introducing, the Child Care Lending Pilot Act, a bill to create a four-year pilot that allows small, non-profit child care businesses to access financing through SBA's 504 loans.

Non-profit child care small businesses already have access to financing through the SBA's microloan program, which many of us made possible through legislation in 1997. Microloans help with working capital and the purchase of some equipment, but there is also a need to help finance the purchase of buildings, expand existing facilities to meet child care demand, or improve facilities. It is appropriate to provide financing through the 504 program because it was created to spur economic development and rebuild communities, and child care is critical to businesses and their employees. Financing through 504 could spur the establishment and growth of child care businesses because the program requires the borrower to put down only between 10 and 20 percent of the loan, making the investment more affordable.

As anyone with children knows, quality childcare comes at a very high cost to a family, and it is especially burdensome to low-income families. The Children's Defense Fund estimates that childcare for a 4-year-old in a childcare center averages $4,000 to $6,000 per year in cities and states around the nation. In all but one state, the average annual cost of childcare in urban area childcare centers is more than the average annual cost of public college tuition.

These high costs make access to child care all but non-existent for low-income families. While some states have made efforts to provide grants and loans to assist childcare businesses, more must be done to increase the supply of childcare and improve the quality of programs for low-income families. According to the Child Care Bureau, state and federal funds are so insufficient that only one out of 10 children in low-income working families who are eligible for assistance under federal law receives it.

For parts of the country, when affordable child care is available, it is provided through non-profit child care businesses. I formed a task force in my home State of Massachusetts to study the state of child care, and of the many important findings, we discovered that more than 60 percent of the child care providers are non-profit and that there is a real need to help them finance the purchase of buildings or expand their existing space. Child care in general is not a high earning industry, and the owners don't have spare money lying around. Asking centers to charge less or cut back on employees is not the way to make childcare more affordable for families and does not serve the children well. An adequate staff is needed to make sure children receive proper supervision and support. Furthermore, if centers are asked to lower their operating costs in order to lower costs to families, the safety and quality of the childcare provided would be in jeopardy.

I urge my colleagues to support this legislation so non-profit childcare providers can access funds to start new centers or expand and improve upon existing centers.

Allowing non-profit childcare centers to receive SBA loans will be the first step toward improving the availability of childcare in the United States. Non-profit childcare centers provide the same quality of care as the for-profit centers, and non-profit centers often serve our nation's most needy communities. I hope that my colleagues will recognize the vital role that early education plays in the development of fine minds and productive citizens and realize that in this great nation, childcare should be available to all families in all income brackets.

I ask unanimous consent that the text of the bill and several letters of support be printed in the RECORD. These letters demonstrate that this is a good investment that is good for our country.

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

S. 2891

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 ''Child Care Lending Pilot Act''.

SEC. 2. CHILD CARE BUSINESS LOAN PROGRAM.

(a) LOANS AUTHORIZED.—Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking ''The Administration'' and inserting the following:

''(a) AUTHORIZATION.—The Administration'';

(B) by striking ''and such loans'' and inserting ''. Such loans''; and

(C) by striking '': *Provided, however*, That the foregoing powers shall be subject to the following restrictions and limitations:'' and inserting a period; and

(D) by adding at the end the following:

''(b) RESTRICTIONS AND LIMITATIONS.—The authority under subsection (a) shall be subject to the following restrictions and limitations:''; and

(2) in paragraph (1)—

(A) by inserting after ''USE OF PROCEEDS.—'' the following:

''(A) IN GENERAL.—''; and

(B) by adding at the end the following:

''(B) LOANS TO SMALL, NON-PROFIT CHILD CARE BUSINESSES.—The proceeds of any loan described in subsection (a) may be used by the borrower to assist, in addition to other eligible small business concerns, small, non-profit child care businesses, provided that—

''(i) the loan will be used for a sound business purpose that has been approved by the Administration; and

''(ii) each such business receiving financial assistance meets all of the same eligibility requirements applicable to for-profit businesses under this title, except for status as a for-profit business.''.

(b) REPORTS.—

(1) SMALL BUSINESS ADMINISTRATION.—

(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, and every 6 months thereafter until September 30, 2006, the Administrator of the Small Business Administration shall submit a report on the implementation of the program under subsection (a) to—

(i) the Committee on Small Business and Entrepreneurship of the Senate; and

(ii) the Committee on Small Business of the House of Representatives.

(B) CONTENTS.—The report under subparagraph (A) shall contain—

(i) the date on which the program is implemented;

(ii) the date on which the rules are issued pursuant to subsection (c); and

(iii) the number and dollar amount of loans under the program applied for, approved, and disbursed during the previous 6 months.

(2) GENERAL ACCOUNTING OFFICE.—

(A) IN GENERAL.—Not later than March 31, 2006, the Comptroller General of the United States shall submit a report on the child care small business loans authorized by section 502(b)(1)(B) of the Small Business Investment Act of 1958, as added by this Act, to—

(i) the Committee on Small Business and Entrepreneurship of the Senate; and

(ii) the Committee on Small Business of the House of Representatives.

(B) CONTENTS.—The report under subparagraph (A) shall contain information gathered during the first 2 years of the loan program, including—

(i) an evaluation of the timeliness of the implementation of the loan program;

(ii) a description of the effectiveness and ease with which Certified Development Companies, lenders, and small businesses have participated in the loan program;

(iii) a description and assessment of how the loan program was marketed;

(iv) the number of child care small businesses, categorized by status as a for-profit or non-profit business and a new business or an expanded business, that—

(I) applied for loans under the program;

(II) were approved for loans under the program; and

(III) received loan disbursements under the program.

(v) of the businesses under clause (iv)(III)—

(I) the number of such businesses in each State;

(II) the total amount loaned to such businesses under the program; and

(III) the average loan amount and term.

(c) RULEMAKING AUTHORITY.—Not later than 120 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue final rules to carry out the loan program authorized by section 502(b)(1)(B) of the Small Business Investment Act of 1958, as added by this Act.

(d) SUNSET PROVISION.—The amendments made by this section shall remain in effect until September 30, 2006, and shall apply to all loans authorized by section 502(b)(1)(B) of the Small Business Investment Act of 1958, as added by this Act, that are made during the period beginning on the date of enactment of this Act and ending on September 30, 2006.

OMNIBANK, N.A.,
Houston, TX, July 30, 2002.

Re: Proposed Senate Bill

Hon. JOHN F. KERRY,
U.S. Senate, Washington, DC.

DEAR SENATOR KERRY: Please accept this letter as my full support of the bill, soon to be introduced, proposing a Pilot Program, operating through the Small Business Administration's 504 Loan Program, that would allow Day Care facilities designated as non-profits to be eligible for the program.

I believe the demand for such a product is strong, and is fiscally sound. My reasons are as follows:

1. Day Care Centers must carry a non-profit designation in order to accept children to the center from low-income families.
2. These business benefit low-income neighborhoods and enterprise zones by purchasing property, improving the physical appearance of the community and providing safe facilities for the children. The ability to utilize the SBA–504 program would enable these businesses to decrease lease/payment expense and hence, help more children.
3. These families are in the most need for quality day care facilities in their community, since many use mass transit to get to work.
4. Small businesses have provided most of the job growth in this country in the last ten years. By enabling these Day Care Centers to operate efficiently and provide quality facilities, we will be helping small business gain and maintain employees.
5. Designation as a non-profit business does not equate to an inability to pay loans, or other business expenses.

OMNIBANK, a 50-year-old community bank in Houston, Texas, has experienced a consistent demand for loans to Day Care Centers. Most loan requests from these entities are for the purpose of acquiring or expanding property (real-estate) or acquiring transportation equipment. An example of a specific, recent request follows:

The Executive Director and Owner of Teeter Totter Day Care Center approached OMNIBANK about a loan to purchase the building used to house the Center. The owner an African-American woman, was experienced in this business. Cash flow to service the debt was sufficient and appropriate under prudent lending guidelines. The only deterrent from making a conventional loan was the amount available for down payment. Twenty percent or more is usually required.

Under the SBA–504 Program, a ten percent down payment is allowed and standard procedure for multi-use buildings. Additionally, it offers a fixed rate on the SBA portion of the loan. Most small businesses do not have access to fixed rate mortgages, due to the size of the loan requests, which enhances to attractives of the SBA 504 Program even further.

As we were preparing the request package, we realized that a non-profit did not qualify. The owner would personally guarantee the loan, and even agreed to form a for profit corporation to hold the property, because the underlying tenant was non-profit it would not work. The owner could not change Teeter Totter into a for profit corporation without jeopardizing its subsidies for low-income children.

OMNIBANK and the day care center are located in Houston's fifth ward, most of which is classified as low to moderate income. Its population is primarily low-income African Americans and Hispanics. The project was viewed by the Bank as a good loan from a business perspective, with many additional benefits to the community at large.

Ultimately, after appealing to SBA for a exception, and spending a great deal of time on the project, the loan was not completed. This delayed a good project from improving many aspects of an already underscored community, due to a simple tax classification.

As stated earlier, OMNIBANK receives consistent requests from day care centers, most of which are non-profit. I believe that a Pilot Program as proposed, will prove that these are viable and valuable businesses. I would recommend that all other standard criteria, proven track record, cash flow, management expertise, etc. remain.

I look forward to any questions you may have, or any further examples I can provide.

Sincerely,

JULIE A. CRIPE,
President and Chief Operating Officer.

NEIGHBORHOOD BUSINESS BUILDERS,
Boston, MA, July 10, 2002.

Senator JOHN KERRY,
Chairman, Senate Committee on Small Business and Entrepreneurship, Washington DC.

DEAR CHAIRMAN SENATOR KERRY, I am writing on behalf of Neighborhood Business Builders and the Jewish Vocational Service of Boston in support of legislation to expand availability of SBA 504 loans to non-profit child care centers.

I am currently the Director of Loan Funds at Neighborhood Business Builders, which is an economic development program and US SBA Intermediary Microlender. I have been lending and consulting to small businesses for the past year after fifteen years in the private sector as founder of three different companies in Boston and Los Angeles. I have an MPA from the Kennedy School at Harvard University.

I am on Senator Kerry's Child Care and Small Business Advisory Committee, and am Co-chair of the Sub Committee on Family Child Care.

I support legislative change to the 504 loan program because our committee has uncovered a need for government support of non-profit child care centers. The basic reason for this is that, while we recognize a demand for child care in every part of the country, we do not consider that the market fails to profitably supply child care in every part of the country.

For-profit entities are able to access the capital they need by (1) Demonstrating demand for the service provided and (2) Demonstrating ability to serve market rate debt with acceptable risk. Non-profit centers emerge when (1) Demonstrated demand for the service is evident but (2) The market will not support the true cost of the service provided. These non-profit centers are unable to access traditional forms of capital because they cannot demonstrate an ability to service debt at an acceptable risk.

The SBA 504 loan program would help mitigate the risk to lenders who will then be able to provide the necessary capital for the service that we know is in demand. The tax status of a child care center should be irrelevant, since the 501(C)3 status is only granted when there is evidence of a public good being provided.

Sincerely,

ERIC KORSH,
Director of Loan Funds, Neighborhood Business Builders.

WESTERN MASSACHUSETTS ENTERPRISE FUND INC.,
Greenfield, MA, July 12, 2002.

Senator JOHN KERRY,
Chairman, Senate Committee on Small Business and Entrepreneurship, Washington, DC.

DEAR SENATOR KERRY: I am writing in strong support of the legislation to expand the use of the SBA 504 program to include the financing of non-profit children centers.

As a member of Senator Kerry's Childcare Advisory Committee and the Executive Director of the Western Massachusetts Enterprise Fund (which makes loans to non-profits), I have seen a clear need for both more flexible and lower cost financing.

The SBA 504 program meets both those needs. By providing up to 40 percent financing, the SBA 504 program can help children centers more easily leverage bank financing. Additionally, the program offers highly competitive interest rates.

Finally, allowing the SBA to make loans to non-profit childcare centers is not new to the agency. The SBA is already making working capital loans to non-profit childcare centers through its Microenterprise Loan Fund Program.

If you have any questions, please do not hesitate to contact me.

Sincerely,

CHRISTOPHER SIKES,
Executive Director.

THE COMMONWEALTH OF MASSACHUSETTS,
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES,
Boston, MA, July 11, 2002.

Hon. JOHN KERRY,
Senate Committee on Small Business and Entrepreneurship, Washington, DC.

DEAR CHAIRMAN KERRY:

The Massachusetts Office of Child Care Services (OCCS) fully supports expansion of the SBA 504 loan program to include non-profit child care programs. OCCS is the state's licensing agency responsible for setting and enforcing strong health, safety and education standards for child care programs throughout the Commonwealth. OCCS is also the lead state agency responsible for the administration and purchase of all human services child care subsidies across the state. As a result, this agency is greatly invested in the viability of these child care programs and in increasing the capacity of child care services to benefit more families in the Commonwealth.

Currently there are approximately 17,000 licensed child care facilities in the Commonwealth which can provide services to over 200,000 children. Many of these facilities are non-profit programs[1] that serve low-income families that are receiving child care subsidies to help them become or remain employed, and families that are or were receiving TANF. The availability and accessibility of child care is one of the main reasons that families can continue to successfully transition from welfare to work. There are currently approximately 18,000 children on the waiting list for a child care subsidy. The reauthorization of TANF may further increase the number of families seeking subsidized child care and Massachusetts must be ready to provide quality care. Accordingly, current and future non-profit programs will greatly benefit from the expansion of the SBA 504 loan program, as will the families that they serve.

OCCS is a member of the Advisory Committee on Child Care and Small Business and fully supports the Committee's mission of uniting the small business and child care communities to help providers maximize their income while providing quality child care. Expansion of the SBA 504 loan program will undoubtedly help expand the availability and accessibility of quality child

care. Thank you for your support of this important legislation. If I can be of further assistance please do not hesitate to contact me.

Sincerely,

ARDITH WIEWORKA,
Commissioner.

SOUTH EASTERN ECONOMIC DEVELOPMENT CORPORATION,
Taunton, MA, July 10, 2002.

Re: Non Profit Child Care Center Eligibility Under the SBA 504 Program

Chairman JOHN KERRY,
Senate Committee on Small Business and Entrepreneurship, Russell Building, Washington, DC.

DEAR SENATOR KERRY: As a member of the Advisory Committee on Child Care and Small Business as well as Vice President at South Eastern Economic Development (SEED) Corporation, I am writing in support of the idea of expanding the SBA 504 program to allow for non profit child care centers to be eligible for financing under the program. SEED Corporation is a Certified Development Company certified and accredited to administer the SBA 504 program throughout southeastern Massachusetts. Over the past 2 years, SEED has been the number one SBA 504 lender in the State. SEED is also an approved SBA Microenterprise Intermediary and we have enjoyed and made use of the ability to provide micro loans to non-profit child care businesses since the microenterprise intermediary legislation made the special provision for non profit child care providers to be eligible for SBA micro loan funds. My primary responsibilities at SEED include origination, underwriting and closing SBA 504 loans as well as the oversight and development of SEED's micro loan and business assistance activities.

Over the past five years, SEED has assisted over 10 FOR-PROFIT child care businesses to obtain SBA 504 financing for their start-up or expansion projects. However, we have also had to turn away an equal number of non-profit child care centers that were seeking similar assistance due to the fact that non profit entities are not eligible under the SBA 504 program.

As we have learned from discussions and analysis within the Advisory Committee on Child Care and Small Business, access to long term, fixed market or below-market rate financing is essential to any child care center. The slim margins that characterize this industry limit any child care center's ability to grow. The SBA 504 program offers the type of fixed rate financing that not only assists the business to keep its occupancy costs under control but also serves to stabilize its operations over the long term. The program also provides an incentive to a bank to provide fixed asset financing to a business that might not otherwise be able to afford a conventional commercial mortgage. The non-profit child care centers provide the same quality of care as the for-profit centers. Preventing non-profit child care center from making use of the SBA 504 program when their for profit competitiors are able to do results in discrimination against the children they serve, and, in general, the majority of child care centers operating in our state's neediest areas are non-profit.

For these reasons, I would like to support your efforts to expand the SBA 504 program enabling non-profit child care centers to be eligible for fixed asset financing under the 504 program. Thank you for your efforts.

Sincerely,

HEATHER DANTON,
Vice President.

ACCION USA,
Boston, MA, June 8, 2002.

Hon. JOHN KERRY,
Chairman, Senate Committee on Small Business and Entrepreneurship, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY:

My name is Erika Eurkus, and as a member of your Advisory Committee on Child Care and Small Business, I writing to voice my support of expanding the SBA 504 loan program to include nonprofit child care centers.

I am the greater Boston program director for ACCION USA, a nonprofit ''micro'' lender whose mission is to make access to credit a permanent resource to low- and moderate-income small business owners in the United States—helping to narrow the income gap and provide economic opportunity to small business owners throughout the country. Many of the struggling entrepreneurs we serve are the owners of small, family-based day care centers.

At ACCION, I regularly come into contact with women and men whose dream is to operate a successful child care center—to provide a service to the community while making a better life from something they love to do. Often, what keeps these hardworking entrepreneurs from fully realizing that dream is a lack of working capital to begin and grow their businesses. Microlenders like ACCION are the only place they can turn for the crucial capital they need for their businesses. Mauro Leija, an ACCION client in San Antonio, Texas, has tried—and failed—to secure capital from commercial banks. ''The loan officer at the bank said, 'Be realistic—you'll never get a loan. You have no college diploma, no capital, no history with any bank,' '' Mauro remembers. This lack of economic opportunity is too often the reality for countless child care providers—most of whom earn an average of $3 per hour for their services.

With increased access to capital through the expansion of the SBA 504 loan program, small, nonprofit day care centers can continue to provide their valuable services to the community—and build a better life for their own families at the same time. Suzanne Morris of Springfield, Massachusetts, a longtime ACCION USA borrower, already illustrates the potential successes that an expanded SBA 504—and an opportunity for capital—will bring to day care owners across the country. After years of hard work and several small loans from ACCION, Suzanne has moved her day care out of the home and has expanded her staff to include seven members of the community. The business supports her family of four. She also gives back by training other local home-based day care providers in federal nutrition guidelines.

It is my hope that we can all witness more successes like those of Suzanne by opening the door to funding for small day care providers. Please include nonprofit child care centers in the scope of SBA 504.

Sincerely,

ERIKA EURKUS,
Greater Boston Program Director.

GUILD OF ST. AGNES,
CHILD CARE PROGRAMS,
Worcester, MA, July 3, 2002.

Senator JOHN KERRY,
Chairman, Senate Committee on Small Business and Entrepreneurship, Russell Building, Washington, DC.

DEAR SENATOR KERRY, It has come to my attention that your committee is working on legislation that would expand the SBA 504 loan program to non-profit child care centers.

As the Executive Director of the Guild of St. Agnes Child Care Agency and a member of The Advisory Committee on Child Care and Small Business, I wholeheartedly support this legislation. The Guild of St. Agnes is a non-profit child care agency providing child care in Worcester, MA and its surrounding towns. Presently we care for 1200 children aged four weeks to twelve years in child care centers, family care provider's home and public schools. Of our seven centers, we currently own one.

Four of our centers are in old, worn-down buildings, causing us difficulty in recruiting new clients. As we look towards the future, the Guild of St. Agnes has set a goal of replacing these centers with new buildings. In order to accomplish this goal, we need to look for creative funding sources to support our capital campaign. The SBA 504 loan program would allow us to invest 10% of our own funds for capital expenses, borrow 50% from the government and secure a bank loan for 40%. Not only is this loan program attractive to banking institutions, it allows child care agencies like the Guild of St. Agnes to continue to grow during these economically challenging times.

I urge you to support the SBA 504 loan program legislation. The future of non-profit child care agencies such as the Guild of St. Agnes depends on it!

Sincerely,

EDWARD P. MADAUS,
Executive Director.

By Mr. KENNEDY (for himself, Mrs. CLINTON, and Mr. ROCKEFELLER):

S. 2892. A bill to provide economic security for America's workers; to the Committee on Finance.

Mr. KENNEDY. Mr. President, the U.S. is in the midst of another ''jobless recovery,'' similar to the early 1990s, with the unemployment rate showing few signs of falling in the coming months. Over the past three months, the jobless rate has hovered around 6 percent and long-term unemployment levels now exceed those reached in any recent recession. Last month, nearly one in five unemployed workers remained out of work for six months or more. Some 150,000 jobs have been lost since the beginning of this year and 8.4 million people are currently unemployed.

The recent spate of corporate scandals has only made it worse. Sadly, Enron and WorldCom were not isolated events of corporate greed that hurt America's workers. Tens of thousands have lost their jobs because of the disgrace and mistrust company leaders created, or because of company mismanagement. At Lucent, 77,000 workers were laid off. At Kmart, 22,000 workers were laid off. At Xerox, over 13,000 workers were laid off. At Tyco, almost 10,000 workers were laid off. At Global Crossing, over 9,000 workers were laid off. At Polaroid, over 4,000 workers were laid off.

As new corporate scandals lead to additional mass lay-offs and Americans remain unemployed longer, workers are losing their unemployment benefits with no hope for a new job in sight. Too many low-wage and part-time workers remain without unemployment benefits. And benefit levels remain too low to keep families out of poverty in many states. Today, I along with Senators CLINTON and ROCKEFELLER, am

introducing the Economic Security Act 2002 to protect those unemployed workers and reinvigorate the economy.

Last year, Senate Democrats responded to the recession with an immediate plan to stimulate the economy and help laid-off workers get back on their feet. In March, House Republicans finally relented and we extended unemployment benefits for millions of workers. It was a significant step forward, but it did not go far enough.

This week, economists confirmed that recovery is slow at best. Economic growth fell from 5.0 percent in the first quarter of 2002 to 1.1 percent in the second quarter. Business investment still has not recovered and continues to decline, while the trade deficit soared to record highs. Job growth, the last area of the economy to recover after a recession, continues to lag. As hundreds of thousands of workers exhaust their extended benefits, it's time to close the gaps in the extended benefit program. The Economic Security Act of 2002 will provide additional extended benefits for millions of workers who remain unemployed.

The bill will also help those workers currently left out of the unemployment insurance system, part-time and low-wage workers. Part-time work is a significant part of our modern economy and women and low-wage workers disproportionately comprise the part-time workforce. Yet, the majority of states do not provide benefits to unemployed workers seeking part-time work. The twenty States that already provide benefits to unemployed part-time workers have not found their inclusion overly costly.

In addition, according to the GAO, low-wage workers are half as likely to receive unemployment benefits than other unemployed workers, even though low-wage workers as twice as likely to be unemployed. In all but 12 States, most unemployed low-wage workers are not eligible for benefits because their most recent earnings are not counted. Failing to count a worker's most recent earnings not only denies unemployed workers benefits, but also cuts down on the duration and amount of benefits that some unemployed workers receive.

These part-time and low-wage workers pay into the unemployment system, but fail to receive benefits. In January, Democratic Senators were joined by ten of our Republican colleagues in a vote to provide temporary benefits to part-time and low-wage workers, as well as increasing benefit levels and extending benefits. The Economic Security Act of 2002 incorporates these important provisions.

Too often, those who receive unemployment find that unemployment checks are not sufficient to meet basic needs. In some states, the maximum weekly benefit amount is less than the poverty level for a one-parent, two-child family. Raising benefit levels helps families stay out of poverty and invests more in the economy. After all, unemployed workers immediately spend unemployment insurance benefits in their communities, providing immediate economic stimulus. This bill would give a boost to workers and the economy by raising temporary extended benefit levels by the greater of 15 percent or $25 a week.

As Americans exhaust their benefits in greater numbers, we must ensure that all workers can put food on their families' tables and keep a roof over their heads when jobs are scarce. And we must ensure that unemployment insurance serves the purpose for which it was created, to serve as a safety net for all workers during tough economic times and stimulate economic growth. The Economic Security Act of 2002 will be a giant leap forward for America's workers.

Mr. ROCKEFELLER. Mr. President, despite some signs of an improving economy, for hard-working Americans, it is, unfortunately, a ''jobless recovery.'' While we see some positive economic indicators, the unemployment rate continues to rise and shows few signs of falling. For working Americans, that is bad news. Too many people are finding themselves without a job, and without a source of income.

The Labor Department reports that over the past few months, the unemployment rate has hovered around 6 percent, with 8.4 million people officially counted as unemployed. My home State of West Virginia reported an unemployment rate of 6.8 percent in June, which is only somewhat higher than the national average, but some of our counties are struggling with unemployment rates in the double digits.

Not only are more people being laid off, they are also remaining unemployed for longer. From January to May 2002, the proportion of unemployed workers who were still looking for work after 27 weeks increased by 41 percent, and unemployment levels now exceed those reached in any recent recession. Workers are suffering unemployment for longer periods, and are losing benefits before they can find new jobs. In January 2002, a total of 373,000 workers exhausted their benefits, a sizeable 11 percent increase from the same time last year.

We faced similar troubles in the early 1990s, when, amidst a recession, Congress enacted an emergency Federal extended benefits program designed to help unemployed workers and their families. Some analysts suggest that without that program, approximately 70 percent of unemployed families would have ended up with incomes below the federal poverty line. When our Nation faces such an economic downturn, action is essential to help hard-working Americans get back on their feet after a devastating layoff. Now, in the midst of another economic downturn, we must also act to provide American families with the assistance they need.

I rise today in support of a bill to be introduced by my colleague, Senator KENNEDY, that would remedy several flaws in the current unemployment benefits program. This is an enormously important piece of legislation, one that should be enacted immediately for the sake of working families who have been put out of jobs through no fault of their own.

The measure would give States administrative funding so they can distribute benefit checks punctually and accurately. It would ensure that all unemployed workers receive a full 13 weeks of benefits. And it would repeal the 20-weeks-of-work prerequisite to receiving benefits that primarily punishes low-wage workers and newer entrants to the job market.

Beginning in 1986, Federal and State governments began withholding taxes from the benefit checks of all aid recipients. However, no accommodations were made to offset these deductions, and recipients saw a significant reduction in benefits. To ameliorate this problem, Senator KENNEDY's legislation would raise benefit levels by 15 percent or $25 a week, whichever is higher.

Finally, a majority of States currently refuse benefits to unemployed workers seeking part-time work. West Virginia does cover part-time workers, but I believe every state should do this as well. Part-time work is an enormously important component of our economy, particularly as it involves large numbers of women and low-wage earners. Senator KENNEDY's bill would require states to base eligibility on a worker's most recent earnings. This seemingly technical provision would greatly expand eligibility to benefits for many workers, in my state, and across the country.

Millions of Americans are still struggling, and they do not have a steady source of income. I urge my colleagues to support this bill to reform America's unemployment insurance program; it is urgently needed and should be passed with great haste. This bill is the right thing to do for working Americans, and it is an essential measure for those still suffering from the effects of our uncertain economy.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2893. A bill to provide that certain Bureau of Land Management land shall be held in trust for the Pueblo of Santa Clara and the Pueblo of San Ildefonso in the State of New Mexico; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I am pleased to be joined by Senator BINGAMAN in introducing legislation that declares the United States holds certain public domain lands in trust for the Pueblos of San Ildefonso and Santa Clara in New Mexico.

In 1988 the Bureau of Land Management (BLM), pursuant to the Federal Lands Policy and Management Act, declared approximately 4,484 acres located in the eastern foothills of the Jemez Mountains in north central New

Mexico, including portions of Garcia and Chupadero Canyons, to be ''disposal property.'' The Garcia Canyon surplus lands qualify for disposal partially because the tract is an isolated tract of land almost inaccessible to the general public. It is surrounded on three sides by the reservations of Santa Clara Pueblo and the Pueblo of San Ildefonso, and by U.S. Forest Service land on the remaining side. The only road access consists of unimproved roads through the two Pueblo's reservations. These factors have resulted in minimal or no public usage of the Garcia Canyon surplus lands in recent decades.

I understand that currently there are no resource permits, leases, patents or claims affecting these lands. It is unlikely that any significant minerals exist with the Garcia Canyon transfer lands. The Garcia Canyon transfer lands contain a limited amount of lesser quality forage for livestock and have not been actively grazed for over a decade. However, the Garcia Canyon surplus lands constitute an important part of the ancestral homelands of the Pueblos of Santa Clara and San Ildefonso.

Santa Clara and San Ildefonso are two of the Tewa-speaking federally-recognized Indian Pueblos of New Mexico. Both Pueblos have occupied and controlled the areas where they are presently located since many centuries before the arrival of the first Europeans in the area in late 16th century. Their homelands are defined by geographical landmarks, cultural sites, and other distinct places whose traditional Tewa names and locations have been known and passed down in each Pueblo through the generations. Based upon these boundaries, about 2,000 acres of the Garcia Canyon surplus lands is within the aboriginal domain of the Pueblo of San Ildefonso. The remaining lands, approximately 2,484 acres are in Santa Clara's aboriginal lands.

The Bureau of Land Management currently seeks to dispose of the Garcia Canyon surplus lands and the Pueblos of Santa Clara and San Ildefonso seek to obtain these lands. In addition, the BLM and Interior Department for years have supported the transfer of the land to the two Pueblos, provided the Pueblos agree upon a division of the Garcia Canyon surplus lands. In response, the two Pueblos signed a formal agreement affirming the boundary between their respective parcels on December 20, 2000.

The Pueblos of Santa Clara and San Ildefonso have worked diligently in arriving at this agreement. They have also worked collaboratively in seeking community support and garnering supporting resolutions from Los Alamos, Rio Arriba and Santa Fe Counties, the National Congress of American Indians and supporting letters from the National Audubon Society's New Mexico State Office, the Quivira Coalition and the Santa Fe Group of the Sierra Club.

This unique situation presents a win-win opportunity to support more efficient management of public resources while restoring to tribal control isolated tracts of federal disposal property. Upon transfer, the Pueblos of Santa Clara and San Ildefonso intend to maintain these lands in their natural state and use them for sustainable traditional purposes including cultural resource gathering, hunting and possibly livestock grazing. Where appropriate, both tribes are interested in performing work to restore and improve ecosystem health, particularly to support habitat for culturally significant animal and plant species. Both Pueblos have experienced Natural Resource Management and Environmental Protection programs and are capable of managing these lands for both ecologic health and community benefits.

We want to secure Congressional authorization to transfer control of these lands to the two Pueblos, with legal title being held in trust by the Secretary of Interior for each of the Pueblos for their respective portions of the property. I urge my colleagues to support this 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. 2893

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

SECTION 1. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term ''Agreement'' means the agreement entitled ''Agreement to Affirm Boundary Between Pueblo of Santa Clara and Pueblo of San Ildefonso Aboriginal Lands Within Garcia Canyon Tract'', entered into by the Governors on December 20, 2000.

(2) BOUNDARY LINE.—The term ''boundary line'' means the boundary line established under section 4(a).

(3) GOVERNORS.—The term ''Governors'' means—

(A) the Governor of the Pueblo of Santa Clara, New Mexico; and

(B) the Governor of the Pueblo of San Ildefonso, New Mexico.

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) PUEBLOS.—The term ''Pueblos'' means—

(A) the Pueblo of Santa Clara, New Mexico; and

(B) the Pueblo of San Ildefonso, New Mexico.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) TRUST LAND.—The term ''trust land'' means the land held by the United States in trust under section 2(a) or 3(a).

SEC. 2. TRUST FOR THE PUEBLO OF SANTA CLARA, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of Santa Clara, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,484 acres of Bureau of Land Management land located in Rio Arriba County, New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., Sec. 22, New Mexico Principal Meridian, that is located north of the boundary line;

(2) the southern half of T. 20 N., R. 7 E., Sec. 23, New Mexico Principal Meridian;

(3) the southern half of T. 20 N., R. 7 E., Sec. 24, New Mexico Principal Meridian;

(4) T. 20 N., R. 7 E., Sec. 25, excluding the 5–acre tract in the southeast quarter owned by the Pueblo of San Ildefonso;

(5) the portion of T. 20 N., R. 7 E., Sec. 26, New Mexico Principal Meridian, that is located north and east of the boundary line;

(6) the portion of T. 20 N., R. 7 E., Sec. 27, New Mexico Principal Meridian, that is located north of the boundary line;

(7) the portion of T. 20 N., R. 8 E., Sec. 19, New Mexico Principal Meridian, that is not included in the Santa Clara Pueblo Grant or the Santa Clara Indian Reservation; and

(8) the portion of T. 20 N., R. 8 E., Sec. 30, that is not included in the Santa Clara Pueblo Grant or the San Ildefonso Grant.

SEC. 3. TRUST FOR THE PUEBLO OF SAN ILDEFONSO, NEW MEXICO.

(a) IN GENERAL.—All right, title, and interest of the United States in and to the land described in subsection (b), including improvements on, appurtenances to, and mineral rights (including rights to oil and gas) to the land, shall be held by the United States in trust for the Pueblo of San Ildefonso, New Mexico.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 2,000 acres of Bureau of Land Management land located in Rio Arriba County and Santa Fe County in the State of New Mexico, and more particularly described as—

(1) the portion of T. 20 N., R. 7 E., Sec. 22, New Mexico Principal Meridian, that is located south of the boundary line;

(2) the portion of T. 20 N., R. 7 E., Sec. 26, New Mexico Principal Meridian, that is located south and west of the boundary line;

(3) the portion of T. 20 N., R. 7 E., Sec. 27, New Mexico Principal Meridian, that is located south of the boundary line;

(4) T. 20 N., R. 7 E., Sec. 34, New Mexico Principal Meridian; and

(5) the portion of T. 20 N., R. 7 E., Sec. 35, New Mexico Principal Meridian, that is not included in the San Ildefonso Pueblo Grant.

SEC. 4. SURVEY AND LEGAL DESCRIPTIONS.

(a) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall, in accordance with the Agreement, complete a survey of the boundary line established under the Agreement for the purpose of establishing, in accordance with sections 2(b) and 3(b), the boundaries of the trust land.

(b) LEGAL DESCRIPTIONS.—

(1) PUBLICATION.—On approval by the Governors of the survey completed under subsection (a), the Secretary shall publish in the Federal Register—

(A) a legal description of the boundary line; and

(B) legal descriptions of the trust land.

(2) TECHNICAL CORRECTIONS.—Before the date on which the legal descriptions are published under paragraph (1)(B), the Secretary may correct any technical errors in the descriptions of the trust land provided in sections 2(b) and 3(b) to ensure that the descriptions are consistent with the terms of the Agreement.

(3) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1)(B), the legal descriptions

shall be the official legal descriptions of the trust land.

SEC. 5. ADMINISTRATION OF TRUST LAND.

(a) IN GENERAL.—Beginning on the date of enactment of this Act—

(1) the land held in trust under section 2(a) shall be declared to be a part of the Santa Clara Indian Reservation; and

(2) the land held in trust under section 3(a) shall be declared to be a part of the San Ildefonso Indian Reservation.

(b) APPLICABLE LAW.—

(1) IN GENERAL.—The trust land shall be administered in accordance with any law (including regulations) or court order generally applicable to property held in trust by the United States for Indian tribes.

(2) PUEBLO LANDS ACT.—The following shall be subject to section 17 of the Act of June 7, 1924 (commonly known as the ''Pueblo Lands Act'') (25 U.S.C. 331 note):

(A) The trust land.

(B) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of Santa Clara in the Santa Clara Pueblo Grant.

(C) Any land owned as of the date of enactment of this Act or acquired after the date of enactment of this Act by the Pueblo of San Ildefonso in the San Ildefonso Pueblo Grant.

(c) USE OF TRUST LAND.—

(1) IN GENERAL.—Subject to the criteria developed under paragraph (2), the trust land may be used only for—

(A) traditional and customary uses; or

(B) stewardship conservation for the benefit of the Pueblo for which the trust land is held in trust.

(2) CRITERIA.—The Secretary shall work with the Pueblos to develop appropriate criteria for using the trust land in a manner that preserves the trust land for traditional and customary uses or stewardship conservation.

(3) LIMITATION.—Beginning on the date of enactment of this Act, the trust land shall not be used for any new commercial developments.

SEC. 6. EFFECT.

Nothing in this Act—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of a person or entity (other than the United States) that is—

(A) in or to the trust land; and

(B) in existence before the date of enactment of this Act;

(2) enlarges, impairs, or otherwise affects a right or claim of the Pueblos to any land or interest in land that is—

(A) based on Aboriginal or Indian title; and

(B) in existence before the date of enactment of this Act;

(3) constitutes an express or implied reservation of water or water right with respect to the trust land; or

(4) affects any water right of the Pueblos in existence before the date of enactment of this Act.

By Mrs. FEINSTEIN (for herself, Mr. KYL, Mrs. HUTCHISON, and Ms. SNOWE):

S. 2895. A bill to enhance the security of the United States by protecting seaports, and for other purposes; to the Committee, Science, and Transportation.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Comprehensive Seaport and Container Security Act of 2002 to protect against terrorist attacks on or through our Nation's seaports. I would like to thank Senators Kyl, Hutchison, and Snowe for joining me in sponsoring this bill.

Currently, our seaports are the gaping hole in our Nation's defense against terrorism. Of the over 18 million shipping containers that enter our ports each year, 6 million come from overseas. However, only 1 or 2 percent of these containers are inspected, and inspections almost invariably occur after the containers arrive in the United States.

The problem is that single container could contain 60,000 pounds of explosives, 10 to 15 times the amount in the Ryder truck used to blow up the Murrah Federal Building in Oklahoma city, and a single container ship can carry as many as 8,000 containers at one time. Containers could easily be exploited to detonate a bomb that would destroy a bridge, seaport, or other critical infrastructure, causing mass destruction and killing thousands.

Worse, a suitcase-sized nuclear device or radiological ''dirty bomb'' could also be installed in a container and shipped to the United States. The odds that the container would never be inspected. And, even if the container was inspected, it would be too late. The weapon would already be in the United States—most likely near a major population center.

There is no doubt in my mind that terrorists are seeking to exploit vulnerabilities at our seaports right now.

For example, a recent article in the Bangkok Post notes that ''Al-Qaeda is among international terrorist organisations responsible for an increase in piracy against ships carrying radioactive materials through the Malacca Straits. . . . The terrorist groups' main aims were to obtain substances such as uranium and plutonium oxide for use in so-called dirty bombs.''

In addition, any attack on or through a seaport could have devastating economic consequences. Every year U.S. ports handle over 800 million tons of cargo valued at approximately $600 billion.

Excluding trade with Mexico and Canada, America's ports handle 95 percent of U.S. trade. Two of the busiest ports in the world are in my home State of California: Los Angeles/Long Beach and at Oakland.

We cannot inspect every container coming into the United States, but we can do a better job devoting our attention to cargo that could put our national security at risk. The legislation we introduce today will ensure that we devote the limited resources we do have to inspect cargo in the most efficient and effective manner. It will allow us to reduce the size of the haystack to make it easier to find the needle.

Since September 11th, the Federal Government has taken steps to secure our airports and our borders, however, we still have not adopted a blueprint for helping protect America's 361 seaports. While the Senate passed S. 1214, a bill written by Senator Hollings last December, and the House has also passed a port security bill, conference negotiations are still ongoing.

I hope the conferees will adopt the provisions in this bill before they complete their work in conference because I believe that this bill is the only legislation that thoroughly addresses the issue of port security from the point cargo is loaded in a foreign country to its arrival on land in the United States.

We have known for a long time that America's ports needed an extensive security strategy and upgrade. In the fall of 2000, a comprehensive report was issued by the Interagency Commission on Crime and Security in U.S. Seaports. I testified before the commission and I believe its report makes a number of sensible suggestions on how we can improve security and fight crime at seaports.

Before the September 11 terrorist attacks, S. 1214 was drafted to try to implement many of the commission's recommendations. Before the bill passed the Senate in December 2001, the sponsors made some additional changes to help prevent a terrorist attack. However, I believe that there is much more Congress can do to prevent terrorists from launching a terrorist attack through our seaports.

The legislation I am introducing today will complement the Hollings bill and the seaport security legislation passed by the House. Together, I believe the provisions in these three bills will erect a formidable security barrier at our seaports.

I believe that Al Qaeda is planning to attack the United States again soon and that it may well try to do so through a U.S. seaport. Indeed, the Al Qaeda training manual specifically mentions seaports as a point of vulnerability in our security.

In addition, we know that Al Qaeda has succeeded in attacking American interests at and through seaports in the past. Let me mention some examples.

In June, the FBI issued a warning for Americans to be on the lookout for suspicious people wanting training in scuba diving or trying to rent underwater gear. Law enforcement officials fear that Al Qaeda operatives could try to blow up ships at anchor or other waterfront targets.

In May the FBI received reports that Al Qaeda terrorists may be making their way toward Southern California from a Middle Eastern port via merchant ships. Catalina Island—22 miles off the coast of Los Angles, was mentioned as a possible destination for about 40 Al Qaeda terrorists.

In October 2001, Italian authorities found an Egyptian man suspected for having ties to Al Qaeda in a container bound for Canada. He had false identifications, maps of airports, a computer, a satellite phones, cameras, and plenty of cash on hand.

In October 2000, Al Qaeda operatives successfully carried out a deadly bombing attack against the U.S.S. Cole in the port of Yemen.

In 1998, Al Qaeda bombed the American Embassies in Kenya and Tanzania. Evidence suggests that the explosives the terrorists used were shipped to them by sea. And the investigation of the embassy bombings concluded that Bin Laden has close financial tries to various shipping companies.

I believe that this legislation would go far to make the United States less vulnerable to a terrorist attack. The main provisions will: 1. Establish a risk profiling plan for the Customs Service to focus their limited inspection capabilities on high-risk cargo and containers, and 2. Push U.S. security scrutiny beyond our Nation's borders to monitor and inspect cargo and containers before they arrive near America's shores.

These provisions complement and extend a strategy Customs Commissioner Robert C. Bonner is already in the process of implementing. To prevent a weapon of mass destruction from getting to the U.S. in the first place, Customs has entered into formal agreements with a handful of foreign governments to station U.S. inspectors at ports overseas to profile high risk cargo and target suspicious shipments for inspection.

The Comprehensive Seaport and Container Security Act will also: Designate an official at each U.S. port as the primary authority responsible for security. This will enable all parties involved in business at a port to understand who has final say on all security matters.

Require the FBI to collect and make available data relating to crime at and affecting seaports. With more data, law enforcement agencies will be able to better identify patterns and weaknesses at particular ports.

Require ports to provide space to Customs so that the agency is able to use its non-intrusive inspection technology. In many cases, Customs has to keep this technology outside the port and bring it in every day, which prevents some of the best inspection technology, which is not portable, from being used.

Give Customs responsibility of licensing and overseeing regulated intermediaries in the international trade process, these intermediaries handle over 80 percent of all cargo in international trade. Currently, the U.S. Federal Maritime Commission oversees most of these intermediaries, but Customs will have more resources to oversee this regulation.

Require shippers bound for U.S. ports to transmit their cargo manifests with more detailed information at least 24 hours prior to departing from a foreign port.

Impose steep monetary sanctions for failure to comply with information filing requirements, including filing incorrect information, the current penalty is only a maximum of $1000 or $5000, depending on the offense. The Seaport Commission found that about half of the information on ship manifests was inaccurate.

Require all port employees to have biometric smart identification cards.

Restrict private vehicle access to ports.

Prohibit guns and explosives at ports, except when authorized.

Mandate that radiation detection pagers be issued to each inspector.

Requires the Transportation Security Administration to set standards to ensure each port has a secure port perimeter, secure parking facilities, controlled points of access into the port, sufficient lighting, buildings with secure doors and windows and an alarm.

Require all ports to keep sensitive information on the port secure and protected. Such information would include, but not be limited to maps, blueprints, and information on the Internet.

Require the use of high security seals on all containers coming into the U.S.

Require that each container to be transported through U.S. ports receive a universal transaction number that could be used to track container movement from origin to destination. Require shippers to have similar universal numbers.

Require all empty containers destined for U.S. ports to be secured.

Fund pilot programs to develop high-tech seals and sensors, including those that would provide real-time evidence of container tampering to a monitor at a terminal.

I believe that Congress should act quickly on this legislation. This bill could very well prevent the arrival or detonation of a nuclear ''suitcase bomb'' or radiological ''dirty bomb'' at a U.S. seaport-an attack that could bring U.S. seaborne commerce to a grinding halt, leaving our economy and national security in shambles.

In closing, I want to thank staff at the Customs Service, Transportation Security Administration, Coast Guard, and various ports for their helpful comments on this legislation. I also want to thank a ''working group'' of experts I assembled for their suggestions regarding the bill. These experts included former government officials, industry executives, and security consultants.

I also want to thank Senator Hollings and the other members of the Commerce Committee for the work they have done on the port security issue. I have spoken to Senator Hollings about the bill I am introducing today, and my staff is working with his staff and with the staff of other conferees to come up with comprehensive seaport security legislation.

I hope that the legislation ultimately adopted by the conference includes the Comprehensive Seaport and Container Security Act of 2002. I would urge the conferees to work quickly to draft a final bill that we can send to the President's desk before September 11.

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

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

S. 2895

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Comprehensive Seaport and Container Security Act of 2002''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CAPTAIN-OF-THE-PORT.—The term ''Captain-of-the-Port'' means the United States Coast Guard's Captain-of-the-Port.

(2) COMMON CARRIER.—The term ''common carrier'' means any person that holds itself out to the general public to provide transportation by water, land, or air of merchandise, whether or not the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided, between a port or place and a port or place in the United States.

(3) CONTAINER.—The term ''container'' means a container which is used or designed for use for the international transportation of merchandise by vessel, vehicle, or aircraft.

(4) MANUFACTURER.—The term ''manufacturer'' means a person who fabricates or assembles merchandise for sale in commerce.

(5) MERCHANDISE.—The term ''merchandise'' has the meaning given that term in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

(6) OCEAN TRANSPORTATION INTERMEDIARY.—The term ''ocean transportation intermediary'' has the meaning given that term in section 515.2 of title 46, Code of Federal Regulations, on the date of enactment of this Act.

(7) SHIPMENT.—The term ''shipment'' means cargo traveling in international commerce under a bill of lading.

(8) SHIPPER.—The term ''shipper'' means—

(A) a cargo owner;

(B) the person for whose account the ocean transportation is provided;

(C) the person to whom delivery of the merchandise is to be made; or

(D) a common carrier that accepts responsibility for payment of all charges applicable under a tariff or service contract.

(9) UNITED STATES SEAPORT.—The term ''United States seaport'' means a place in the United States on a waterway with shoreside facilities for the intermodal transfer of cargo containers that are used in international trade.

(10) VESSEL.—The term ''vessel'' has the meaning given that term in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

TITLE I—LAW ENFORCEMENT AT SEAPORTS

SEC. 101. DESIGNATED SECURITY AUTHORITY.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Under Secretary of Transportation for Security, after consultation with the Director of the Office of Homeland Security, shall designate a Director of the Port who will be the primary authority responsible for security at each United States seaport to—

(1) coordinate security at such seaport; and

(2) be the point of contact on seaport security issues for civilian and commercial port entities at such seaport.

(b) DELEGATION.—A Director of the Port may delegate the responsibilities described in subsection (a) to the Captain-of-the-Port.

SEC. 102. FBI CRIME DATA COLLECTION.

Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall implement a data collection system to compile data related to crimes at or affecting United States seaports. Such data collection system shall be designed to—

(1) identify patterns of criminal activity at particular seaports; and

(2) allow law enforcement authorities, including the designated law enforcement authority for each seaport described in section 101, to retrieve reliable data regarding such crimes.

SEC. 103. CUSTOMS SERVICE FACILITIES.

(a) OPERATIONAL SPACE IN SEAPORTS.—Each entity that owns or operates a United States seaport that receives cargo from a foreign country, whether governmental, quasi-governmental, or private, shall allow the use of permanent suitable office and inspection space within the seaport by United States Customs Service officers at no cost to the Customs Service.

(b) INSPECTION TECHNOLOGY.—The Commissioner of Customs shall maintain permanent inspection facilities that utilize available inspection technology in the space provided at each United States seaport pursuant to subsection (a).

SEC. 104. REGULATION OF OCEAN TRANSPORT INTERMEDIARIES.

(a) TRANSFER OF AUTHORITY.—The responsibility to license, and revoke or suspend a license, as an ocean transportation intermediary of a person who carries on or wishes to carry on the business of providing intermediary services is transferred from the Federal Maritime Commission to the Commissioner of Customs.

(b) RULEMAKING AUTHORITY.—Not later than 1 year after the date of enactment of this Act, the Commissioner of Customs shall issue final regulations to carry out the requirements of subsection (a). Such regulations shall require that ocean transportation intermediaries assist the Commissioner of Customs in collecting data that can be used to prevent terrorist attacks in the United States.

(c) INTERIM RULES.—The Commissioner of Customs shall enforce the regulations in part 515 of title 46, Code of Federal Regulations, as in effect on the date of enactment of this Act, until the final regulations required by subsection (b) are issued, except that any reference to the Federal Maritime Commission in such regulations shall be deemed to be a reference to the Commissioner of Customs.

(d) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions relating to ocean transportation intermediary—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under subsection (a), and

(2) which are in effect at the time this Act takes effect, or were final before the effective date of this Act and are to become effective on or after the effective date of this Act, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the head of the Federal agency to which such functions are transferred under this Act or other authorized official, a court of competent jurisdiction, or by operation of law.

(e) PROCEEDINGS NOT AFFECTED.—

(1) IN GENERAL.—The provisions of this Act shall not affect any proceedings, including notices of proposed rule making, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before the Federal Maritime Commission with respect to functions transferred by this Act, but such proceedings or applications, to the extent that they relate to functions transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made under such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the head of the Federal agency to which such functions are transferred by this Act, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) REGULATIONS.—The Commissioner of Customs is authorized to issue regulations providing for the orderly transfer of proceedings continued under paragraph (1).

TITLE II—PUSHING OUT THE BORDER

SEC. 201. INSPECTION OF MERCHANDISE AT FOREIGN FACILITIES.

Not later than 180 days after the date of enactment of this Act, the Commissioner of Customs, in consultation with the Under Secretary of Transportation for Security, shall submit to Congress a plan to—

(1) station inspectors from the Customs Service, other Federal agencies, or the private sector at the foreign facilities of manufacturers or common carriers to profile and inspect merchandise and the containers or other means by which such merchandise is transported as they are prepared for shipment on a vessel that will arrive at any port or place in the United States;

(2) develop procedures to ensure the security of merchandise inspected as described in paragraph (1) until it reaches the United States; and

(3) permit merchandise inspected as described in paragraph (1) to receive expedited inspection upon arrival in the United States.

SEC. 202. MANIFEST REQUIREMENTS.

Section 431(b) of the Tariff Act of 1930 (19 U.S.C. 1431(b)) is amended—

(1) by striking ''Any manifest'' and inserting the following:

''(1) IN GENERAL.—Any manifest''; and

(2) by adding at the end the following new paragraphs:

''(2) REQUIRED INFORMATION.—

''(A) REQUIREMENT.—In addition to any other requirement under this section, the pilot, master, operator, or owner (or the authorized agent of such owner or operator) of every vessel required to make entry or obtain clearance under the customs laws of the United States shall, not later than 24 hours prior to departing from any foreign port or place for a port or place in the United States, transmit electronically the cargo manifest information described in subparagraph (B) in such manner and form as the Secretary shall prescribe. The Secretary shall ensure the electronic information is maintained securely, and is available only to individuals with Federal Government security responsibilities.

''(B) CONTENT.—The cargo manifest required by subparagraph (A) shall consist of the following information—

''(i) The port of arrival and departure.

''(ii) The carrier code assigned to the shipper.

''(iii) The flight, voyage, or trip number.

''(iv) The date of scheduled arrival and departure.

''(v) A request for a permit to proceed to the destination, if such permit is required.

''(vi) The numbers and quantities from the carrier's master air waybill, bills of lading, or ocean bills of lading.

''(vii) The first port of lading of the cargo and the city in which the carrier took receipt of the cargo.

''(viii) A description and weight of the cargo (including the Harmonized Tariff Schedule of the United States number under which the cargo is classified) or, for a sealed container, the shipper's declared description and weight of the cargo.

''(ix) The shipper's name and address, or an identification number, from all air waybills and bills of lading.

''(x) The consignee's name and address, or an identification number, from all air waybills and bills of lading.

''(xi) Notice of any discrepancy between actual boarded quantities and air waybill or bills of lading quantities, except that a carrier is not required by this clause to verify boarded quantities of cargo in sealed containers.

''(xii) Transfer or transit information for the cargo while it has been under the control of the carrier.

''(xiii) The location of the warehouse or other facility where the cargo was stored while under the control of the carrier.

''(xiv) The name and address, or identification number of the carrier's customer including the forwarder, nonvessel operating common carrier, and consolidator.

''(xv) The conveyance name, national flag, and tail number, vessel number, or train number.

''(xvi) Country of origin and ultimate destination.

''(xvii) Carrier's reference number including the booking or bill number.

''(xviii) Shipper's commercial invoice number and purchase order number.

''(xix) Information regarding any hazardous material contained in the cargo.

''(xx) License information including the license code, license number, or exemption code.

''(xxi) Container number for containerized shipments.

''(xxii) Certification of any empty containers.

''(xxiii) Any additional information that the Secretary by regulation determines is reasonably necessary to ensure aviation, maritime, and surface transportation safety pursuant to those laws enforced and administered by the Customs Service.''.

SEC. 203. PENALTIES FOR INACCURATE MANIFEST.

(a) FALSITY OR LACK OF MANIFEST.—Section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is amended—

(1) in subsection (a)(1)—

(A) by striking ''$1,000'' each place it appears and inserting ''$50,000''; and

(B) by striking ''$10,000'' and inserting ''$50,000''; and

(2) by adding at the end the following new subsection:

''(c) CRIMINAL PENALTIES.—Any person who ships or prepares for shipment any merchandise bound for the United States who intentionally provides inaccurate or false information, whether inside or outside the United States, with respect to such merchandise for the purpose of introducing such merchandise into the United States in violation of the customs laws of the United States, is liable, upon conviction of a violation of this subsection, for a fine of not more than $50,000 or imprisonment for 1 year, or both; except that if the importation of such merchandise into the United States is prohibited, such person

is liable for an additional fine of not more than $50,000 or imprisonment for not more than 5 years, or both.''.

(b) PENALTIES FOR VIOLATIONS OF THE ARRIVAL, REPORTING, ENTRY, AND CLEARANCE REQUIREMENTS.—Subsections (b) and (c) of section 436 of Tariff Act of 1930 (19 U.S.C. 1436 (b) and (c)) are amended to read as follows:

''(b) CIVIL PENALTY.—Any master, person in charge of a vessel, vehicle, or aircraft pilot who commits any violation listed in subsection (a) is liable for a civil penalty of $25,000 for the first violation, and $50,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

''(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any master, person in charge of a vessel, vehicle, or aircraft pilot who intentionally commits or causes another to commit any violation listed in subsection (a) is, upon conviction, liable for a fine of not more than $50,000 or imprisonment for 1 year, or both; except that if the conveyance has, or is discovered to have had, on board any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into the United States is prohibited, such individual is liable for an additional fine of not more than $50,000 or imprisonment for not more than 5 years, or both.''.

SEC. 204. SHIPMENT PROFILING PLAN.

(a) IN GENERAL.—The Commissioner of Customs, after consultation with the Director of the Office of Homeland Security and the Under Secretary of Transportation for Security, shall develop a shipment profiling plan to track containers and shipments of merchandise that will be imported into the United States for the purpose of identifying any shipment that is a threat to the security of the United States before such shipment is transported to a United States seaport.

(b) INFORMATION REQUIREMENTS.—The shipment profiling plan described in subsection (a) shall at a minimum—

(1) require common carriers, shippers, and ocean transportation intermediaries to provide appropriate information regarding each shipment of merchandise, including the information required under section 431(b) of the Tariff Act of 1930 (19 U.S.C. 1431(b)) as amended by this Act, to the Commissioner of Customs; and

(2) require shippers to use a standard international bill of lading for each shipment that includes—

(A) the weight of the cargo;

(B) the value of the cargo;

(C) the vessel name;

(D) the voyage number;

(E) a description of each container;

(F) a description of the nature, type, and contents of the shipment;

(G) the code number from Harmonized Tariff Schedule;

(H) the port of destination;

(I) the final destination of the cargo;

(J) the means of conveyance of the cargo;

(K) the origin of the cargo;

(L) the name of the precarriage deliverer or agent;

(M) the port at which the cargo was loaded;

(N) the name of formatting agent;

(O) the bill of lading number;

(P) the name of the shipper;

(Q) the name of the consignee;

(R) the universal transaction number or carrier code assigned to the shipper by the Commissioner of Customs; and

(S) any additional information that the Commissioner of Customs by regulation determines is reasonably necessary to ensure seaport safety.

(c) CREATION OF PROFILE.—The Commissioner of Customs shall combine the information described in subsection (b) with other law enforcement and national security information that the Commissioner believes will assist in locating containers and shipments that could pose a threat to the security of the United States to create a profile of every container and every shipment within the container that will enter the United States.

(d) CARGO SCREENING.—

(1) IN GENERAL.—Customs Service officers shall review the profile of a shipment that a shipper desires to transport into the United States to determine if the shipment or the container in which it is carried should be subjected to additional inspection by the Customs Service. In making that determination, the Customs Service officers shall consider in addition to any other relevant factors—

(A) whether the shipper has regularly shipped cargo to the United States in the past; and

(B) the specificity of the description of the shipment's contents.

(2) NOTIFICATION.—The Commissioner of Customs shall notify the shipper and the person in charge of the vessel on which a shipment is located if the shipment will be subject to additional inspection as described in paragraph (1).

(e) CONSISTENCY WITH THE AUTOMATED COMMERCIAL ENVIRONMENT PROJECT.—The Commissioner of Customs shall ensure that the automated commercial environment project developed pursuant to section 411 of the Tariff Act of 1930 (19 U.S.C. 1411) is compatible with the shipment profile plan described under this section.

TITLE III—SECURITY OF CARGO CONTAINERS AND SEAPORTS

SEC. 301. SEAPORT SECURITY CARDS.

(a) REQUIREMENT FOR CARDS.—Not later than 1 year after the date of enactment of this Act, a covered individual described in subsection (b) shall not be permitted to enter a United States seaport unless the covered individual holds a seaport security card as described in this section.

(b) COVERED INDIVIDUAL.—A ''covered individual'' means an individual who is regularly employed at a United States seaport or who is employed by a common carrier that transports merchandise to or from a United States seaport.

(c) ISSUANCE.—

(1) IN GENERAL.—The Under Secretary of Transportation for Security shall issue a seaport security card under this section to a covered individual unless the Under Secretary determines that the individual—

(A) poses a terrorism security risk;

(B) poses a security risk under section 5103a of title 49, United States Code;

(C) has been convicted of a violation of chapter 27 of title 18, United States Code; or

(D) has not provided sufficient information to allow the Under Secretary to make the determinations described in subparagraph (A), (B), or (C).

(2) DETERMINATION OF TERRORISM SECURITY RISK.—The Under Secretary shall determine that a person poses a terrorism security risk under paragraph (1)(A) if the individual—

(A) has been convicted of a felony that the Under Secretary believes could be a terrorism security risk to the United States;

(B) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

(C) otherwise poses a terrorism security risk to the United States.

(3) CONSIDERATIONS.—In making a determination under paragraph (2), the Under Secretary shall give consideration to the circumstances of any disqualifying act or offense, restitution made by the individual, Federal and State mitigation remedies, and other factors from which it may be concluded that the individual does not pose a terrorism security risk sufficient to warrant denial of the card.

(d) APPEALS.—The Under Secretary of Transportation for Security shall establish an appeals process under this section for individuals found to be ineligible for a seaport security card that includes notice and an opportunity for a hearing.

(e) DATA ON CARD.—The seaport identification cards required by subsection (a) shall—

(1) be tamper resistant; and

(2) contain—

(A) the number of the individual's commercial driver's license issued under chapter 313 of title 49, United States Code, if any;

(B) the State-issued vehicle registration number of any vehicle that the individual desires to bring into the seaport, if any;

(C) the work permit number issued to the individual, if any;

(D) a unique biometric identifier to identify the license holder; and

(E) a safety rating assigned to the individual by the Under Secretary of Transportation for Security.

SEC. 302. SEAPORT SECURITY REQUIREMENTS.

(a) REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, the Under Secretary of Transportation for Security, after consultation with the Commissioner of Customs, shall issue final regulations setting forth minimum security requirements including security performance standards at United States seaports. The regulations shall—

(1) limit private vehicle access to United States seaports to vehicles that are registered at the seaport and display a seaport registration pass;

(2) prohibit individuals, other than law enforcement officers, from carrying firearms or explosives inside a United States seaport without written authorization from the Director of the Port described in section 101(a) or, if authority is delegated under section 101(b), the Captain-of-the-Port;

(3) prohibit individuals from physically accessing a United States seaport without a seaport specific access pass;

(4) require that Customs Service officers, and other appropriate law enforcement officers, at United States seaports be provided and utilize personal radiation detection pagers to increase the ability of the Customs Service to accurately detect radioactive materials that could be used to commit terrorist acts in the United States;

(5) require that each United States seaport maintain—

(A) a secure perimeter;

(B) secure parking facilities;

(C) monitored or locked access points;

(D) sufficient lighting; and

(E) secure buildings within the seaport; and

(6) include any additional security requirement that the Under Secretary determines is reasonably necessary to ensure seaport security.

(b) LIMITATION.—Except as provided in subsection (c), any United States seaport that does not meet the minimum security requirements described in subsection (a) is prohibited from—

(1) handling, storing, stowing, loading, discharging, or transporting dangerous cargo; and

(2) transferring passengers to or from a passenger vessel that—

(A) weighs more than 100 gross tons;

(B) carries more than 12 passengers for hire; and

(C) has a planned voyage of more than 24 hours, part of which is on the high seas.

(c) EXCEPTION.—The Under Secretary of Transportation for Security may waive 1 or more of the minimum requirements described in subsection (a) for a United States seaport if the Secretary determines that it is not appropriate for such seaport to implement the requirement.

SEC. 303. SECURING SENSITIVE INFORMATION.

(a) REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the Director of the Port described in section 101(a) or, if authority is delegated under section 101(b), the Captain-of-the-Port of each United States seaport shall secure and protect all sensitive information, including information that is currently available to the public, related to the seaport.

(b) SENSITIVE INFORMATION.—In this section, the term ''sensitive information'' means—

(1) maps of the seaport;

(2) blueprints of structures located within the seaport; and

(3) any other information related to the security of the seaport that the Director of the Port described in section 101(a) or, if authority is delegated under section 101(b), the Captain-of-the-Port determines is appropriate to secure and protect.

SEC. 304. CONTAINER SECURITY.

(a) CONTAINER SEALS.—

(1) APPROVAL.—Not later than 90 days after the date of enactment of this Act, the Under Secretary of Transportation for Security and the Commissioner of Customs shall jointly approve minimum standards for high security container seals that—

(A) meet or exceed the American Society for Testing Materials Level D seals;

(B) permit each seal to have a unique identification number; and

(C) contain an electronic tag that can be read electronically at a seaport.

(2) REQUIREMENT FOR USE.—Within 180 days after the date of enactment of this Act, the Under Secretary of Transportation for Security shall deny entry by a vessel into the United States if the containers carried by the vessel are not sealed with a high security container seal approved under paragraph (1).

(b) IDENTIFICATION NUMBER.—

(1) REQUIREMENT.—A shipment that is shipped to or from the United States either directly or via a foreign port shall have a designated universal transaction number.

(2) TRACKING.—The person responsible for the security of a container shall record the universal transaction number assigned to the shipment under subparagraph (1), as well as any seal identification number on the container, at every port of entry and point at which the container is transferred from one conveyance to another conveyance.

(c) PILOT PROGRAM.—

(1) GRANTS.—The Under Secretary of Transportation for Security is authorized to award grants to eligible entities to develop improved seals for cargo containers that are able to—

(A) immediately detect tampering with the seal;

(B) immediately detect tampering with the walls, ceiling, or floor of the container that indicates a person is attempting to improperly access the container; and

(C) transmit information regarding tampering with the seal, walls, ceiling, or floor of the container in real time to the appropriate authorities at a remote location.

(2) APPLICATION.—Each eligible entity desiring a grant under this subsection shall submit an application to the Under Secretary at such time, in such manner, and accompanied by such information as the Under Secretary may reasonably require.

(3) ELIGIBLE ENTITY.—In this subsection, the term ''eligible entity'' means any national laboratory, nonprofit private organization, institution of higher education, or other entity that the Under Secretary determines is eligible to receive a grant authorized by paragraph (1).

(d) EMPTY CONTAINERS.—

(1) CERTIFICATION.—The Commissioner of Customs shall issue regulations that set out requirements for certification of empty containers that will be shipped to or from the United States either directly or via a foreign port. Such regulations shall require that an empty container—

(A) be inspected and certified as empty prior to being loaded onto a vessel for transportation to a United States seaport; and

(B) be sealed with a high security container seal approved under subsection (a)(1) to enhance the security of United States seaports.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 315—CONGRATULATING LANCE ARMSTRONG FOR WINNING THE 2002 TOUR DE FRANCE

Mrs. HUTCHISON (for herself, Mr. GRAMM, Ms. SNOWE, Mr. BROWNBACK, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 315

Whereas Lance Armstrong completed the 2,036-mile, 20-day course in 82 hours, 5 minutes, and 12 seconds to win the 2002 Tour de France, 7 minutes and 17 seconds ahead of his nearest competitor;

Whereas Lance Armstrong's win on July 28, 2002, in Paris, marks his fourth successive victory of the Tour de France, a feat surpassing all cycling records previously attained by an American cyclist;

Whereas Lance Armstrong displayed incredible perseverance, determination, and leadership to prevail over the mountainous terrain of the Alps and Pyrenees, vast stretches of countryside, and numerous city streets during the course of the premier cycling event in the world;

Whereas Lance Armstrong is the first cancer survivor to win the Tour de France;

Whereas in 1997, Lance Armstrong defeated choriocarcinoma, an aggressive form of testicular cancer that had spread throughout his abdomen, lungs, and brain, and after treatment has remained cancer-free for the past 5 years;

Whereas Lance Armstrong's bravery and resolution to overcome cancer has made him a role model to cancer patients and their loved ones, and his efforts through the Lance Armstrong Foundation have helped to advance cancer research, diagnosis, and treatment, and after-treatment services;

Whereas Lance Armstrong has been vital to the promotion of cycling as a sport, a healthy fitness activity, and a pollution-free transportation alternative; and

Whereas Lance Armstrong's accomplishments as an athlete, teammate, father, husband, cancer survivor, and advocate have made him an American hero: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Lance Armstrong and his team on his historic victory of the 2002 Tour de France;

(2) commends the unwavering commitment to cancer awareness and survivorship demonstrated by Lance Armstrong; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to Lance Armstrong.

SENATE RESOLUTION 316—A BILL DESIGNATING THE YEAR BEGINNING FEBRUARY 1, 2003, AS THE ''YEAR OF THE BLUES''

Mrs. LINCOLN (for herself, Mr. COCHRAN, Mr. THOMPSON, and Mr. FRIST) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 316

Whereas blues music is the most influential form of American roots music, with its impact heard around the world in rock and roll, jazz, rhythm and blues, country, and even classical music;

Whereas the blues is a national historic treasure, which needs to be preserved, studied, and documented for future generations;

Whereas the blues is an important documentation of African-American culture in the twentieth century;

Whereas the various forms of the blues document twentieth-century American history during the Great Depression and in the areas of race relations, pop culture, and the migration of the United States from a rural, agricultural society to an urban, industrialized Nation;

Whereas the blues is the most celebrated form of American roots music, with hundreds of festivals held and millions of new or reissued blues albums released each year in the United States;

Whereas the blues and blues musicians from the United States, whether old or new, male or female, are recognized and revered worldwide as unique and important ambassadors of the United States and its music;

Whereas it is important to educate the young people of the United States to understand that the music that they listen to today has its roots and traditions in the blues;

Whereas there are many living legends of the blues in the United States who need to be recognized and to have their story captured and preserved for future generations; and

Whereas the year 2003 is the centennial anniversary of when W.C. Handy, a classically-trained musician, heard the blues for the first time, in a train station in Mississippi, thus enabling him to compose the first blues music to distribute throughout the United States, which led to him being named ''Father of the Blues'': Now, therefore, be it

Resolved, That the Senate—

(1) designates the year beginning February 1, 2003, as the ''Year of the Blues''; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe the ''Year of the Blues'' with appropriate ceremonies, activities, and educational programs.

SENATE RESOLUTION 317—TO AUTHORIZE THE PRODUCTION OF RECORDS BY THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to: