appropriate recognition for the surviving members of that championship team; considered and agreed to.

By Mr. LOTT:

S. Con. Res. 132. A concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives; considered and agreed to.

By Mr. JEFFORDS:

S. Con. Res. 133. A concurrent resolution to correct the enrollment of S. 1809; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX:

S. 2944. A bill to clarify that certain penalties provided for in the Oil Pollution Act of 1990 are the exclusive criminal penalties for any action or activity that may arise or occur in connection with certain discharges of oil or a hazardous substance; to the Committee on Environment and Public Works.

STRICT CRIMINAL LIABILITY REFORM FOR OIL SPILL INCIDENTS

Mr. BREAUX. Mr. President, I am pleased to introduce legislation to address a long-standing problem which adversely affects the safe and reliable maritime transport of oil products. The legislation I am introducing today will eliminate the application and use of strict criminal liability statutes, statutes that do not require a showing of criminal intent or even the slightest degree of negligence, for maritime transportation-related oil spill incidents.

Through comprehensive Congressional action that led to the enactment and implementation of the Oil Pollution Act of 1990, commonly referred to as ''OPA90'', the United States has successfully reduced the number of oil spills in the maritime environment and has established a cooperative public/private partnership to respond effectively in the diminishing number of situations when an oil spill occurs. Nonetheless, over the past decade, the use of the unrelated strict criminal liability statutes that I referred to above has undermined the spill prevention and response objectives of OPA90, the very objectives that were established by the Congress to preserve the environment, safeguard the public welfare, and promote the safe transportation of oil. The legislation I am introducing today will restore the delicate balance of interests reached in OPA90, and will reaffirm OPA90's preeminent role as the statute providing the exclusive criminal penalties for oil spill incidents.

As stated in the Coast Guard's own environmental enforcement directive, a company, its officers, employees, and mariners, in the event of an oil spill ''could be convicted and sentenced to a criminal fine even where [they] took all reasonable precautions to avoid the discharge''. Accordingly, responsible operators in my home state of Louisiana and elsewhere in the United States who transport oil are unavoidably exposed to potentially immeasurable criminal fines and, in the worst case scenario, jail time. Not only is this situation unfairly targeting an industry that plays an extremely important role in our national economy, but it also works contrary to the public welfare.

Most liquid cargo transportation companies on the coastal and inland waterway system of the United States have embraced safe operation and risk management as two of their most important and fundamental values. For example, members of the American Waterways Operators (AWO) from Louisiana and other states have implemented stronger safety programs that have significantly reduced personal injuries to mariners. Tank barge fleets have been upgraded through construction of new state-of-the-art double hulled tank barges while obsolete single skin barges are being retired far in advance of the OPA90 timetable. Additionally, AWO members have dedicated significant time and financial resources to provide continuous and comprehensive education and training for vessel captains, crews and shoreside staff, not only in the operation of vessels but also in preparation for all contingencies that could occur in the transportation of oil products. This commitment to marine safety and environmental protection by responsible members of the oil transportation industry is real. The industry continues to work closely with the Coast Guard to upgrade regulatory standards in such key areas as towing vessel operator qualifications and navigation equipment on towing vessels.

Through the efforts of AWO and other organizations, the maritime transportation industry has achieved an outstanding compliance record with the numerous laws and regulations enforced by the Coast Guard. Let me be clear: responsible carriers, and frankly their customers, have a ''zero tolerance'' policy for oil spills. Additionally, the industry is taking spill response preparedness seriously. Industry representatives and operators routinely participate in Coast Guard oil spill crisis management courses, PREP Drills, and regional spill response drills. Yet despite all of the modernization, safety, and training efforts of the marine transportation industry, their mariners and shoreside employees cannot escape the threat of criminal liability in the event of an oil spill, even where it is shown that they ''took all reasonable precautions to avoid [a] discharge''.

As you know, in response to the tragic *Exxon Valdez* spill, Congress enacted OPA90. OPA90 mandated new, comprehensive, and complex regulatory and enforcement requirements for the transportation of oil products and for oil spill response. Both the federal government and maritime industry have worked hard to accomplish the legislation's primary objective—to provide greater environmental safeguards in oil transportation by creating a comprehensive prevention, response, liability, and compensation regime to deal with vessel and facility oil pollution. And OPA90 is working in a truly meaningful sense. To prevent oil spill incidents from occurring in the first place, OPA90 provides an enormously powerful deterrent, through both its criminal and civil liability provisions. Moreover, OPA90 mandates prompt reporting of spills, contingency planning, and both cooperation and coordination with federal, state, and local authorities in connection with managing the spill response. Failure to report and cooperate as required by OPA90 may impose automatic civil penalties, criminal liability and unlimited civil liability. As a result, the number of domestic oil spills has been dramatically reduced over the past decade since OPA90 was enacted. In those limited situations in which oil spills unfortunately occurred, intensive efforts commenced immediately with federal, state and local officials working in a joint, unified manner with the industry, as contemplated by OPA90, to clean up and report spills as quickly as possible and to mitigate to the greatest extent any impact on the environment. OPA90 has provided a comprehensive and cohesive ''blueprint'' for proper planning, training, and resource identification to respond to an oil spill incident, and to ensure that such a response is properly and cooperatively managed.

OPA90 also provides a complete statutory framework for proceeding against individuals for civil and/or criminal penalties arising out of oil spills in the marine environment. When Congress crafted this Act, it carefully balanced the imposition of stronger criminal and civil penalties with the need to promote enhanced cooperation among all of the parties involved in the spill prevention and response effort. In so doing, the Congress clearly enumerated the circumstances in which criminal penalties could be imposed for actions related to maritime oil spills, and added and/or substantially increased criminal penalties under the related laws which comprehensively govern the maritime transportation of oil and other petroleum products.

The legislation we are introducing today will not change in any way the tough criminal sanctions that were imposed in OPA90. However, responsible, law-abiding members of the maritime industry in Louisiana and elsewhere are concerned by the willingness of the Department of Justice and other federal agencies in the post-OPA90 environment to use strict criminal liability statutes in oil spill incidents. As you know, strict liability imposes criminal sanctions without requiring a showing of criminal knowledge, intent or even negligence. These federal actions imposing strict liability have created an atmosphere of extreme uncertainty for the maritime transportation industry about how to respond to and cooperate with the Coast Guard and other federal

agencies in cleaning up an oil spill. Criminal culpability in this country, both historically and as reflected in the comprehensive OPA90 legislation itself, typically requires wrongful actions or omissions by individuals through some degree of criminal intent or through the failure to use the required standard of care. However, Federal prosecutors have been employing other antiquated, seemingly unrelated ''strict liability'' statutes that do not require a showing of ''knowledge'' or ''intent'' as a basis for criminal prosecution for oil spill incidents. Such strict criminal liability statutes as the Migratory Bird Treaty Act and the Refuse Act, statutes that were enacted at the turn of the century to serve other purposes, have been used to harass and intimidate the maritime industry, and, in effect, have turned every oil spill into a potential crime scene without regard to the fault or intent of companies, corporate officers and employees, and mariners.

The Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 et seq.) provides that ''it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, . . . any migratory bird . . .'', a violation of which is punishable by imprisonment and/or fines. Prior to the *Exxon Valdez* oil spill in 1989, the MBTA was primarily used to prosecute the illegal activities of hunters and capturers of migratory birds, as the Congress originally intended when it enacted the MBTA in 1918. In the *Exxon Valdez* case itself, and prior to the enactment of OPA90, the MBTA was first used to support a criminal prosecution against a vessel owner in relation to a maritime oil spill, and this ''hunting statute'' has been used ever since against the maritime industry. The ''Refuse Act'' (33 U.S.C. 407, 411) was enacted over 100 years ago at a time well before subsequent federal legislation essentially replaced it with comprehensive requirements and regulations specifically directed to the maritime transportation of oil and other petroleum products. Such strict liability statutes are unrelated to the regulation and enforcement of oil transportation activities, and in fact were not included within the comprehensive OPA90 legislation as statutes in which criminal liability could be found. With the prosecutorial use of strict liability statutes, owners and mariners engaged in the transportation of oil cannot avoid exposure to criminal liability, regardless of how diligently they adhere to prudent practice and safe environmental standards. Although conscientious safety and training programs, state-of-the-art equipment, proper operational procedures, preventative maintenance programs, and the employment of qualified and experienced personnel will collectively prevent most oil spills from occurring, unfortunately spills will still occur on occasion.

To illustrate this point, please permit me to present a scenario that highlights the dilemma faced by the maritime oil transportation industry in Louisiana. Imagine, if you will, that a company is operating a towing vessel in compliance with Coast Guard regulations on the Mississippi River on a calm, clear day with several fully laden tank barges in tow. Suddenly, in what was charted and previously identified to be a clear portion of the waterway, one of the tank barges strikes an unknown submerged object which shears through its hull and causes a significant oil spill in the river. Unfortunately, in addition to any other environmental damage that may occur, the oil spill kills one or more migratory birds. As you know, under OPA90 the operator must immediately undertake coordinated spill response actions with the Coast Guard and other federal, state, and local agencies to safeguard the vessel and its crew, clean up the oil spill, and otherwise mitigate any damage to the surrounding environment. The overriding objectives at this critical moment are to assure personnel and public safety and to clean up the oil spill as quickly as possible without constraint. However, in the current atmosphere the operator must take into consideration the threat of strict criminal liability under the Migratory Bird Treaty Act and the Refuse Act, together with their attendant imprisonment and fines, despite the reasonable care and precautions taken in the operation and navigation of the tow and in the spill response effort. Indeed, in the Coast Guard's own environmental enforcement directive, the statement is made that ''[t]he decision to commit the necessary Coast Guard resources to obtain the evidence that will support a criminal prosecution must often be made in the very early stages of a pollution incident.'' Any prudent operator will quickly recognize the dilemma in complying with the mandate to act cooperatively with all appropriate public agencies in cleaning up the oil spill, while at the same time those very agencies may be conducting a criminal investigation of that operator. Vessel owners and their employees who have complied with federal laws and regulations and have exercised all reasonable care should not continue to face a substantial risk of imprisonment and criminal fines under such strict liability statutes. Criminal liability, when appropriately imposed under OPA90, should be employed only where a discharge is caused by conduct which is truly ''criminal'' in nature, i.e., where a discharge is caused by reckless, intentional or other conduct deemed criminal by OPA90.

As this scenario demonstrates, the unjustified use of strict liability statutes is plainly undermining the very objectives which OPA90 sought to achieve, namely to enhance the prevention of and response to oil spills in Louisiana and elsewhere in the United States. As we are well aware, tremendous time, effort, and resources have been expended by both the federal government and the maritime industry to eliminate oil spills to the maximum extent possible, and to plan for and undertake an immediate and effective response to mitigate any environmental damage from spills that do occur. Clearly unwarranted and improper prosecutorial use of strict liability statutes is having a ''chilling'' effect on these cooperative spill prevention and response efforts. Indeed, even if we were to believe that criminal prosecution only follows intentional criminal conduct, the mere fact that strict criminal liability statutes are available at the prosecutor's discretion will intimidate even the most innocent and careful operator. With strict liability criminal enforcement, responsible members of the maritime transportation industry are faced with an extreme dilemma in the event of an oil spill—provide less than full cooperation and response as criminal defense attorneys will certainly direct, or cooperate fully despite the risk of criminal prosecution that could result from any additional actions or statements made during the course of the spill response. Consequently, increased criminalization of oil spill incidents introduces uncertainty into the response effort by discouraging full and open communication and cooperation, and leaves vessel owners and operators criminally vulnerable for response actions taken in an effort to ''do the right thing''.

In the maritime industry's continuing effort to improve its risk management process, it seeks to identify and address all foreseeable risks associated with the operation of its business. Through fleet modernization, personnel training, and all other reasonable steps to address identified risks in its business, the industry still cannot manage or avoid the increased risks of strict criminal liability (again, a liability that has no regard to fault or intent). The only method available to companies and their officers to avoid the risk of criminal liability completely is to divest themselves from the maritime business of transporting oil and other petroleum products, in effect to get out of the business altogether. Furthermore, strict liability criminal laws provide a strong disincentive for trained, highly experienced mariners to continue the operation of tank vessels, and for talented and capable individuals from even entering into that maritime trade. An earlier editorial highlighted the fact that tugboat captains ''are reporting feelings of intense relief and lightening of their spirits when they are ordered to push a cargo of grain or other dry cargo, as compared to the apprehension they feel when they are staring out of their wheelhouses at tank barges'', and ''that the reason for this is very obvious in the way that they find themselves instantly facing criminal charges . . . in the event of a collision or grounding and oil or chemicals end up in the water''. Certainly, the federal government does not want to create a situation where the least experienced

mariners are the only available crew to handle the most hazardous cargoes, or the least responsible operators are the only available carriers. Thus, the unavoidable risk of such criminal liability directly and adversely affects the safe transportation of oil products, an activity essential for the public, the economy, and the nation.

Therefore, despite the commitment and effort to provide trained and experienced vessel operators and employees, to comply with all safety and operational mandates of Coast Guard laws and regulations, and to provide for the safe transportation of oil as required by OPA90, maritime transportation companies in Louisiana, and elsewhere still cannot avoid criminal liability in the event of an oil spill. Responsible, law-abiding companies have unfortunately been forced to undertake the only prudent action that they could under the circumstances, namely the development of criminal liability action plans and retention of criminal counsel in an attempt to prepare for the unavoidable risks of such liability.

These are only preliminary steps and do not begin to address the many implications of the increasing criminalization of oil spills. The industry is now asking what responsibility does it have to educate its mariners and shoreside staff about the potential personal exposure they may face and wonder how to do this without creating many undesirable consequences? How should the industry organize spill management teams and educate them on how to cooperate openly and avoid unwitting exposure to criminal liability? Mr. President, I have thought about these issues a great deal and simply do not know how to resolve these dilemmas under current, strict liability law. In the event of an oil spill, a responsible party not only must manage the cleanup of the oil and the civil liability resulting from the spill itself, but also must protect itself from the criminal liability that now exists due to the available and willing use of strict liability criminal laws by the federal government. Managing the pervasive threat of strict criminal liability, by its very nature, prevents a responsible party from cooperating fully and completely in response to an oil spill situation. The OPA90 ''blueprint'' is no longer clear. Is this serving the objectives of OPA90? Does this really serve the public welfare of our nation? Is this what Congress had in mind when it mandated its spill response regime? Is this in the interest of the most immediate, most effective oil spill cleanup in the unfortunate event of a spill? We think not.

To restore the delicate balance of interests reached in the enactment of OPA90 a decade ago, we intend to work with the Congress to reaffirm the OPA90 framework for criminal prosecutions in oil spill incidents. The enactment of the legislation we are introducing today will ensure increased cooperation and responsiveness desired by all those interested in oil spill response issues without diluting the deterrent effect and stringent criminal penalties imposed by OPA90 itself.

I look forward to continuing the effort to upgrade the safety of marine operations in the navigable waterways of the United States, 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 in the RECORD, as follows:

S. 2944

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

SECTION 1. AFFIRMATION OF PENALTIES UNDER OIL POLLUTION ACT OF 1990.

(a) IN GENERAL.—Notwithstanding any other provision or rule of law, section 4301(c) and 4302 of the Oil Pollution Act of 1990 (Public Law 101–380; 104 Stat. 537) and the amendments made by those sections provide the exclusive criminal penalties for any action or activity that may arise or occur in connection with a discharge of oil or a hazardous substance referred to in section 311(b)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)(3)).

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit, or otherwise exempt any person from, liability for conspiracy to commit any offense against the United States, for fraud and false statements, or for the obstruction of justice.

By Mr. KENNEDY (for himself, Mr. TORRICELLI and Mr. HARKIN):

S. 2946. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to ensure that employees are not improperly disqualified from benefits under pension plans and welfare plans based on a miscategorization of their employee status; to the Committee on Health, Education, Labor, and Pensions.

EMPLOYEE BENEFITS ELIGIBILITY FAIRNESS ACT OF 2000

Mr. KENNEDY. Mr. President, contingent workers in our society face significant problems, and they deserve our help in meeting them. These men and women—temporary and part-time workers, contract workers, and independent contractors—continue to suffer unfairly, even in our prosperous economy. A new report from the General Accounting Office emphasizes that contingent workers often lack income security and retirement security.

We know that for most workers today, a single lifetime job is a relic of the past. The world is long gone in which workers stay with their employer for many years, and then retire on a company pension. Since 1982 the number of temporary help jobs has grown 577 percent.

The GAO report shows that 30 percent of the workforce—39 million working Americans—now get their paychecks from contingent jobs.

Contingent workers have lower incomes than traditional, full-time workers and many are living in poverty. For example, 30 percent of agency temporary workers have family incomes below $15,000. By comparison, only 8 percent of standard full-time workers have family incomes below $15,000.

Contingent workers are less likely to be covered by employer health and retirement benefits than are standard, full-time workers. Even when employers do sponsor a plan, contingent workers are less likely to participate in the plan, either because they are excluded or because the plan is too expensive. Only 21 percent of part-time workers are included in an employer-sponsored pension plan. By comparison, 64 percent of standard full-time workers are included in their employer's pension plan.

Non-standard or alternative work arrangements can meet the needs of working families and employers alike, but these arrangements should not be used to divide the workforce into ''haves'' and ''have-nots.'' Flexible work arrangements, for example, can give working parents more time to care for their children, but many workers are not in their contingent jobs by choice. More than half of temporary workers would prefer a permanent job instead of their contingent job, but temporary work is all they can find.

As the GAO report makes clear, employers have economic incentives to cut costs by miscategorizing their workers as temporary or contract workers. Too often, contingent arrangements are set-up by employers for the purpose of excluding workers from their employee benefit programs and evading their responsibilities to their workers. Millions of employees have been miscategorized by their employers, and as a result they have been denied the benefits and protections that they rightly deserve and worked hard to earn.

All workers deserve a secure retirement at the end of their working years. Social Security has been and will continue to be the best foundation for that security. But the foundation is just that—the beginning of our responsibility, not the end of it. We cannot expect Americans to work hard all their lives, only to face poverty and hard times when they retire.

That is why I am introducing, with Senators TORRICELLI and HARKIN, the Employee Benefits Eligibility Fairness Act of 2000 to help contingent workers obtain the retirement benefits they deserve. This legislation clarifies employers' responsibilities under the law so that they cannot exclude contingent workers from employee benefit plans based on artificial labels or payroll practices.

This is an issue of basic fairness for working men and women. It is unfair for individuals who work full-time, on an indefinite long-term basis for an employer to be excluded from the employer's pension plan, merely because the employer classifies the workers as ''temporary'' when in fact they are not. The employer-employee relationship should be determined on the facts of

the working arrangement, not on artificial labels, not on artificial accounting practices, not artificial payroll practices.

It is long past time for Congress to recognize the plight of contingent workers and see that they get the employee benefits they deserve. These important changes are critical to improving the security of working families, and I look forward to their enactment.

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. 2946

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 ''Employee Benefits Eligibility Fairness Act of 2000''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The intent of the Employee Retirement Income Security Act of 1974 to protect the pension and welfare benefits of workers is frustrated by the practice of mislabeling employees to improperly exclude them from employee benefit plans. Employees are wrongly denied benefits when they are mislabeled as temporary employees, part-time employees, leased employees, agency employees, staffing firm employees, and contractors. If their true employment status were recognized, mislabeled employees would be eligible to participate in employee benefit plans because such plans are offered to other employees performing the same or substantially the same work and working for the same employer.

(2) Mislabeled employees are often paid through staffing, temporary, employee leasing, or other similar firms to give the appearance that the employees do not work for their worksite employer. Employment contracts and reports to government agencies also are used to give the erroneous impression that mislabeled employees work for staffing, temporary, employee leasing, or other similar firms, when the facts of the work arrangement do not meet the common law standard for determining the employment relationship. Employees are also mislabeled as contractors and paid from nonpayroll accounts to give the appearance that they are not employees of their worksite employer. These practices violate the Employee Retirement Income Security Act of 1974.

(3) Employers are amending their benefit plans to add provisions that exclude mislabeled employees from participation in the plan even in the event that such employees are determined to be common law employees and otherwise eligible to participate in the plan. These plan provisions violate the Employee Retirement Income Security Act of 1974.

(4) As a condition of employment or continued employment, mislabeled employees are often required to sign documents that purport to waive their right to participate in employee benefit plans. Such documents inaccurately claim to limit the authority of the courts and applicable Federal agencies to correct the mislabeling of employees and to enforce the terms of plans providing for their participation. This practice violates the Employee Retirement Income Security Act of 1974.

(b) PURPOSE.—The purpose of this Act is to clarify applicable provisions of the Employee Retirement Income Security Act of 1974 to ensure that employees are not improperly excluded from participation in employee benefit plans as a result of mislabeling of their employment status.

SEC. 3. ADDITIONAL STANDARDS RELATING TO MINIMUM PARTICIPATION REQUIREMENTS.

(a) REQUIRED INCLUSION OF SERVICE.—Section 202(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052(a)(3)) is amended by adding at the end the following new subparagraph:

''(E) For purposes of this section, in determining 'years of service' and 'hours of service', service shall include all service for the employer as an employee under the common law, irrespective of whether the worker—

''(i) is paid through a staffing firm, temporary help firm, payroll agency, employment agency, or other such similar arrangement,

''(ii) is paid directly by the employer under an arrangement purporting to characterize an employee under the common law as other than an employee, or

''(iii) is paid from an account not designated as a payroll account.''

(b) EXCLUSION PRECLUDED WHEN RELATED TO CERTAIN PURPORTED CATEGORIZATIONS.—Section 202 of such Act (29 U.S.C. 1052) is amended further by adding at the end the following new subsection:

''(c)(1) Subject to paragraph (2), a pension plan shall be treated as failing to meet the requirements of this section if any individual who—

''(A) is an employee under the common law, and

''(B) performs the same work (or substantially the same work) for the employer as other employees who generally are not excluded from participation in the plan,

is excluded from participation in the plan, irrespective of the placement of such employee in any category of workers (such as temporary employees, part-time employees, leased employees, agency employees, staffing firm employees, contractors, or any similar category) which may be specified under the plan as ineligible for participation.

''(2) Nothing in paragraph (1) shall be construed to preclude the exclusion from participation in a pension plan of individuals who in fact do not meet a minimum service period or minimum age which is required under the terms of the plan and which is otherwise in conformity with the requirements of this section.''

SEC. 4. WAIVERS OF PARTICIPATION INEFFECTIVE IF RELATED TO MISCATEGORIZATION OF EMPLOYEE.

Section 202 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052) (as amended by section 3) is amended further by adding at the end the following new subsection:

''(d) Any waiver or purported waiver by an employee of participation in a pension plan or welfare plan shall be ineffective if related, in whole or in part, to the a miscategorization of the employee in 1 or more ineligible plan categories.''

SEC. 5. OBJECTIVE ELIGIBILITY CRITERIA IN PLAN INSTRUMENTS.

Section 402 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102) is amended by adding at the end the following new subsection:

''(c)(1) The written instrument pursuant to which an employee benefit plan is maintained shall set forth eligibility criteria which—

''(A) include and exclude employees on a uniform basis;

''(B) are based on reasonable job classifications; and

''(C) are based on objective criteria stated in the instrument itself for the inclusion or exclusion (other than the mere listing of an employee as included or excluded).

''(2) No plan instrument may permit an employer or plan sponsor to exclude an employee under the common law from participation irrespective of the placement of such employee in any category of workers (such as temporary employees, leased employees, agency employees, staffing firm employees, contractors, or any similar category) if the employee—

''(A) is an employee of the employer under the common law,

''(B) performs the same work (or substantially the same work) for the employer as other employees who generally are not excluded from participation in the plan, and

''(C) meets a minimum service period or minimum age which is required under the terms of the plan.''

SEC. 6. ENFORCEMENT.

Section 502(a)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(3)(B)) is amended—

(1) by striking ''or'' in clause (i) and inserting a comma,

(2) by striking the semicolon at the end of clause (ii) and inserting '', or'', and

(3) by adding at the end the following: ''(iii) to provide relief to employees who have been miscategorized in violation of sections 202 and 402;''.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to plan years beginning on or after the date of the enactment of this Act.

By Mr. CAMPBELL:

S. 2950. A bill to authorize the Secretary of the Interior to establish the Sand Creek Massacre Historic Site in the State of Colorado; to the Committee on Energy and Natural Resources.

INTRODUCTION OF LEGISLATION TO CREATE THE SAND CREEK NATIONAL HISTORIC SITE

Mr. CAMPBELL. Mr. President, today I introduce the Sand Creek Massacre National Historic Site Establishment Act of 2000, legislation which will finally recognize and memorialize the hallowed ground on which hundreds of peaceful Cheyenne and Arapaho Indians were massacred by members of the Colorado Militia.

The legislation I introduce today follows The Sand Creek Massacre Historic Site Study Act of 1998, legislation I introduced and Congress approved to study the suitability of creating an enduring memorial to the slain innocents who were camped peacefully near Sand Creek, in Kiowa County, in Colorado on November 28, 1868.

Much has been written about the horrors visited upon the plains Indians in the territories of the Western United States in the latter half of the 19th century. However, what has been lost for more than a century is a comprehensive understanding of the events of that day in a grove of cottonwood trees along Sand Creek now SE Colorado. In some cases denial of the events of the day or a sense that ''the Indians had it coming'' has prevailed.

This legislation finally recognizes a shameful event in our country's history based on scientific studies, and

makes it clear America has the strength and resolve to face its past and learn the painful lessons that come with intolerance.

The indisputable facts are these: 700 members of the Colorado Militia, commanded by Colonel John Chivington struck at dawn that November day, attacking a camp of Cheyenne and Arapaho Indians settled under the U.S. Flag and a white flag which the Indian Chiefs Black Kettle and White Antelope were told by the U.S. would protect them from military attack.

By day's end, almost 150 Indians, many of them women, children and the elderly, lay dead. Chivington's men reportedly desecrated the bodies of the dead after the massacre, and newspaper reports from Denver at the time told of the troops displaying Indian body parts in a gruesome display as they rode through the streets of Colorado's largest city following the attack.

The perpetrators of this horrible attack which left Indian women and even babies dead, were never brought to justice even after a congressional investigation concerning this brutality.

The legislation I introduce today authorizes the National Park Service to enter into negotiations with willing sellers only, in an attempt to secure property inside a boundary which encompasses approximately 12,470 acres as identified by the National Park Service, for a lasting memorial to events of that fateful day.

This legislation has been developed over the course of the last 18 months. It represents a remarkable effort which brought divergent points of view together to define the events of that day and to plan for the future protection of this site. The National Park Service, with the cooperation of the Kiowa County Commissioners, the Cheyenne and Arapaho Tribes of Oklahoma, the Northern Cheyenne Tribe and the Northern Arapaho Tribe, the State of Colorado and many local landowners and volunteers have completed extensive cultural, geomorphological and physical studies of the area where the massacre occurred.

All of those involved in this project agree, not acting now is not a option. This legislation does not compel any private property owner to sell his or her property to the federal government. It allows the National Park Service to negotiate with willing sellers to secure property at fair market value, for a national memorial. This process could take years. However, several willing sellers have come forward and are willing to negotiate with the NPS. The property they own has been identified by the NPS as suitable for a memorial. Additional acquisitions of property from willing sellers could come in the future. However, the Sand Creek National Historic Site could never extend beyond the 12,470 acres identified by the site resource study already completed.

This legislation has come to being because all of those involved have exhibited an extraordinary ability to put aside their differences, look with equal measure at the scientific evidence and the oral traditions of the Tribes, and come up with a plan that equally honors the memory of those killed and the rights of the private property owners who have been faithful and responsible stewards of this site. We have a window of opportunity here that will not always be available. I encourage my colleagues to respect the memory of those so brutally killed and support the creation of a National Historic Site on this hallowed ground in Kiowa County, in Colorado.

I ask unanimous consent that the bill and other research material associated with the studies of the Sand Creek site be printed in the RECORD for my colleagues or the public to review.

By Mr. TORRICELLI:

S. 2953. A bill to amend title 38, United States Code, to improve outreach programs carried out by the Department of Veterans Affairs to provide for more fully informing veterans of benefits available to them under laws administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

THE VETERANS' RIGHT TO KNOW ACT

Mr. TORRICELLI: Mr. President, I rise today to introduce the Veterans' Right to Know Act which will assist millions of brave Americans who have served this nation in times of war. This legislation would ensure that all veterans are fully informed of the various benefits that they have earned through their brave and dedicated service to their country.

Throughout the history of the United States, the interests of our nation have been championed by ordinary citizens who willingly defend our nation when called upon. During the times of crisis which threatened the very existence of our Republic, we persevered because young men and women from all walks of life took up arms to defend the ideals by which this nation was founded. Whether it was winning our freedom from an oppressive empire, preserving our Union, defeating fascism or battling the spread of communism, the American people have time and time again answered the call to defend liberty, justice and democracy at home and throughout the world.

Our government owes a debt of gratitude to each and every one of our veterans, and we must make a concerted effort to show our appreciation for their valiant service. The Department of Veterans Affairs (VA) provides the necessary health care services and benefits to our war heroes; however, over half of the veterans in the United States are not fully aware of the benefits or pensions to which they are entitled.

The bill I introduced today is straightforward and it does not call for the creation of new benefits. Rather, it seeks to ensure that our veterans are well informed of the benefits they are entitled to as a result of their service or injuries sustained during their service to their country.

This legislation would require the VA to inform veterans about their eligibility for benefits and health care services whenever they first apply for any benefit with the VA. Furthermore, many times, widows and surviving family members of veterans are not aware of the special benefits available to them when their family member passes. My bill would help these individuals in their time of loss by instructing the VA to inform them of the benefits for which they are eligible on the passing of their loved one.

My legislation also seeks to reach out to those veterans who are not currently enrolled in the VA system by calling upon the Secretary of Veterans Affairs to prepare an annual outreach plan that will encourage eligible veterans to register with the VA as well as keeping current enrollees aware of any changes to benefits or eligibility requirements.

This bill will help ensure that our government and its services for veterans are there for the men and women who have served this nation in the armed forces. I am hopeful that my colleagues in the Senate will recognize the tremendous service that our veterans have given and support this reasonable measure to ensure that our veterans receive the benefits they deserve.

By Mr. HOLLINGS (for himself, Ms. SNOWE, Mr. KERREY, Mr. STEVENS, Mr. BREAUX, and Mr. CLELAND):

S. 2954. A bill to establish the Dr. Nancy Foster Marine Biology Scholarship Program; to the Committee on Commerce, Science, and Transportation.

THE NANCY FOSTER SCHOLARSHIP ACT

Mr. HOLLINGS. Mr. President, I rise today to introduce the Nancy Foster Scholarship Act, legislation to create a scholarship program in marine biology or oceanography in honor of Dr. Nancy Foster, head of the National Ocean Service at the National Oceanic and Atmospheric Administration (NOAA) until her passing on Tuesday, June 27, 2000. I am proud to introduce legislation to commemorate the life and work of such a wonderful leader, mentor, and coastal advocate. I thank my colleagues Senators SNOWE, KERRY, STEVENS, BREAUX, and CLELAND for joining me in recognizing Dr. Foster's strong commitment to improving the conservation and scientific understanding of our precious coastal resources.

My legislation would create a Nancy Foster Marine Biology Scholarship Program within the Department of Commerce. This Program would provide scholarship funds to outstanding women and minority graduate students to support and encourage independent graduate level research in marine biology. It is my hope that this scholarship program will promote the development of future leaders of Dr. Foster's caliber.

Dr. Foster was the first woman to direct a NOAA line office, and during her 23 years at NOAA rose to one of the most senior levels a career professional can achieve. She directed the complete modernization of NOAA's essential nautical mapping and charting programs, and created a ground-breaking partnership with the National Geographic Society to launch a 5-year undersea exploration program called the Sustainable Seas Expedition. Dr. Foster was a strong and enthusiastic mentor to young people and a staunch ally to her colleagues, and for this reason, I believe the legislation I am introducing today to be the most appropriate way for us all to ensure that her deep commitment to marine science continues on in others.

Mr. President, we will all feel Dr. Foster's loss deeply for years to come. The creation of a scholarship program in her honor is one small way we can thank a person who did so much for us all.

By Mr. DEWINE (for himself, Mr. HATCH, Mr. VOINOVICH, and Mr. LEAHY);

S. 2955. A bill to amend the Internal Revenue Code of 1986 to provide relief for the payment of asbestos-related claims; to the Committee on Finance.

ASBESTOS-RELATED CLAIMS RELIEF LEGISLATION

Mr. HATCH. Mr. President, I rise today as an original cosponsor of the bill introduced today by my friend and colleague from Ohio, Senator DEWINE, that would provide relief for payment of asbestos-related claims.

I urge my colleagues on the Finance Committee to take a close look at the serious problem this bill addresses. Certain manufacturers who were required by government specification to use asbestos in their products are facing a severe financial crisis arising from claims made by individuals who are suffering health problems from asbestos-related diseases. These claims have put several of these companies into bankruptcy, and several more appear to be on the brink of insolvency. Thousands of jobs may be at stake, as may be the proper compensation of the victims of the illnesses.

A major part of the underlying justification for this measure is that the federal government shares some culpability in the harm caused by the asbestos-related products manufactured by these companies. For example, from World War II through the Vietnam War, the government required that private contractors and shipyard workers use asbestos to insulate navy ships from so-called ''secondary fires.'' Because of sovereign immunity, however, the government has not had to share in paying the damages, leaving American companies to bear the full and ongoing financial load of compensation.

The legislation we are introducing today is a step toward recognizing that the federal government is partially responsible for payment of these claims. It does so through two income tax provisions, both of which directly benefit the victims of the illnesses.

The first provision exempts from income tax the income earned by a designated or qualified settlement fund established for the principal purpose of resolving and satisfying present and future claims relating to asbestos illnesses. The effect of this provision, Mr. President, is to increase the amount of money available for the payment of these claims.

The second provision allows taxpayers with specified liability losses attributable to asbestos to carry back those losses to the tax year in which the taxpayer, or its predecessor company, was first involved in producing or distributing products containing asbestos.

This provision is a matter of fairness, Mr. President. Because of the long latency period related to asbestos-related diseases, which can be as long as 40 years, many of these claims are just now arising. Current law provides for the carryback of this kind of liability losses, but only for a ten-year period.

Many of the companies involved earned profits and paid taxes on those profits in the years the asbestos-related products were made or distributed. However, it is now clear, many years after the taxes were paid, that there were no profits earned at all, since millions of dollars of health claims relating to those products must now be paid.

It is only fair, and it is sound tax policy, to allow relief for situations like these. Again, it should be emphasized that the primary beneficiaries of this tax change will not be the corporations, but the victims of the illnesses, because the taxpayer would be required to devote the entire amount of the tax reduction to paying the claims.

This is not the only time the federal government has been at least partially responsible for health problems of citizens that arose many years after the event that initially triggered the problem. During the Cold War, America conducted above ground atomic tests during which the wind blew the fallout into communities and ranches of Utah, New Mexico and Arizona. The government also demanded quantities of uranium, which is harmful to those who mined and milled it. The incidence of cancers and other debilitating diseases caused by this activity among the ''downwinders,'' miners and millers has been acknowledged by the federal government.

The least we can do for those manufacturers forced to use asbestos instead of other materials is provide some tax relief for their compensation funds.

This legislation has substantial bipartisan backing. It is sponsored in the House by both the Chairman and Ranking Minority Member of the Judiciary Committee. It is backed by the by the U.S. Chamber of Commerce and by at least one related labor union. This bill addresses a very serious problem and is the right thing to do. I hope we can pass it expeditiously.

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. 2955

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

SECTION 1. EXEMPTION FOR ASBESTOS-RELATED SETTLEMENT FUNDS.

(a) EXEMPTION FOR ASBESTOS-RELATED SETTLEMENT FUNDS.—Subsection (b) of section 468B of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(6) EXEMPTION FROM TAX FOR ASBESTOS-RELATED DESIGNATED SETTLEMENT FUNDS.—Notwithstanding paragraph (1), no tax shall be imposed under this section or any other provision of this subtitle on any designated settlement fund established for the principal purpose of resolving and satisfying present and future claims relating to asbestos.''

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 468B(b) of the Internal Revenue Code of 1986 is amended by striking ''There'' and inserting ''Except as provided in paragraph (6), there''.

(2) Subsection (g) of section 468B of such Code is amended by inserting ''(other than subsection (b)(6))'' after ''Nothing in any provision of law''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act.

SEC. 2. MODIFY TREATMENT OF ASBESTOS-RELATED NET OPERATING LOSSES.

(a) ASBESTOS-RELATED NET OPERATING LOSSES.—Subsection (f) of section 172 of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR ASBESTOS LIABILITY LOSSES.—

''(A) IN GENERAL.—At the election of the taxpayer, the portion of any specified liability loss that is attributable to asbestos may, for purposes of subsection (b)(1)(C), be carried back to the taxable year in which the taxpayer, including any predecessor corporation, was first involved in the production or distribution of products containing asbestos and each subsequent taxable year.

''(B) COORDINATION WITH CREDITS.—If a deduction is allowable for any taxable year by reason of a carryback described in subparagraph (A)—

''(i) the credits allowable under part IV (other than subpart C) of subchapter A shall be determined without regard to such deduction, and

''(ii) the amount of taxable income taken into account with respect to the carryback under subsection (b)(2) for such taxable year shall be reduced by an amount equal to—

''(I) the increase in the amount of such credits allowable for such taxable year solely by reason of clause (i), divided by

''(II) the maximum rate of tax under section 1 or 11 (whichever is applicable) for such taxable year.

''(C) CARRYFORWARDS TAKEN INTO ACCOUNT BEFORE ASBESTOS-RELATED DEDUCTIONS.—For purposes of this section—

''(i) in determining whether a net operating loss carryforward may be carried under subsection (b)(2) to a taxable year, taxable income for such year shall be determined

without regard to the deductions referred to in paragraph (1)(A) with respect to asbestos, and

''(ii) if there is a net operating loss for such year after taking into account such carryforwards and deductions, the portion of such loss attributable to such deductions shall be treated as a specified liability loss that is attributable to asbestos.

''(D) LIMITATION.—The amount of reduction in income tax liability arising from the election described in subparagraph (A) that exceeds the amount of reduction in income tax liability that would have resulted if the taxpayer utilized the 10-year carryback period under subsection (b)(1)(C) shall be devoted by the taxpayer solely to asbestos claimant compensation and related costs, through a designated settlement fund or otherwise.

''(E) CONSOLIDATED GROUPS.—For purposes of this paragraph, all members of an affiliated group of corporations that join in the filing of a consolidated return pursuant to section 1501 (or a predecessor section) shall be treated as 1 corporation.

''(F) PREDECESSOR CORPORATION.—For purposes of this paragraph, a predecessor corporation shall include a corporation that transferred or distributed assets to the taxpayer in a transaction to which section 381(a) applies or that distributed the stock of the taxpayer in a transaction to which section 355 applies.''

(b) CONFORMING AMENDMENT.—Paragraph (7) of section 172(f) of the Internal Revenue Code of 1986, as redesignated by this section, is amended by striking ''10-year''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act.

By Mr. CAMPBELL:

S. 2956. A bill to establish the Colorado Canyons National Conservation Area and the Black Ridge Canyons Wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

COLORADO CANYONS PRESERVATION ACT OF 2000

Mr. CAMPBELL. Mr. President, today I introduce legislation which would preserve over 130,000 acres of land in Western Colorado. This legislation is supported locally by property owners, county commissioners, environmentalists, and recreational groups. My bill is a Senate companion to H.R. 4275 which was introduced by my colleague and fellow Coloradan Representative SCOTT MCINNIS.

The areas proposed for Wildernesss Protection are the Black Ridge and Ruby Canyons of the Grand Valley and Rabbit Valley near Grand Junction, Colorado. They contain unique and valuable scenic, recreational, multiple use, paleontological, natural, and wildlife components. This historic rural western setting provides extensive opportunities for recreational activities, and are publicly used for hiking, camping, and grazing. This area is truly worthy of additional protection as a national conservation area.

This legislation has the support of the administration and should easily be signed into law. The only issue confronting us is the limited amount of time left in the 106th Congress. I hope we will be able to move this legislation quickly through the process and that it will not get bogged down in partisan politics. It simply is the right thing to do.

I ask unanimous consent that the bill be printed in the RECORD following my remarks.

Thank you, Mr. President. I yield the floor.

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

S. 2956

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 ''Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that certain areas located in the Grand Valley in Mesa County, Colorado, and Grand County, Utah, should be protected and enhanced for the benefit and enjoyment of present and future generations. These areas include the following:

(1) The areas making up the Black Ridge and Ruby Canyons of the Grand Valley and Rabbit Valley, which contain unique and valuable scenic, recreational, multiple use opportunities (including grazing), paleontological, natural, and wildlife components enhanced by the rural western setting of the area, provide extensive opportunities for recreational activities, and are publicly used for hiking, camping, and grazing, and are worthy of additional protection as a national conservation area.

(2) The Black Ridge Canyons Wilderness Study Area has wilderness value and offers unique geological, paleontological, scientific, and recreational resources.

(b) PURPOSE.—The purpose of this Act is to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the unique and nationally important values of the public lands described in section 4(b), including geological, cultural, paleontological, natural, scientific, recreational, environmental, biological, wilderness, wildlife education, and scenic resources of such public lands, by establishing the Colorado Canyons National Conservation Area and the Black Ridge Canyons Wilderness in the State of Colorado and the State of Utah.

SEC. 3. DEFINITIONS.

In this Act:

(1) CONSERVATION AREA.—The term ''Conservation Area'' means the Colorado Canyons National Conservation Area established by section 4(a).

(2) COUNCIL.—The term ''Council'' means the Colorado Canyons National Conservation Area Advisory Council established under section 8.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan developed for the Conservation Area under section 6(h).

(4) MAP.—The term ''Map'' means the map entitled ''Proposed Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Area'' and dated July 18, 2000.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(6) WILDERNESS.—The term ''Wilderness'' means the Black Ridge Canyons Wilderness so designated in section 5.

SEC. 4. COLORADO CANYONS NATIONAL CONSERVATION AREA.

(a) IN GENERAL.—There is established the Colorado Canyons National Conservation Area in the State of Colorado and the State of Utah.

(b) AREAS INCLUDED.—The Conservation Area shall consist of approximately 122,300 acres of public land as generally depicted on the Map.

SEC. 5. BLACK RIDGE CANYONS WILDERNESS DESIGNATION.

Certain lands in Mesa County, Colorado, and Grand County, Utah, which comprise approximately 75,550 acres as generally depicted on the Map, are hereby designated as wilderness and therefore as a component of the National Wilderness Preservation System. Such component shall be known as the Black Ridge Canyons Wilderness.

SEC. 6. MANAGEMENT.

(a) CONSERVATION AREA.—The Secretary shall manage the Conservation Area in a manner that—

(1) conserves, protects, and enhances the resources of the Conservation Area specified in section 2(b); and

(2) is in accordance with—

(A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(B) other applicable law, including this Act.

(b) USES.—The Secretary shall allow only such uses of the Conservation Area as the Secretary determines will further the purposes for which the Conservation Area is established.

(c) WITHDRAWALS.—Subject to valid existing rights, all Federal land within the Conservation Area and the Wilderness and all land and interests in land acquired for the Conservation Area or the Wilderness by the United States are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) the operation of the mineral leasing, mineral materials, and geothermal leasing laws, and all amendments thereto.

Nothing in this subsection shall be construed to affect discretionary authority of the Secretary under other Federal laws to grant, issue, or renew rights-of-way or other land use authorizations consistent with the other provisions of this Act.

(d) OFF-HIGHWAY VEHICLE USE.—

(1) IN GENERAL.—Except as provided in paragraph (2), use of motorized vehicles in the Conservation Area—

(A) before the effective date of a management plan under subsection (h), shall be allowed only on roads and trails designated for use of motor vehicles in the management plan that applies on the date of the enactment of this Act to the public lands in the Conservation Area; and

(B) after the effective date of a management plan under subsection (h), shall be allowed only on roads and trails designated for use of motor vehicles in that management plan.

(2) ADMINISTRATIVE AND EMERGENCY RESPONSE USE.—Paragraph (1) shall not limit the use of motor vehicles in the Conservation Area as needed for administrative purposes or to respond to an emergency.

(e) WILDERNESS.—Subject to valid existing rights, lands designated as wilderness by this Act shall be managed by the Secretary, as appropriate, in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to any wilderness areas designated by this Act, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of the enactment of this Act.

(f) HUNTING, TRAPPING, AND FISHING.—

(1) IN GENERAL.—Hunting, trapping, and fishing shall be allowed within the Conservation Area and the Wilderness in accordance

with applicable laws and regulations of the United States and the States of Colorado and Utah.

(2) AREA AND TIME CLOSURES.—The head of the Colorado Division of Wildlife (in reference to land within the State of Colorado), the head of the Utah Division of Wildlife (in reference to land within the State of Utah), or the Secretary after consultation with the Colorado Division of Wildlife (in reference to land within the State of Colorado) or the head of the Utah Division of Wildlife (in reference to land within the State of Utah), may issue regulations designating zones where, and establishing limited periods when, hunting, trapping, or fishing shall be prohibited in the Conservation Area or the Wilderness for reasons of public safety, administration, or public use and enjoyment.

(g) GRAZING.—

(1) IN GENERAL.—Except as provided by paragraph (2), the Secretary shall issue and administer any grazing leases or permits in the Conservation Area and the Wilderness in accordance with the same laws (including regulations) and Executive orders followed by the Secretary in issuing and administering grazing leases and permits on other land under the jurisdiction of the Bureau of Land Management.

(2) GRAZING IN WILDERNESS.—Grazing of livestock in the Wilderness shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), in accordance with the guidelines set forth in Appendix A of House Report 101–405 of the 101st Congress.

(h) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall develop a comprehensive management plan for the long-range protection and management of the Conservation Area and the Wilderness and the lands described in paragraph (2)(E).

(2) PURPOSES.—The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area and the Wilderness;

(B) take into consideration any information developed in studies of the land within the Conservation Area or the Wilderness;

(C) provide for the continued management of the utility corridor, Black Ridge Communications Site, and the Federal Aviation Administration site as such for the land designated on the Map as utility corridor, Black Ridge Communications Site, and the Federal Aviation Administration site;

(D) take into consideration the historical involvement of the local community in the interpretation and protection of the resources of the Conservation Area and the Wilderness, as well as the Ruby Canyon/Black Ridge Integrated Resource Management Plan, dated March 1998, which was the result of collaborative efforts on the part of the Bureau of Land Management and the local community; and

(E) include all public lands between the boundary of the Conservation Area and the edge of the Colorado River and, on such lands, the Secretary shall allow only such recreational or other uses as are consistent with this Act.

(i) NO BUFFER ZONES.—The Congress does not intend for the establishment of the Conservation Area or the Wilderness to lead to the creation of protective perimeters or buffer zones around the Conservation Area or the Wilderness. The fact that there may be activities or uses on lands outside the Conservation Area or the Wilderness that would not be allowed in the Conservation Area or the Wilderness shall not preclude such activities or uses on such lands up to the boundary of the Conservation Area or the Wilderness consistent with other applicable laws.

(j) ACQUISITION OF LAND.—

(1) IN GENERAL.—The Secretary may acquire non-federally owned land within the exterior boundaries of the Conservation Area or the Wilderness only through purchase from a willing seller, exchange, or donation.

(2) MANAGEMENT.—Land acquired under paragraph (1) shall be managed as part of the Conservation Area or the Wilderness, as the case may be, in accordance with this Act.

(k) INTERPRETIVE FACILITIES OR SITES.—The Secretary may establish minimal interpretive facilities or sites in cooperation with other public or private entities as the Secretary considers appropriate. Any facilities or sites shall be designed to protect the resources referred to in section 2(b).

(l) WATER RIGHTS.—

(1) FINDINGS.—Congress finds that—

(A) the lands designated as wilderness by this Act are located at the headwaters of the streams and rivers on those lands, with few, if any, actual or proposed water resource facilities located upstream from such lands and few, if any, opportunities for diversion, storage, or other uses of water occurring outside such lands that would adversely affect the wilderness or other values of such lands;

(B) the lands designated as wilderness by this Act generally are not suitable for use for development of new water resource facilities, or for the expansion of existing facilities;

(C) it is possible to provide for proper management and protection of the wilderness and other values of such lands in ways different from those utilized in other legislation designating as wilderness lands not sharing the attributes of the lands designated as wilderness by this Act.

(2) STATUTORY CONSTRUCTION.—

(A) Nothing in this Act shall constitute or be construed to constitute either an express or implied reservation of any water or water rights with respect to the lands designated as a national conservation area or as wilderness by this Act.

(B) Nothing in this Act shall affect any conditional or absolute water rights in the State of Colorado existing on the date of the enactment of this Act.

(C) Nothing in this subsection shall be construed as establishing a precedent with regard to any future national conservation area or wilderness designations.

(D) Nothing in this Act shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State of Colorado and other States.

(3) COLORADO WATER LAW.—The Secretary shall follow the procedural and substantive requirements of the law of the State of Colorado in order to obtain and hold any new water rights with respect to the Conservation Area and the Wilderness.

(4) NEW PROJECTS.—

(A) As used in this paragraph, the term ''water resource facility'' means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures. Such term does not include any such facilities related to or used for the purpose of livestock grazing.

(B) Except as otherwise provided by section 6(g) or other provisions of this Act, on and after the date of the enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the wilderness area designated by this Act.

(C) Except as provided in this paragraph, nothing in this Act shall be construed to affect or limit the use, operation, maintenance, repair, modification, or replacement of water resource facilities in existence on the date of the enactment of this Act within the boundaries of the Wilderness.

(5) BOUNDARIES ALONG COLORADO RIVER.—(A) Neither the Conservation Area nor the Wilderness shall include any part of the Colorado River to the 100-year high water mark.

(B) Nothing in this Act shall affect the authority that the Secretary may or may not have to manage recreational uses on the Colorado River, except as such authority may be affected by compliance with paragraph (3). Nothing in this Act shall be construed to affect the authority of the Secretary to manage the public lands between the boundary of the Conservation Area and the edge of the Colorado River.

(C) Subject to valid existing rights, all lands owned by the Federal Government between the 100-year high water mark on each shore of the Colorado River, as designated on the Map from the line labeled ''Line A'' on the east to the boundary between the States of Colorado and Utah on the west, are hereby withdrawn from—

(i) all forms of entry, appropriation, or disposal under the public land laws;

(ii) location, entry, and patent under the mining laws; and

(iii) the operation of the mineral leasing, mineral materials, and geothermal leasing laws.

SEC. 7. MAPS AND LEGAL DESCRIPTIONS.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary shall submit to Congress a copy of the Map and a legal description of the Conservation Area and of the Wilderness.

(b) FORCE AND EFFECT.—The Map and legal descriptions shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the Map and the legal descriptions.

(c) PUBLIC AVAILABILITY.—Copies of the Map and the legal descriptions shall be on file and available for public inspection in—

(1) the Office of the Director of the Bureau of Land Management;

(2) the Grand Junction District Office of the Bureau of Land Management in Colorado;

(3) the appropriate office of the Bureau of Land Management in Colorado, if the Grand Junction District Office is not deemed the appropriate office; and

(4) the appropriate office of the Bureau of Land Management in Utah.

(d) MAP CONTROLLING.—Subject to section 6(l)(3), in the case of a discrepancy between the Map and the descriptions, the Map shall control.

SEC. 8. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall establish an advisory council to be known as the ''Colorado Canyons National Conservation Area Advisory Council''.

(b) DUTY.—The Council shall advise the Secretary with respect to preparation and implementation of the management plan, including budgetary matters, for the Conservation Area and the Wilderness.

(c) APPLICABLE LAW.—The Council shall be subject to—

(1) the Federal Advisory Committee Act (5 U.S.C. App.); and

(2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(d) MEMBERS.—The Council shall consist of 10 members to be appointed by the Secretary including, to the extent practicable:

(1) A member of or nominated by the Mesa County Commission.

(2) A member nominated by the permittees holding grazing allotments within the Conservation Area or the Wilderness.

(3) A member of or nominated by the Northwest Resource Advisory Council.

(4) Seven members residing in, or within reasonable proximity to, Mesa County, Colorado, with recognized backgrounds reflecting—

(A) the purposes for which the Conservation Area or Wilderness was established; and

(B) the interests of the stakeholders that are affected by the planning and management of the Conservation Area and the Wilderness.

SEC. 9. PUBLIC ACCESS.

(a) IN GENERAL.—The Secretary shall continue to allow private landowners reasonable access to inholdings in the Conservation Area and Wilderness.

(b) GLADE PARK.—The Secretary shall continue to allow public right of access, including commercial vehicles, to Glade Park, Colorado, in accordance with the decision in Board of County Commissioners of Mesa County v. Watt (634 F. Supp. 1265 (D.Colo.; May 2, 1986)).

By Mr. ROTH:

S. 2957. A bill to amend title XVIII of the Social Security Act to preserve coverage of drugs and biologicals under part B of the medicare program; to the Committee on Finance.

MEDICARE SELF-ADMINISTERED MEDICATIONS ACT

Mr. ROTH. Mr. President, today I am introducing a bill to address a serious problem regarding Medicare's treatment of self-injectable drugs. Section 1862(s) of the Social Security Act defines covered ''medical and other health services'' for purposes of coverage under Medicare Part B. Included in the definition are:

(2)(A) services and supplies (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) furnished as incident to a physician's professional service, of kinds which are commonly furnished in physicians' offices and are commonly either rendered without charge or included in the physicians' bills . . .

Regulations at 42 C.F.R. 410.29 provide further limitations on drugs and biologicals, but they do not define the phrase ''cannot be self-administered.'' Individual Medicare carriers have reportedly applied different policies when considering whether a drug or biological can or cannot be self-administered. Some carriers have based the determination on the typical means of administration while others have assessed the individual patient's ability to administer the drug.

On August 13, 1997, HCFA issued a memorandum to Medicare carriers which was intended to clarify program policy. The memorandum stated that the inability to self-administer is to be based on the typical means of administration of the drug, not on the individual patient's ability to administer the drug. The memorandum stated that: ''The individual patient's mental or physical ability to administer any drug is not a consideration for this purpose.''

As a result of this memorandum, certain patients, for example patients with multiple sclerosis or some forms of cancer, no longer had Medicare coverage for certain drugs. However, implementation of this policy directive has been halted for FY2000. On November 29, 1999, the President signed into law the Consolidated Appropriations Act for 2000. Section 219 of General Provisions in Title II, Department of Health and Human Services contains a provision relating to the memorandum. The provision prohibits the use of any funds to carry out the August 13, 1997, transmittal or to promulgate any regulation or other transmittal or policy directive that has the effect of imposing (or clarifying the imposition of) a restriction on the coverage of injectable drugs beyond those applied on the day before issuance of the transmittal.

The definition of covered services continues to be of concern to policymakers. On March 23, 2000, the House Commerce Committee, Subcommittee on Health & Environment held a hearing on this issue. I understand that there was a very productive discussion of other policy options during the question and answer period. One witness, Dr. Earl Steinberg of Johns Hopkins University, suggested having the beneficiary's physician determine whether a medication can or cannot be self-injected. The bill I am introducing today follows that expert advice and introduces the judgment of the physician into the decision process.

On May 17, 2000 I sent a letter to HCFA Administrator DeParle, requesting her serious attention to this problem. I went further to ask her to propose an administrative remedy for the inequity that existed. In her reply, she stated that she was ''very troubled by the predicament of beneficiaries whose drugs are not covered under the law.'' But it is clear from Administrator DeParle's letter, that without legislative authority there is only a limited amount HCFA will do to address this problem.

The bill I am introducing today allows a Medicare beneficiary's own physician to make the determination of whether the beneficiary can or cannot administer their medication. I would ask for my colleagues' support in this legislation. This issue is of vital importance to some of our most gravely ill Medicare beneficiaries. These beneficiaries, many with advanced cases of multiple sclerosis or cancer, deserve our help and they deserve it today. I ask consent that the full text be printed in the RECORD.

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

S. 2957

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 Self-Administered Medications Act of 2000''.

SEC. 2. PRESERVATION OF COVERAGE OF DRUGS AND BIOLOGICALS UNDER PART B OF THE MEDICARE PROGRAM.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended, in each of subparagraphs (A) and (B), by striking ''(including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered)'' and inserting ''(including drugs and biologicals for which the usual method of administration of the form of drug or biological is not patient self-administration or, in the case of injectable drugs and biologicals, for which the physician determines that self-administration is not medically appropriate)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs and biologicals administered on or after October 1, 2000.

By Mr. SANTORUM:

S. 2958. A bill to establish a national clearinghouse for youth entrepreneurship education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

YOUTH ENTREPRENEURSHIP CLEARINGHOUSE AND CURRICULUM-BASED YOUTH ENTREPRENEURSHIP

Mr. SANTORUM. Mr. President, today I am introducing legislation to empower at-risk youths and their communities. My legislation would establish a national youth entrepreneurship clearinghouse and permit curriculum-based youth entrepreneurship education as an allowable use of funds. Only curriculum-based youth entrepreneurship programs that demonstrate success in equipping disadvantaged youth with applied math and other analytical skills would be eligible for assistance under this measure. Students who participate in these programs learn basic entrepreneurial skills and gain a better understanding of the relationship between the subjects they learn in their classrooms and the business world. By teaching students practical skills needed to establish and maintain thriving entrepreneurial projects, the programs empower students and prepare them for future endeavors as contributing members of their communities. My legislation will instill pride in at-risk youths by providing them with the opportunity to improve their surroundings, while they explore and learn about the many career choices available to them in the business world.

I am pleased that this measure was included in the Elementary and Secondary Education Reauthorization bill passed by the House of Representatives, and it is my hope that we can facilitate its passage in the Senate and move closer to providing significant and meaningful initiatives for our children in need.

By Mr. WYDEN:

S. 2960. A bill to provide for qualified withdrawals from the Capital Construction Fund (CCF) for fishermen leaving the industry and for the rollover of Capital Construction Funds to

individual retirement plans; to the Committee on Finance.

THE CAPITAL CONSTRUCTION FUND REFORM ACT

Mr. WYDEN. Mr. President, I am pleased today to introduce the Capital Construction Fund Reform Act of 2000.

The Capital Construction Fund (CCF) was originally created by the Merchant Marine Act as a way to encourage the construction and use of American-owned vessels in U.S. waters. For fishermen, the Capital Construction Fund authorizes the accumulation of funds, free from taxes, for the purpose of buying or refitting commercial fishing vessels. The program has been a success in promoting the domestic fishing industry. However, the usefulness of the CCF has not kept up with the times. Today it is actually exacerbating the problems facing U.S. fisheries by forcing fishermen to keep their money in fishing vessels, rather than allowing them to retire from fishing and pursue other interests.

Our nation's fisheries are collapsing. Over the past year, fisheries in New England, Alaska and the West Coast have been officially declared disasters by the Secretary of Commerce. Plainly speaking, there are too many boats and not enough fish. Along the West Coast, a mere 200 of the 1400 boats currently fishing could catch the entire allowable harvest of groundfish. That means we could buyout 85 percent of the boats and still not reduce capacity in our fisheries. Since 1995, Congress has appropriated $140 million to buy fishing vessels and permits back from fishermen. Clearly, more needs to be done. This legislation empowers the fisherman to make his own choices to stay or leave the fishery with his own money.

In these times when we ought to be reducing the number of boats in our fisheries, it does not make sense for federal policy to encourage fishermen to build more of them. Yet current law prohibits fishermen from getting their own money out of CCF accounts for any purpose other than building boats. If they do, they lose up to 70 percent of their money in taxes and penalties. When fishermen have already been hit with increasingly severe harvest restrictions over the past few years, it is just not fair to hold their own money hostage.

That is why I'm introducing a bill that makes it easier for fishermen to withdraw their funds from the Capital Construction Fund if they retire from the fishery. My bill would allow fund holders to roll their funds over into an Individual Retirement Account (IRA) or other retirement fund. It would also allow them to use their own money to participate in buyback programs. This bill also eliminates the tax-penalty for withdrawals for those folks wishing to leave the industry.

Mr. President, this bill enjoys wide support from a variety of organizations with an interest in our nation's fisheries. Environmental groups, trawlers, small boat operators and processors alike have expressed their enthusiasm for this legislation. I urge my colleagues to support the swift adoption of this bill so that our fisherman can start making their own choices about their businesses and lives.

I ask unanimous consent that my statement and the bill be printed in the RECORD.

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

S. 2960

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

SECTION 1. SHORT TITLE

The Act may be cited as ''The Capital Construction Fund (CCF) Qualified Withdrawal Act of 2000''.

SECTION 2. EXPANSION OF PURPOSES OF THE CAPITAL CONSTRUCTION FUND BY AMENDING THE MERCHANT MARINE ACT OF 1936

Section 607(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(a)) is amended by striking ''of this section.'' and inserting ''of this section. Any agreement entered into under this section may be modified for the purpose of encouraging the sustainability of the fisheries of the United States by making the termination and withdrawal of a capital construction fund account a qualified withdrawal if done in exchange for the retirement of the related commercial fishing vessels and related commercial fishing permits.''

SECTION 3. NEW QUALIFIED WITHDRAWALS

(a) AMENDMENTS TO MERCHANT MARINE ACT OF 1936.—Section 607(f)(1) of the Merchant Marine Act of 1936 (46 U.S.C. App. 1177(f)(1)) is amended:

(1) in subparagraph (B) by striking ''vessel, or'' and inserting ''vessel,''

(2) in subparagraph (C) by striking ''vessel.'' and inserting ''vessel,''

(3) by inserting after subparagraph (C) the following new subparagraphs:

''(D) the payment of an industry fee authorized by the fishing capacity reduction program, 16 U.S.C. 1861,

''(E) in the case of any such person or shareholder for whose benefit such fund was established, a rollover contribution (within the meaning of section 408(d)(3) of the Internal Revenue Code of 1986) to such person's individual retirement plan (as defined in section 7701(a)(37) of such Code), or

''(F) (i) for the payment to a corporation or person terminating a capital construction fund and retiring related commercial fishing vessels and permits.

(ii) The Secretary by regulation shall establish procedures to ensure that any person making a qualified withdrawal authorized by (F)(i) retires the related commercial use of fishing vessels and commercial fishery permits.''

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—Section 7518(e)(1) of the Internal Revenue Code of 1986 (relating to purposes of qualified withdrawals) is amended by inserting after subparagraph (C) the following new subparagraphs:

''(D) the payment of an industry fee authorized by the fishing capacity reduction program, 16 U.S.C. 1861.

''(E) in the case of any such person or shareholder for whose benefit such fund was established, a rollover contribution (within the meaning of section 408(d)(3) of the Internal Revenue Code of 1986) to such person's individual retirement plan (as defined in section 7701(a)(37) of such Code), or

''(F)(i) for the payment to a corporation or person terminating a capital construction fund and retiring related commercial fishing vessels and permits.

(ii) The Secretary by regulation shall establish procedures to ensure that any person making a qualified withdrawal authorized by (F)(i) retires the related commercial use of fishing vessels and commercial fishery permits.''

By Mr. SMITH of New Hampshire:

S. 2962. A bill to amend the Clean Air Act to address problems concerning methyl tertiary butyl ether, and for other purposes; to the Committee on Environment and Public Works.

THE FEDERAL REFORMULATED FUELS ACT OF 2000

Mr. SMITH of New Hampshire. Mr. President, today I have introduced legislation, S. 2962, which I believe will deal once and for all with the MTBE problem that is facing us all across America, specifically New England. In the Northeast, as well as California and other areas of the country, we are beginning to see evidence of MTBE in ground water. This is a serious environmental problem that must be addressed. It is certainly a problem in New Hampshire.

I rise today to speak for my constituents in New Hampshire who are now having their wells, several a week by the way, being contaminated by MTBE. This is my home State. This is a serious problem there. I am here to offer this legislation to help my constituents in New Hampshire get relief from MTBE, which is a pollutant in their wells. But I am also here to speak for all Americans across the country who have MTBE in their wells, whether they be in California or New Hampshire.

MTBE has done more damage to our drinking water than we would care to know. MTBE has been a component of our fuel supply for over two decades. In 1990, we amended the Clean Air Act to include a clean gasoline program. Unfortunately, we did not look at the science that was probably more evident than not. Because we did not look at that science, we have now created another environmental problem of a huge magnitude, which is probably going to cost billions of dollars to clean up. If there is a moral here, or lesson, it should be: Use good science. Look carefully before you leap into some of these environmental dilemmas.

That program in the 1990 Clean Air Act amendment mandated use of 2 percent oxygen in the gas, by weight. In other words, 2 percent of the weight of a gallon of gasoline should be oxygen. That was put in the fuel.

MTBE was one of two options that could be used. The problem with MTBE is that it has this ability to migrate through the ground very quickly and then into the water table. What is MTBE? It is an ether, and in the event of a leak or gas spill, the MTBE will separate from the gas and migrate through the ground very quickly. The real problem starts when MTBE finds its way into the ground water, which it frequently does.

Several States have had gasoline leaks, or spills, that led to the closure of wells because of MTBE. It smells. It tastes horrible. It is not the kind of thing you want to see come out of your shower or your faucet when you are ready to use your water. This is a serious problem. Some have made light of it, frankly, in this body, in the sense that maybe it is not such a serious problem and maybe we should look at some other alternatives other than banning it. But we need to ban MTBE. The legislation I am introducing today will do that. It does it in a responsible manner, which I will explain.

Several States have had these leaks or spills, as I said. So this bill will address the problems associated with MTBE, but—and this is a very important point—will not reduce any of the environmental benefits of the clean air program. That cannot be said with every option that has been presented on this issue. Again, we can ban MTBE, but we will not reduce any environmental benefit that the MTBE has brought to clean the air and that is important.

Briefly, this bill will allow the Governor of any State to waive the gasoline oxygen requirement of the Clean Air Act—waive it. But it will preserve the environmental benefits. It will also grant the State and the Federal Government authority to ban MTBE. It authorizes an additional $200 million out of the Leaking Underground Storage Tank Fund to clean up MTBE where these wells have been contaminated because of these leaking tanks. In other words, if we could repair those leaking tanks, we are going to cut back on the amount of problems we are going to have in the future. So it is important we have this as part of the legislation to get the money there to fix these tanks, to cut back on the amount of MTBE that gets into the ground water. If it does not leak out of the tank, the gasoline tank, it will not get into the ground water. But it is leaking out of tanks and we have to fix it.

The bill also authorizes an extensive study of numerous environmental consequences of our current fuel use. It was my hope to have marked up and sent to the floor from the Environment and Public Works Committee, which I chair, a bill this past week. In fact, it was our goal to do it yesterday, but we could not get the parties together who I needed to make this bill a reality, in the sense that it would pass. We could have introduced a bill, could have marked a bill, perhaps, but it would not have passed because we would not have the support. This problem is too serious to play politics.

MTBE is a pollutant in our wells. We need to get it out. We have to have legislation to do it and it has to pass. There is no point introducing a bill that will not pass. There are people who are dug in on all sides of this issue for various reasons. But the point is, we need to compromise. We all cannot get what we want, but the end result must be that we get MTBE out of our ground water. That is the bottom line.

So I agreed, reluctantly, but I agreed, in the interests of working together with my colleagues, to hold off until September in order to resolve the few remaining issues, but I intend to hold that markup in September. In fact, the specific date is September 7. In that legislation that we mark up, we will ban MTBE.

The issues that are in this legislation include the treatment of ethanol. I am pleased with the recent progress we have made on this. But there is a serious problem that we have to deal with, those who advocate more ethanol in fuel. I expect these issues to be resolved. We are working behind the scenes very hard to resolve these issues before the September 7 markup. It will give the staff something to do during the August recess. I know they will work out the details. But I thank the many Senators on both sides of the aisle I have been working with very closely to resolve these issues. This is a tough, tough issue, and it is hard to get agreement. Everybody is not going to get what they want, but the bottom line is, we have to get MTBE out of the water.

Let me address the ethanol issue for a moment. Some weeks ago I circulated a draft that included a clean alternative fuels program. This is a very complex issue. What are alternative fuels? It could be premium gasoline. It could be natural gas. It could be electricity. It could be fuel cells. It could be ethanol. But if you say ''renewable fuels,'' then you are talking for the most part only ethanol. So when we are talking alternative fuels, what alternatives do we have to MTBE that would help us meet these requirements in the Clean Air Act? This has proven to be a good step toward addressing the ethanol question.

The program will also enhance the development of cleaner and more efficient cars which will help with the Clean Air Act issues as well. There has been growing support for this alternative fuels approach since the time we first brought this up. We do not want to create more MTBE problems. We do not want to create dirtier air by eliminating MTBE because we created dirty water by putting MTBEs in gasoline.

So last week in an effort, again, to reach out, I received a letter supporting that approach from 32 States represented by air quality planners in the northeastern States and the Governors' Ethanol Coalition. So for the first time we now have ethanol, and the Northeast, you have specific problems here with the MTBE issue, talking, working together, and, as we said, from this letter of support from 32 States, they support this approach.

We have not dotted every ''i'' and crossed every ''t'' yet, but in concept they support the approach.

The bill I am offering today, while that bill does not include the exact language they are talking about in that letter—and I want to make that clear—it is a bridge. It is a bridge from where my legislation is to where they are. Actually, simultaneously to the bill I have introduced, I have also offered an amendment No. 4026, which crosses that bridge. I have introduced what I would like to have, what I believe is the most cost-effective method to deal with this problem, but I recognize that even though it is the least costly, it does not have the amount of support I need to pass it. So I have offered another amendment to my own bill, which is my way of saying: OK, you offered me the bridge. I am willing to walk across it and meet you at least halfway.

I will describe this bill in a little more detail first. This is a complex issue. The Environmental and Public Works Committee has been struggling with this, certainly in the last 7 or 8 months I have been chairman of the committee, and I am sure they were struggling with it many months before that. I have tried to craft a solution that is direct and balanced. I believe I have accomplished that. That is my goal. It is not to ramrod anything through to make anybody angry. It is a legitimate attempt to get a consensus to deal with a serious environmental problem, not to deal with everybody's own opinions.

If anybody comes to the table and says: If I do not get this, I will leave the table—I tell the people who say that: Don't bother coming to the table; you are wasting my time and yours. If you want to, talk, compromise, and reach a rational conclusion. I am willing to talk, and Senators on all sides of this have done just that. We have talked to many industry folks and environmental people as well on this very issue.

The bill waives the oxygen mandate. The Reformulated Gasoline Program, or RFG, requires at least 2 percent of gasoline by weight to be oxygen. MTBE and ethanol are the principal additives that help satisfy this mandate. It is ethanol or MTBE. They will bring us to that 2 percent oxygenate requirement. Because MTBE is rarely used outside the Reformulated Gas Program, a sensible starting point was to allow each State, if they wish, to waive the oxygen requirement.

What about the so-called environmental backsliding; in other words, slipping back and allowing more dirty air? There is concern that if the Governors waive this mandate that this will affect the environmental benefit—clean air—of the Reformulated Gas Program.

Let me be very clear: My bill ensures there will be no environmental backsliding. We are not walking away from the requirements of the Clean Air Act. If this bill is adopted, the environment—at least the air—will not know the difference. There will be no negative impact on the air, and the water will be cleaner.

Phaseout of MTBE: Eliminating the 2 percent oxygen mandate alone does not

mean the elimination of MTBE. MTBE is an effective octane booster, and refiners still may want to use it. Since only a very small amount of MTBE will cause a tremendous amount of damage, it is important to consider the fate of MTBE.

This bill will give the EPA Administrator the authority to ban it immediately. If EPA does not do so in 4 years, then this bill will, by law, ban MTBE. The EPA has 4 years to ban it. If they do not, the bill will.

EPA could, however, overturn the ban if it deemed it was not necessary to protect air quality, water quality, or human health. If it gets to the point that it is not a problem, then EPA does not have to ban it. Notwithstanding EPA's decision, the bill gives the States the authority to ban the additive.

Since there is already massive contamination caused by MTBE, this bill will authorize, as I said, $200 million to be given to the States from the Leaking Underground Storage Tank Program for the purpose of cleaning up MTBE-caused contamination.

Since a Federal mandate caused this pollution—remember that a Federal mandate caused this pollution. This is not the fault of the oil companies. It is not the fault of the MTBE producers. They did what they were asked to do. They produced this additive to clean up the air. Since a Federal mandate caused the pollution, it would be irresponsible for the Federal Government not to bear some of the financial burden associated with the cleanup. Unfortunately, that is the case.

I do not like to spend taxpayers' dollars, but this was a mandate, and because of that mandate, we have a problem.

It is also important to point out that although it is not part of my legislation, it is reasonable to think of some way of perhaps trying to work with the MTBE producers to help them through this transition if, in fact, MTBE is banned. I certainly am willing to work with them to come up with some solution, some help in terms of their movement from one industry to another, or whatever the case may be.

Finally, the bill authorizes a comprehensive study of the environmental consequences of our current fuel supply. In order to be better informed to make future environmental decisions regarding fuel policy, the bill directs EPA to undertake a study of our motor fuel.

I will talk a little bit about the cost, a very important point.

Lately, we have heard a great deal about gasoline prices, certainly fuel oil prices, as well, in New England. These concerns underscore the question of the costs associated with limiting MTBE use.

MTBE, like it or not, is clean, it is cheap, and it helps to clean up our air. Placing it in our fuel supply and keeping the fuel supply clean will have a cost. We have to replace it. We cannot backslide. We do not want to dirty the air while we take MTBE out.

It is my belief the Senate is not prepared to reduce our clean air standards or allow for the continued contamination of our drinking water.

We have two issues: Contaminated drinking water and do we backslide off the clean air provision. I believe my colleagues in the Senate are willing to work with me to clean up the water to get the MTBE out of our wells and to preserve the integrity of the Clean Air Act and not backslide or move back from the cleaner air we have accomplished by using MTBE.

The question, though, becomes: What is the most effective and cost friendly option for achieving this goal? I have a chart which will help illustrate the options. Each one of these options—the red line, yellow line, green line, and the blue line—bans MTBE, but it is a little more complicated than that.

One option is simply the elimination of MTBE with no other changes in the law. That is the red line. These show costs. This is the highest cost option because it is about an 8-cent increase in gas prices per gallon. This is a ban of MTBE, and it replaces it with ethanol in the Reformulated Gas Program. One might think: That is fine, it is ethanol, produced by corn, a nice natural product; what is wrong with that? Let's do it.

The problem is, in areas in the Northeast, such as New Hampshire, and in other States such as Texas, these States would have to use ethanol to meet that oxygenate requirement because there is no other option. In order to meet the 2-percent oxygenate requirement if MTBE is removed, they have to use ethanol.

One may say: What is wrong with that? Ethanol makes gas evaporate more quickly and those fumes would add to smog and haze in New England and it would be serious. Obviously, California would have the same problem.

Refiners would have to make gas less evaporative and thereby increasing the cost. In other words, they would have to do something to deal with that rapid evaporation and it would cost more to do that. This is not an option for New England nor California nor any other State that has this particular problem.

If we are going to be responsible, then we should work with our colleagues who have these problems. I happen to have that problem because I am from New Hampshire, and as the chairman of the committee, I need to work with all regions of the country to get a compromise that is acceptable to everybody so that we do not have more environmental problems in New England or California or some other place by simply banning MTBE and letting ethanol take over. Some want that.

Obviously, the ethanol producers would love it, but that does not help us. We do not want to create more problems. That is not a responsible approach, I say with all due respect.

The next line is the orange line in terms of cost.

That is the Clinton administration's position. That represents the cost of eliminating the oxygen mandate, but replacing it with a national ethanol mandate. You have no other alternative other than ethanol.

The cost of mandating a threefold increase in ethanol sales is very expensive. So the options represented by the orange line shown on the chart cost less than what is shown with the red line because it does not mandate that the reformulated gas contain ethanol. It does not mandate it, but that is what is going to happen. But, shown with this orange line on the chart, it simply mandates the total ethanol market. So you are mandating the market here, and that is no good. That does not work. Unlike what is shown with the red line, there would be no regional constraint. It would not be acceptable.

Now, what is shown on the chart with the blue line is legislation that I am introducing today, without the amendment initially. In my view, that is the cheapest and most responsible way to deal with this problem. However, for reasons which I respect—I might not agree with them, but I respect them—it does not have enough support, either, to pass the Senate. I recognize that, but I want everybody to know where I am coming from.

I believe we should use the cheapest alternative that gets the job done. That is my view. But I understand, as I said before, I am willing to build that bridge to go from what is shown with the blue line to what is shown with the green line. I will not go to what is shown with the orange or red lines, but I am willing to go from what is shown with the blue line to what is shown with the green line.

As I have said, what is shown with the blue line is the bill I have introduced. That bill will cost more to make clean gas without MTBE, but because we place the fewest requirements on the refiners on how to achieve that clean gas, this bill would cost the economy less than all other options. It is very important for me to repeat that. We place the fewest requirements on the refiners on how to achieve the clean gas. We want clean gas achieved. That is the goal. This bill would cost the economy less than all of those other options.

While my bill addresses all of the concerns with MTBE, I am also sensitive to the concerns of the Senators who understand that this bill might have an impact on ethanol. So in order to address these concerns, I have prepared an amendment to my own legislation, amendment No. 4026, which I have already sent to the desk.

This amendment seeks to address the concerns over ethanol that Members have. I am hoping that over the course of the next 30 days we will be able to build this bridge from what is shown by the blue line to what is shown by the

green line, to get to what I think is an acceptable and responsible approach.

I indicated earlier there is a lot of interest. Thirty-two States have expressed interest in this, in my letter. This amendment seeks to address the concerns of the ethanol industry by establishing a segment of the fuel market that must be comprised of either ethanol or fuel used to power superclean vehicles.

About 10 days ago, I had the opportunity to ride in a fuel-celled bus. It had hydrogen cells. I had never experienced anything like it: No fumes, no smell, very little sound, and no pollutants whatsoever. I road several miles in it.

The current occupant of the Chair, the Senator from Utah, Senator BENNETT, drives a hybrid car which is part electric, part gas. You see, we are moving in the right direction. Hybrid cars, fuel cells—they are the future. The more we do that, the less we need of any type of gasoline, whether it is ethanol or just oil based. It does not matter.

The point is, we are moving in the right direction. That is what we want to encourage. This bill will establish a segment of the fuel market that must be comprised of either ethanol or fuel used to power those clean vehicles. We do not want to stop them from having that option.

If we just go with the renewables that the administration wants, all they can use is ethanol. What we want them to do is use ethanol, if they wish, but to use hybrid cars if they wish. Encourage that, encourage fuel cells, whatever, or premium gas, but let the market deal with it.

So there are a lot of exciting things happening. This amendment is going to create competition. There is nothing wrong with competition, good old competition. You pick winners and losers—no guarantees—with competition between the ethanol industry and the clean vehicle market. So why mandate ethanol and exclude clean vehicles? It does not make any sense.

So the estimated cost of this approach is represented by the green line on the chart. This is a very good approach that I believe is a compromise that gets us there. It costs us a little more, but it gets us there. Because we can't get there with what is represented by the blue line, I am willing to go here, with what is represented by the green line.

Mr. President, I know my time is pretty close to expiring, I am sure.

To those who will ask, why does this have to be so complicated, I did not create the issue. I have spent the last 6 months trying to understand it and learn about it. I think I am getting there, with a lot of help. It is a complex issue, with many competing interests. That is the thing. But a simple ban of MTBE does not get everybody there—all the regions of the country. It does not get it done.

So a simple ban of MTBE makes gas more expensive and air more dirty. It is not acceptable. We cannot do that. A stand-alone mandate of ethanol does not get you there, either. Smog concerns, cost concerns—particularly in New Hampshire, and other areas of the Northeast, as well as California—that does not get you there.

Simply eliminating the reformulated gas mandate does not work, either. That is another option. MTBE would continue to be used and the potential adverse impact on ethanol would be there.

I am committed, I say to my colleagues, to a solution that, one, cleans up our Nation's drinking water, and, two, preserves the environmental benefits of the reformulated gasoline program, which is the most cost-effective option for the whole Nation. And that is shown right there with the green line. That is the one we can get it done with. I wish it were here with what is depicted with the blue line, but this will get us there with what is depicted with the green line; and we will do it.

So I am convinced this is the right approach. I look forward to working with my colleagues. This is an honest attempt to sit down with everybody and get to a resolution, because to continue to argue about this and debate this, while more and more wells every day get polluted with MTBE, is irresponsible. It is totally irresponsible.

We should not be talking about somebody's profit at the expense of somebody's well being polluted. Let's compromise. We will work with you. You can make some profit, but you are not going to make so much profit that we have to stand around and have our wells polluted. That is simply wrong. It is unacceptable. It is irresponsible. I am not going to stand for it. I don't think anybody would who had these kinds of problems. It is irresponsible. So we are going to work together.

I am very encouraged by the folks, especially the ethanol Senators, who I have talked with, and their staffs. We have talked to folks in the oil industry. They are not real thrilled about some of this, but, again, this is a solution that we must find. We cannot continue to say we will talk about it next week or we will deal with it in conference or we will deal with it next year. We need to deal with it now. This is a responsible effort to do that.

So, again, I look forward to working with my colleagues, and I look forward to that markup on September 7. I intend to be ready for it, and to send that bill out of the EPW Committee and on to the calendar in the Senate.

Mr. President, I ask unanimous consent 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. 2962

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 ''Federal Reformulated Fuels Act of 2000''.

SEC. 2. WAIVER OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking ''Within 1 year after the enactment of the Clean Air Act Amendments of 1990,'' and inserting the following:

''(A) IN GENERAL.—Not later than November 15, 1991,''; and

(2) by adding at the end the following:

''(B) WAIVER OF OXYGEN CONTENT REQUIREMENT.—

''(i) AUTHORITY OF THE GOVERNOR.—

''(I) IN GENERAL.—Notwithstanding any other provision of this subsection, a Governor of a State, upon notification by the Governor to the Administrator during the 90-day period beginning on the date of enactment of this subparagraph, may waive the application of paragraphs (2)(B) and (3)(A)(v) to gasoline sold or dispensed in the State.

''(II) OPT-IN AREAS.—A Governor of a State that submits an application under paragraph (6) may, as part of that application, waive the application of paragraphs (2)(B) and (3)(A)(v) to gasoline sold or dispensed in the State.

''(ii) TREATMENT AS REFORMULATED GASOLINE.—In the case of a State for which the Governor invokes the waiver described in clause (i), gasoline that complies with all provisions of this subsection other than paragraphs (2)(B) and (3)(A)(v) shall be considered to be reformulated gasoline for the purposes of this subsection.

''(iii) EFFECTIVE DATE OF WAIVER.—A waiver under clause (i) shall take effect on the earlier of—

''(I) the date on which the performance standard under subparagraph (C) takes effect; or

''(II) the date that is 270 days after the date of enactment of this subparagraph.

''(C) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—

''(i) IN GENERAL.—As soon as practicable after the date of enactment of this subparagraph, the Administrator shall—

''(I) promulgate regulations consistent with subparagraph (A) and paragraph (3)(B)(ii) to ensure that reductions of toxic air pollutant emissions achieved under the reformulated gasoline program under this section before the date of enactment of this subparagraph are maintained in States for which the Governor waives the oxygenate requirement under subparagraph (B)(i); or

''(II) determine that the requirement described in clause (iv)—

''(aa) is consistent with the bases for a performance standard described in clause (ii); and

''(bb) shall be deemed to be the performance standard under clause (ii) and shall be applied in accordance with clause (iii).

''(ii) PERFORMANCE STANDARD.—The Administrator, in regulations promulgated under clause (i)(I), shall establish an annual average performance standard based on—

''(I) compliance survey data;

''(II) the annual aggregate reductions in emissions of toxic air pollutants achieved under the reformulated gasoline program during calendar years 1998 and 1999, determined on the basis of the volume of reformulated gasoline containing methyl tertiary butyl ether that is sold throughout the United States; and

''(III) such other information as the Administrator determines to be appropriate.

''(iii) APPLICABILITY.—

''(I) IN GENERAL.—The performance standard under clause (ii) shall be applied on an annual average refinery-by-refinery basis to all reformulated gasoline that is sold or introduced into commerce by the refinery in a

State for which the Governor waives the oxygenate requirement under subparagraph (B)(i).

''(II) MORE STRINGENT REQUIREMENTS.—The performance standard under clause (ii) shall not apply to the extent that any requirement under section 202(l) is more stringent than the performance standard.

''(III) STATE STANDARDS.—The performance standard under clause (ii) shall not apply in any State that has received a waiver under section 209(b).

''(IV) CREDIT PROGRAM.—The Administrator shall provide for the granting of credits for exceeding the performance standard under clause (ii) in the same manner as provided in paragraph (7).

''(iv) STATUTORY PERFORMANCE STANDARD.—

''(I) IN GENERAL.—Subject to subclause (III), if the regulations under clause (i)(I) have not been promulgated by the date that is 270 days after the date of enactment of this subparagraph, the requirement described in subclause (II) shall be deemed to be the performance standard under clause (ii) and shall be applied in accordance with clause (iii).

''(II) TOXIC AIR POLLUTANT EMISSIONS.—The aggregate emissions of toxic air pollutants from baseline vehicles when using reformulated gasoline shall be 27.5 percent below the aggregate emissions of toxic air pollutants from baseline vehicles when using baseline gasoline.

''(III) SUBSEQUENT REGULATIONS.—The Administrator may modify the performance standard established under subclause (I) through promulgation of regulations under clause (i)(I).''.

SEC. 3. SALE OF GASOLINE CONTAINING MTBE.

Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended—

(1) in paragraph (1)(A)—

(A) by inserting ''fuel or fuel additive or'' after ''Administrator any''; and

(B) by striking ''air pollution which'' and inserting ''air pollution, or water pollution, that'';

(2) in paragraph (4)(B), by inserting ''or water quality protection,'' after ''emission control,''; and

(3) by adding at the end the following:

''(5) DETERMINATION BY THE ADMINISTRATOR WHETHER TO BAN USE OF MTBE.—

''(A) IN GENERAL.—Not later than 4 years after the date of enactment of this paragraph, the Administrator shall ban use of methyl tertiary butyl ether in gasoline unless the Administrator determines that the use of methyl tertiary butyl ether in accordance with paragraph (6) poses no substantial risk to water quality, air quality, or human health.

''(B) REGULATIONS CONCERNING PHASE-OUT.—The Administrator may establish by regulation a schedule to phase out the use of methyl tertiary butyl ether in gasoline during the period preceding the effective date of the ban under subparagraph (A).

''(6) LIMITATIONS ON SALE OF GASOLINE CONTAINING MTBE.—

''(A) IN GENERAL.—Subject to subparagraph (B), if the Administrator makes the determination described in paragraph (5), for the fourth full calendar year that begins after the date of enactment of this paragraph and each calendar year thereafter—

''(i) the quantity of gasoline sold or introduced into commerce during the calendar year by a refiner, blender, or importer of gasoline shall contain on average not more than 1 percent by volume methyl tertiary butyl ether; and

''(ii) no person shall sell or introduce into commerce any gasoline that contains more than a specified percentage by volume methyl tertiary butyl ether, as determined by the Administrator by regulation.

''(B) REGULATIONS CONCERNING TRADING.—

''(i) IN GENERAL.—The Administrator may promulgate regulations that provide for the granting of an appropriate amount of credits to a person that refines, blends, or imports, and certifies to the Administrator, gasoline or a slate of gasoline that has a methyl tertiary butyl ether content that is less than the maximum methyl tertiary butyl ether content specified in subparagraph (A)(i).

''(ii) USE OF CREDITS.—The regulations promulgated under clause (i) shall provide that a person that is granted credits may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with the maximum methyl tertiary butyl ether content requirement specified in subparagraph (A)(i).

''(iii) MAXIMUM ANNUAL LIMITATION.—The regulations promulgated under clause (i) shall ensure that the total quantity of gasoline sold or introduced into commerce during any calendar year by all refiners, blenders, or importers contains on average not more than 1 percent by volume methyl tertiary butyl ether.

''(C) TEMPORARY WAIVER OF LIMITATIONS.—

''(i) IN GENERAL.—If the Administrator, in consultation with the Secretary of Energy, finds, on the Administrator's own motion or on petition of any person, that there is an insufficient domestic capacity to produce or import gasoline, the Administrator may, in accordance with section 307, temporarily waive the limitations imposed under subparagraph (A).

''(ii) DURATION OF REDUCTION.—

''(I) IN GENERAL.—A waiver under clause (i) shall remain in effect for a period of 15 days unless the Administrator, in consultation with the Secretary of Energy, finds, before the end of that period, that there is sufficient domestic capacity to produce or import gasoline.

''(II) EXTENSION.—Upon the expiration of the 15-day period under subclause (I), the waiver may be extended for an additional 15-day period in accordance with clause (i).

''(iii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under clause (i) within 7 days after the date of receipt of the petition.

''(iv) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—Section 307(d) of this Act and sections 553 through 557 of title 5, United States Code, shall not apply to any action on a petition submitted under clause (i).

''(v) STATE AUTHORITY.—At the option of a State, a waiver under clause (i) shall not apply to any area with respect to which the State has exercised authority under any other provision of law (including subparagraph (D)) to limit the sale or use of methyl tertiary butyl ether.

''(D) STATE PETITIONS TO ELIMINATE USE OF MTBE.—

''(i) IN GENERAL.—A State may submit to the Administrator a petition requesting authority to eliminate the use of methyl tertiary butyl ether in gasoline sold or introduced into commerce in the State in order to protect air quality, water quality, or human health.

''(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall grant or deny any petition submitted under clause (i) within 180 days after the date of receipt of the petition.''.

SEC. 4. CONVENTIONAL GASOLINE.

(a) IN GENERAL.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) (as amended by section 2) is amended by adding at the end the following:

''(D) CONVENTIONAL GASOLINE.—

''(i) IN GENERAL.—Not later than October 1, 2007—

''(I) the Administrator shall determine whether the use of conventional gasoline during the period of calendar years 2005 and 2006 resulted in a greater volume of emissions of criteria air pollutants listed under section 108, and precursors of those pollutants, determined on the basis of a weighted average of those pollutants and precursors, than the volume of such emissions during the period of calendar years 1998 and 1999; and

''(II) if the Administrator determines that a significant increase in emissions occurred, the Administrator shall promulgate such regulations concerning the use of conventional gasoline as are appropriate to eliminate that increase.

''(ii) APPLICABILITY TO CERTAIN STATES.—The Administrator shall make the determination under clause (i)(I) without regard to, and the regulations promulgated under clause (i)(II) shall not apply to, any State that has received a waiver under section 209(b).''.

(b) ELIMINATION OF ETHANOL WAIVER.—Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraph (5) as paragraph (4).

SEC. 5. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b)(2) of the Clean Air Act (42 U.S.C. 7545(b)(2)) is amended—

(1) by striking ''may also'' and inserting ''shall, on a regular basis,''; and

(2) by striking subparagraph (A) and inserting the following:

''(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and''.

SEC. 6. COMPREHENSIVE FUEL STUDY.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by inserting after subsection (n) the following:

''(o) COMPREHENSIVE FUEL STUDY.—

''(1) IN GENERAL.—Not later than 5 years after the date of enactment of this paragraph and every 5 years thereafter, the Administrator shall submit to Congress a report—

''(A) describing reductions in emissions of criteria air pollutants listed under section 108, or precursors of those pollutants, that result from implementation of this section;

''(B) describing reductions in emissions of toxic air pollutants that result from implementation of this section;

''(C) in consultation with the Secretary of Energy, describing reductions in greenhouse gas emissions that result from implementation of this section; and

''(D)(i) describing regulatory options to achieve reductions in the risk to public health and the environment posed by fuels and fuel additives—

''(I) taking into account the production, handling, and consumption of the fuels and fuel additives; and

''(II) focusing on options that reduce the use of compounds or associated emission products that pose the greatest risk; and

''(ii) making recommendations concerning any statutory changes necessary to implement the regulatory options described under clause (i).

''(2) LIFE CYCLE EMISSIONS ANALYSIS.—In determining criteria air pollutant and greenhouse gas emission reductions under paragraph (1), the Administrator shall take into account the emissions resulting from the various fuels and fuel additives used in the

implementation of this section over the entire life cycle of the fuels and fuel additives.''.

SEC. 7. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking ''(6) OPT-IN AREAS.—(A) Upon'' and inserting the following:

''(6) OPT-IN AREAS.—

''(A) CLASSIFIED AREAS.—

''(i) IN GENERAL.—Upon'';

(2) in subparagraph (B), by striking ''(B) If'' and inserting the following:

''(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—If'';

(3) in subparagraph (A)(ii) (as so redesignated)—

(A) in the first sentence, by striking ''subparagraph (A)'' and inserting ''clause (i)''; and

(B) in the second sentence, by striking ''this paragraph'' and inserting ''this subparagraph''; and

(4) by adding at the end the following:

''(B) NONCLASSIFIED AREAS.—

''(i) IN GENERAL.—In accordance with section 110, a State may submit to the Administrator, and the Administrator may approve, a State implementation plan revision that provides for application of the prohibition specified in paragraph (5) in any portion of the State that is not a covered area or an area referred to in subparagraph (A)(i).

''(ii) PERIOD OF EFFECTIVENESS.—Under clause (i), the State implementation plan shall establish a period of effectiveness for applying the prohibition specified in paragraph (5) to a portion of a State that—

''(I) commences not later than 1 year after the date of approval by the Administrator of the State implementation plan; and

''(II) ends not earlier than 4 years after the date of commencement under subclause (I).''.

SEC. 8. LEAKING UNDERGROUND STORAGE TANKS.

(a) USE OF LUST FUNDS FOR REMEDIATION OF MTBE CONTAMINATION.—Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

(1) in paragraph (7)(A), by striking ''paragraphs (1) and (2) of this subsection,'' and inserting ''paragraphs (1), (2), and (12),''; and

(2) by adding at the end the following:

''(12) REMEDIATION OF MTBE CONTAMINATION.—

''(A) IN GENERAL.—The Administrator and the States may use funds made available under subparagraph (B) to carry out corrective actions with respect to a release of methyl tertiary butyl ether that presents a risk to human health, welfare, or the environment.

''(B) APPLICABLE AUTHORITY.—Subparagraph (A) shall be carried out—

''(i) in accordance with paragraph (2); and

''(ii) in the case of a State, in a manner consistent with a cooperative agreement entered into by the Administrator and the State under paragraph (7).

''(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Leaking Underground Storage Tank Trust Fund to carry out subparagraph (A) $200,000,000 for fiscal year 2001, to remain available until expended.''.

(b) RELEASE PREVENTION.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended—

(1) by redesignating section 9010 as section 9011; and

(2) by inserting after section 9009 the following:

''SEC. 9010. RELEASE PREVENTION.

''(a) IMPLEMENTATION OF PREVENTATIVE MEASURES.—The Administrator (or a State pursuant to section 9003(h)(7)) may use funds appropriated from the Leaking Underground Storage Tank Trust Fund for—

''(1) necessary expenses directly related to the implementation of section 9003(h);

''(2) enforcement of—

''(A) this subtitle;

''(B) a State program approved under section 9004; or

''(C) State requirements regulating underground storage tanks that are similar or identical to this subtitle; and

''(3) inspection of underground storage tanks.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Leaking Underground Storage Tank Trust Fund to carry out subsection (a)—

''(1) $50,000,000 for fiscal year 2001; and

''(2) $30,000,000 for each of fiscal years 2002 through 2005.''.

(c) TECHNICAL AMENDMENTS.—

(1) Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by striking the item relating to section 9010 and inserting the following:

''Sec. 9010. Release prevention.
''Sec. 9011. Authorization of appropriations.''.

(2) Section 9001(3)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(3)(A)) is amended by striking ''sustances'' and inserting ''substances''.

(3) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended by striking ''subsection (c) and (d) of this section'' and inserting ''subsections (c) and (d)''.

(4) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended in the first sentence by striking ''referred to'' and all that follows and inserting ''referred to in subparagraph (A) or (B), or both, of section 9001(2).''.

(5) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking ''study taking'' and inserting ''study, taking'';

(B) in subsection (b)(1), by striking ''relevent'' and inserting ''relevant''; and

(C) in subsection (b)(4), by striking ''Evironmental'' and inserting ''Environmental''.

By Mr. BRYAN (for himself, Mr. GRAHAM, and Mr. GORTON):

S. 2963. A bill to amend title XIX of the Social Security Act to require the Secretary of Health and Human Services to make publicly available medicaid drug pricing information; to the Committee on Finance.

CONSUMER AWARENESS OF MARKET-BASED DRUG PRICES ACT OF 2000

Mr. BRYAN. Mr. President, in a very few hours we will, each of us, be returning to our respective States for the summer recess. Most of us will have town hall meetings or other fora in which we will have a chance to interact with our constituents.

Much that occurs on this floor, although very important, does not connect with the American people. Some of it seems pretty esoteric, pretty dry stuff. I am going to be discussing this afternoon an issue that does connect with the American people. Whether you live in Maine or California or Washington State or Florida or, as I do, the great State of Nevada—and which I am privileged to represent—people are talking about the price of prescription drugs.

The reason for that is that the marvels of modern medicine have made it possible, through prescription drugs, to address a number of the maladies that affect all of us as part of humankind. The cost of those prescription drugs are literally going through the ceiling. I will comment more specifically upon that in a moment.

For literally millions of people in this country, the cost of prescription drugs has been so prohibitive that medications that would address a medical problem that those individuals face are simply beyond the pale. So for many, it is fair to say, the choice is a Hobson's choice.

Do they eat in the evening, or do they take the prescription medication that has been prescribed by their physician? It would be my fondest hope and expectation, before this Congress adjourns sine die—that is, at the end of this legislative year—that we could enact prescription drug legislation. That would be my No. 1 priority. But I think all of us recognize there are some things we can do as part of whatever plan we might subscribe to, and Senator GRAHAM and I this afternoon are offering a piece of legislation entitled the Consumer Awareness of Market-Based Drug Prices Act of 2000.

This is a piece of legislation that deals with the price of drugs. We know what the cost is, but we are talking about the price. We have a lot of information on the cost. We know, for example, that we are spending on drugs in this country, prescription medications—in the last available year, 1999—almost $122 billion. We also know quite a bit about how much we in the Federal Government are spending for prescription drugs.

For example, the States and the Federal Government spent $17 billion in fiscal year 1999 for drugs, just under the Medicaid program alone. Those costs are going to escalate rather dramatically. What is missing, however, is some critically important information—information that would be important to consumers and those who negotiate on behalf of consumers, because what we don't know, what we don't have much information about is drug prices. The reason for that is some statutory prohibitions I am going to talk about and which this legislation specifically addresses.

So the questions are: What do consumers know about drug prices today? What do employers who purchase prescription drugs on behalf of their employees know about prices? What do health plans negotiating on behalf of their enrollees know about prices? What do physicians who prescribe drugs for their patients know about prices?

The answer is simply, very, very little; almost nothing. What little is known is essentially worthless information. We have the average wholesale price, but this is a truly meaningless figure.

During the course of my discussion this afternoon on the floor of the Senate, we are going to be talking about three kinds of prices: The average wholesale price, average manufacturer price, and the best price.

Just talking about the average wholesale price, that is a public list price set by manufacturers, the pharmaceutical industry; that is neither average nor wholesale and is a price set by the pharmaceutical companies. The best analogy I can give you is that it would be analogous to the price that appears as the sticker price on the window of a new car. Nobody pays that price. It really is not very helpful in terms of what you need to know when negotiating to purchase a car. And now there are a number of web sites and publications and manuals—a whole host of things that tell consumers this is what the manufacturer paid, these are the hold-backs by the dealers, these are the discounts and the commissions; here is the price on which you want to focus your attention. You can get that information if you are purchasing an automobile, and you can get that information when you purchase a whole host of other things. But that information is not available if you are talking about finding out the price of prescription drugs, and that is because of some statutory limitations.

It is somewhat analogous to the statement Sir Winston Churchill made in 1939 in describing the Soviet Union. He went on to say: ''A riddle, wrapped up in a mystery, inside an enigma.'' That is a pretty fair characterization of what we know about the prices of prescription medications as sold by the manufacturer.

There are many different approaches as we deal with this prescription drug issue and want to extend it as either part of Medicare or some alternative approach. I have been privileged to serve on the Finance Committee, which has been the vortex for this debate and discussion. I listened closely to my colleagues wax eloquently on the subject of prescription drugs, and, whether you are to the left or to the right of the political spectrum, or whether you consider yourself in the mainstream, a moderate, all of us worship at the shrine of competition. Everybody says what we need to do is to inject more competition into the system. I happen to subscribe to that because I do believe that by allowing the synergy of the free marketplace to work, it will be the most efficient and the most cost-effective way to deliver services. But there is an impediment to the operation of the free marketplace.

What does the free marketplace need to work? How do we ensure competition? Well, some of you may recall that course from school, Econ. 201; that is what it was called at the University of Nevada where I was enrolled. Basic economic theory dictates that the availability of real market-based information is critical to a free market and that price transparency is necessary. That is precisely what we do not have in this system we have created today.

The market today lacks market-based price information. A market simply cannot work without the availability of that price information. I emphasize the availability of that information. The information that is available to the public verges on the absurd. There is a complete void of useful information about prices. So, in effect, the employers and health plans negotiating on behalf of consumers are negotiating in the dark. They are at a serious disadvantage. It is as if they are blindfolded going into that negotiating arena. They don't know where the end of the tunnel is. They do not know what the real prices are. So one can fairly ask, how can even the most conscientious, effective employer or health plan operator negotiate good prices on behalf of consumers if they don't have the most basic information about market prices? They undoubtedly pay higher prices than they otherwise would, and ultimately these higher prices are translated into higher prices to the consumers; they are passed on. That is the nature of the system.

So what type of price information would be available, or should be available, that would be useful and helpful information? The average manufacturer price for a drug would be a useful thing for purchasers to know; that is, the average price at which a manufacturer sold a particular drug. That is what is actually paid for retail drugs. By law, by act of Congress, that is kept confidential, and that is one of the changes this legislation seeks to accomplish. That is confidential. You can't get that information.

The average price actually paid to a manufacturer by a wholesaler is supposed to be similar to the average manufacturer's price, but, in point of fact, it diverges widely. The average wholesale price, to refresh your memory, is a list price that is meaningless, a price assigned by the pharmaceutical industry. In theory, these prices should be tracking; in point of fact, they widely diverge. So it is the average manufactured price, the price that is actually paid, that is what we really want to know, and that is what we don't know.

The other price we don't know, and also by law is kept confidential, is the best price. That is the lowest price available to the private sector for a particular medication—whether it be Mevacor, Claritin, or any one of the other medications so many of us use today. That information is not available. So the average wholesale price—an utterly meaningless number, a fiction, if you will—is available. The average manufacturer price is not; nor is the best price.

Knowledge about the average manufacturer price and the best price would certainly enable us to have lower prices for health plans, lower prices for employers, and lower prices for the consumers. But the public is denied this information.

Let me emphasize—because a number of you might be thinking: There we go again with a vast new bureaucracy to collect this data with all of the burdens that are imposed upon the free market and the limitations that would be generated.

My friends, that is not the case because under the law, the Secretary of Health and Human Services currently collects the average manufacturer price and the best price.

In other words, we have this information. It is not something we don't know about, or we have to create some new mechanism to gather. We have that information. It is there. But we are precluded by law from sharing that information with those who negotiate with the pharmaceutical industry to negotiate the best possible price for employees, members of health plans, or other organizations that provide prescription drugs to their clients, patient customer base—however you characterize it. There is good information. All purchasers could use it to benefit those for whom they negotiate.

It is clear that we need to increase the level of knowledge consumers have about drug prices in today's marketplace. Transparency—that is the ability to see what these prices are and promote the fair market—will lower prices.

That is why my colleague, Senator GRAHAM, and I are introducing this legislation. We are not talking about mandating negotiated prices. We are simply talking about making the data that is collected available to those who are negotiating for prescription drugs. It would simply require the Secretary, who already collects this information, to provide the average manufacturer price of drugs and the best price available in the market.

These prices are collected to implement the Medicare prescription drug rebate system. The rebates are based on those prices. But because Medicaid is prohibited by law from disclosing the average manufacturer price, or the best price, the market doesn't get the advantage of this information, and we are prohibited from knowing the price that Medicaid pays for each drug.

Let me say say parenthetically that it is generally agreed that the price Medicaid pays is in point of fact the best price. So this would be a very relevant piece of information. We can't say for sure even with respect to a federally funded program what we are spending on a particular drug. We don't know what Medicaid pays for Claritin, Mevacor, or Prilosec. We just do not know that. We know the total price we are paying for drugs generally, and what we are spending for drugs. But we do not know what we are paying for them separately. This information needs to be made available because making price information available will help purchasers and consumers alike.

Today, anyone can get on the Internet to find the lowest price available

for a given airline flight. I think the question needs to be asked: Why shouldn't the public have access to price information on something that is so critical and that may be necessary to save one's life, or to prevent the onset of some debilitating disease, or to ameliorate its impact, the information with respect to the average manufacturer price and the best price?

The bottom line is today there are no sources of good price information for consumers and purchasers, thus keeping prices artificially higher than they would otherwise be.

The legislation which we introduce today would be extremely helpful in correcting this. The market-based price information this bill would provide would help all purchasers, employers, and pharmacy benefit managers who are at a disadvantage without true price information.

Employers are struggling with increasing premiums. In large part, premiums are increasing because of rising drug expenditures. And, yet, employers don't have the information they need to assess whether the premium increases are appropriate. The answer to that is because without knowing the prices and the rebates that the pharmacy benefit managers are negotiating, they are not able to determine if the pharmacy benefit managers are passing along the rebates to them in the form of lower costs and lower premiums.

Further, neither the PBMs nor the employers know if the drug companies are being candid with them. When they try to negotiate lower prices with the manufacturer, they are told, no, we can't give you that price because it is lower than the best price. The employers and the PBMs have no way of knowing in point of fact whether it is true. The battleground is really a negotiation of what these prices are. That is the information we don't know. In effect, those who negotiate with the pharmaceutical industry go into that combat with one arm tied behind their backs and blindfolded as to what the average manufacturer price and the best price is.

Let me say that this piece of legislation is going to provoke an outcry. You don't have to have a degree from Oxford. You don't have to have a Ph.D. from some of our most distinguished institutions in America. Who would one think would dislike this information? My friends, the pharmaceutical industry doesn't want you to know.

Undoubtedly, the provision that is in the law today was crafted for their benefit. It certainly was not crafted for the benefit of employer groups, or health care providers who negotiate pharmaceutical benefits. It certainly was not put in to protect consumers. It is not in their best interests.

I am sure we are going to have a predictable outcry that some horrendous draconian thing will occur if we make these prices available.

My view is that transparency is essential. Make the prices available, and let this free marketplace that we all talk about that has produced such an extraordinary standard of living for us be the envy of the world. Nobody is suggesting that the free market could not, nor would, in my judgment, provide some of the dynamics that would help to keep the costs down. Let an honest negotiating process occur.

The lack of market-based information has an effect on the Federal budget—not only for consumers in terms of the medications they pay for but all taxpayers.

Whether in Congress—and I profoundly hope we will in fact—makes that prescription drug benefit a part of Medicare, or a subsequent Congress, this is an idea whose time has come. It will occur. It may not occur in my time. I leave at the end of this year. But it is going to occur. There are dramatic cost implications. Without the benefit of this information, it will be very difficult indeed.

Let's just talk for a moment in terms of prices, information that is made available, and the generic formulas that we use for reimbursement.

Although the average wholesale price is not a true market measure price—this is set by the industry—it is used to determine Medicare reimbursement for the few drugs that are currently covered by Medicare.

The prescription Medicare benefit is very limited. I would like to see the Medicare prescription benefit extended through Medicare as an option, as we have a voluntary option under Part B. I don't want anybody to be confused, but there are some drugs that are covered in concert with the physician's prescriptions.

The average wholesale price minus 5 percent—what is wrong with that? What is wrong with that is this average wholesale price is a fix. It means nothing. It is the price that the drug companies get together and tell us is the average wholesale price. Yet that is the reimbursement mechanism that is used for Medicare.

Medicaid, which is a program, as we all know, that involves participation by the Federal and the State governments and made available to the poorest of our citizens, represents a rather substantial cost to the taxpayer. My recollection is that cost is in the neighborhood of about $17 billion a year.

Here is how that formula worked. This is the Medicaid benefit: The average wholesale price minus 10 percent. Remember, this is a price set by the pharmaceutical industry; it is not a market-driven price. Multiply that times the units—whatever the number of prescriptions, say an allergy drug or a drug for elevated cholesterol level—times 15.1 percent of the average manufacturer price. This is the one we are precluded from knowing. Or take the average manufacturer price, minus the best price. This information we don't know, and we should be able to get this information.

What can happen with respect to the Medicare reimbursements—because the physicians who prescribe this medication get the average wholesale price minus 5 percent, we do not know what the physicians are actually paying the pharmaceutical industry for the drugs. According to the Justice Department, the Health and Human Services Office of the Inspector General, and our colleague in the other body who chairs the Commerce Committee, the average wholesale price has been manipulated in order to reap greater Medicare reimbursements.

The way that works, the doctor prescribes something covered by Medicare and reimburses the average wholesale price minus 5 percent. In point of fact, your physician may be paying much, much less to the pharmaceutical industry. So the spread is the physician's profit, and there is potential for abuse.

I am not suggesting in any way that a physician should not be compensated for his care. I am proud to say my son is a physician, a cardiologist. But you ought not to be able to manipulate the wholesale price—which is this fiction we have talked about—and then allow the physician to seek payment from the pharmaceutical industry at a price that is substantially less than what Medicare is paying. That gouges the American taxpayer. That is the issue that concerns us.

As I have indicated, drug companies have artificially inflated this average wholesale price, which results in these inflated Medicare reimbursements to physicians, and the manufacturer then in turn provides the discounts, and the physicians can keep the difference. If the average wholesale price of the drug is $100, minus 5 percent would be $95, and if the physician actually only pays $50, the physician is getting $45 as part of that spread. That is much less than he is actually paying. Medicare, conversely, is reimbursing the physician at a far greater price than the physician is actually paying for that medication.

The need for better information has never been greater. Medicare drug benefit is critical and should be enacted this year. I truly hope it will be. Accurate market-based price information will ensure the best use of the taxpayer dollars financing this benefit and the lowest possible beneficiary coinsurance; that is, the amount, the coinsurance, the beneficiary has to pay.

This should be an easy call. Transparency promotes a fair market. We are all for that, I believe. Price information leads to price competition. I think we are all for that. That competition leads to lower prices for employers, for health plans, and for consumers. I think we are all for that.

So at a time when drug prices are increasing at two to three times the rate of the overall rate of inflation, referred to as the Consumer Price Index, at a time when the same drugs prescribed by veterinarians, for use by pets—the identical medication—are priced lower than the same drug prescribed by prescriptions for doctors' use for people,

at a time when the primary information consumers have about prescription drugs is through the $2 billion annually spent by the industry on direct-to-consumer advertising, and those ads never mention price —these are the things we are bombarded with on television; we see full pages in the leading newspapers in the country—at a time when Americans are traveling to foreign countries—to Canada and Mexico, in particular—to obtain lower prices, why shouldn't we be doing whatever we can to encourage competition in the United States and to lower the price of drugs sold in this country?

I think it is a no-brainer. I think we should set the market forces in action. We simply need to allow the public to have access to readily available market-based information. This is commonsense, easy-to-understand, easy-to-implement legislation. We should pass it this year. There is no new bureaucracy created. We can have the information at HHS. All this legislation would do is require it be made available. The potential benefits are enormous.

It will be interesting to see how this debate unfolds on this legislation because my colleagues have not heard the last of me on this issue. This makes a lot of sense, whether we do or do not succeed this year in extending a prescription benefit as part of Medicare. We ought to do it. We can do it. We should do it. I hope my colleagues will join me in a bipartisan effort to do so.

I yield the floor.

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

S. 2964. A bill to amend the Internal Revenue Code of 1986 to provide new tax incentives to make health insurance more affordable for small businesses, and for other purposes; to the Committee on Finance.

ACCESS TO AFFORDABLE HEALTH CARE ACT

Ms. COLLINS. Mr. President, today I am introducing legislation, the Access to Affordable Health Care Act, that is designed to make health insurance more affordable both for individuals and for small businesses that provide health care coverage for their employees.

In the past few years, Congress has taken some major steps to expand access to affordable health coverage for all Americans. In 1996, the Health Insurance Portability and Accountability Act—also known as Kassebaum-Kennedy—was signed into law which assures that American workers and their families will not lose their health care coverage if they change jobs, lose their jobs, or become ill.

One of the first bills I sponsored on coming to the Senate was legislation to establish the State Children's Health Insurance Program, which was enacted as part of the Balanced Budget Act. States have enthusiastically responded to this program, which now provides affordable health insurance coverage to over two million children nationwide, including 9,365 in Maine's expanded Medicaid and CubCare programs.

Despite these efforts, the number of uninsured Americans continues to rise. At a time when unemployment is low and our nation's economy is thriving, more than 44 million Americans—including 200,000 Mainers—do not have health insurance. Clearly, we must make health insurance more available and more affordable.

Most Americans under the age of 65 get their health coverage through the workplace. It is therefore a common assumption that people without health insurance are unemployed. The fact is, however, that most uninsured Americans are members of families with at least one full-time worker. According to the Health Insurance Association of America, almost seven out of ten uninsured Americans live in a family whose head of household works full-time.

In my state of Maine, small business is not just a segment of the economy—it is the economy. I am, therefore, particularly concerned that uninsured, working Americans are most often employees of small businesses. Nearly half of the uninsured workers nationwide are in businesses with fewer than 25 employees.

According to a recent National Federation of Independent Businesses survey of over 4,000 of its members, the cost of health insurance is the number one problem facing small businesses. And it has been since 1986. It is time for us to listen and to lend a hand to these small businesses.

Small employers generally face higher costs for health insurance than larger firms, which makes them less likely to offer coverage. Premiums are generally higher for small businesses because they do not have as much purchasing power as large companies, which limits their ability to bargain for lower rates. They also have higher administrative costs because they have fewer employees among whom to spread the fixed costs of a health benefits plan. Moreover, they are not as able to spread risks of medical claims over as many employees as can large firms.

As a consequence, according to the Congressional Budget Office (CBO), only 42 percent of small businesses with fewer than 50 employees offer health insurance to their employees. By way of contrast, more than 95 percent of businesses with 100 or more employees offer insurance.

Moreover, the smaller the business, the less likely it is to offer health insurance to its employees. According to the Employee Benefit Research Institute (EBRI), only 27 percent of workers in firms with fewer than 10 employees received health insurance from their employers in their own name, compared with 66 percent of workers in firms with 1,000 or more employees. Small businesses want to provide health insurance for their employees, but the cost is often prohibitive.

Simply put, the biggest obstacle to health care coverage in the United States today is cost. While American employers everywhere—from giant multinational corporations to the small corner store—are facing huge hikes in their health insurance costs, these rising costs are particularly problematic for small businesses and their employees. Many small employers are facing premium increases of 20 percent or more, causing them either to drop their health benefits or pass the additional costs on to their employees through increased deductibles, higher copays or premium hikes. This, too, is troubling and will likely add to the ranks of the uninsured since it will cause some employees—particularly lower-wage workers who are disproportionately affected by increased costs—to drop or turn down coverage when it is offered to them.

The legislation I am introducing today, the Access to Affordable Health Care Act, would help small employers cope with these rising costs. My bill would provide new tax credits for small businesses to help make health insurance more affordable. It would encourage those small businesses that do not currently offer health insurance to do so and would help businesses that do offer insurance to continue coverage even in the face of rising costs.

Under my proposal, employers with fewer than ten employees would receive a tax credit of 50 percent of the employer contribution to the cost of employee health insurance. Employers with ten to 25 employees would receive a 30 percent credit. Under my bill, the credit would be based on an employer's yearly qualified health insurance expenses of up to $2,000 for individual coverage and $4,000 for family coverage.

The legislation I am introducing today would also make health insurance more affordable for individuals and families who must purchase health insurance on their own. The Access to Affordable Health Care Act would provide an above-the-line tax deduction for individuals who pay at least 50 percent of the cost of their health and long-term care insurance. Regardless of whether an individual takes the standard deduction or itemizes, he or she would be provided relief by the new above-the-line deduction.

My bill also would allow self-employed Americans to deduct the full amount of their health care premiums. Some 25 million Americans are in families headed by a self-employed individual—of these, five million are uninsured. Establishing parity in the tax treatment of health insurance costs between the self-employed and those working for large businesses is not just a matter of equity. It will also help to reduce the number of uninsured, but working Americans. My bill will make health insurance more affordable for the 82,000 people in Maine who are self-employed. They include our lobstermen, our hairdressers, our electricians, our plumbers, and the many owners of mom-and-pop stores that dot communities throughout the state.

Mr. President, the Access to Affordable Health Care Act would help small businesses afford health insurance for their employees, and it would also make coverage more affordable for working Americans who must purchase it on their own. I urge my colleagues to join me as cosponsors of this important legislation.

By Mr. HOLLINGS (for himself, Mr. GRAHAM, Mr. BREAUX, and Mr. CLELAND):

S. 2965. A bill to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE PORT AND MARITIME SECURITY ACT OF 2000

Mr. HOLLINGS. Mr. President, I rise today, to introduce the Port and Maritime Security Act of 2000. This legislation is long overdue. It is needed to facilitate future technological and advances and increases in international trade, and ensure that we have the sort of security control necessary to ensure that our borders are protected from drug smuggling, illegal aliens, trade fraud, threats of terrorism as well as potential threats to our ability to mobilize U.S. military force.

The Department of Transportation recently commenced an evaluation of our marine transportation needs for the 21st Century. In September 1999, Transportation Secretary Slater issued a preliminary report of the Marine Transportation System (MTS) Task Force—An Assessment of the U.S. Marine Transportation System. The report reflected a highly collaborative effort among public sector agencies, private sector organizations and other stakeholders in the MTS.

The report indicates that the United States has more than 1,000 harbor channels and 25,000 miles of inland, intracoastal, and coastal waterways in the United States which serve over 300 ports, with more than 3,700 terminals that handle passenger and cargo movements. These waterways and ports link to 152,000 miles of railways, 460,000 miles of underground pipelines and 45,000 miles of interstate highways. Annually, the U.S. marine transportation system moves more than 2 billion tons of domestic and international freight, imports 3.3 billion tons of domestic oil, transports 134 million passengers by ferry, serves 78 million Americans engaged in recreational boating, and hosts more than 5 million cruise ship passengers.

The MTS provides economic value, as waterborne cargo contributes more than $742 billion to U.S. gross domestic product and creates employment for more than 13 million citizens. While these figures reveal the magnitude of our waterborne commerce, they don't reveal the spectacular growth of waterborne commerce, or the potential problems in coping with this growth. It is estimated that the total volume of domestic and international trade is expected to double over the next twenty years. The doubling of trade also brings up the troubling issue of how the U.S. is going to protect our maritime borders from crime, threats of terrorism, or even our ability to mobilize U.S. armed forces.

Security at our maritime borders is given substantially less federal consideration than airports or land borders. In the aviation industry, the Federal Aviation Administration (FAA) is intimately involved in ensuring that security measures are developed, implemented, and funded. The FAA works with various Federal officials to assess threats directed toward commercial aviation and to target various types of security measures as potential threats change. For example, during the Gulf War, airports were directed to ensure that no vehicles were parked within a set distance of the entrance to a terminal.

Currently, each air carrier, whether a U.S. carrier or foreign air carrier, is required to submit a proposal on how it plans to meet its security needs. Air carriers also are responsible for screening passengers and baggage in compliance with FAA regulations. The types of machines used in airports are all approved, and in many instances paid for by the FAA. The FAA uses its laboratories to check the machinery to determine if the equipment can detect explosives that are capable of destroying commercial aircrafts. Clearly, we learned from the Pan Am 103 disaster over Lockerbie, Scotland in 1988. Congress passed legislation in 1990 ''the Aviation Security Improvement Act,'' which was carefully considered by the Commerce Committee, to develop the types of measures I noted above. We also made sure that airports, the FAA, air carriers and law enforcement worked together to protect the flying public.

Following the crash of TWA flight 800 in 1996, we also leaped to spend money, when it was first thought to have been caused by a terrorist act. The FAA spent about $150 million on additional screening equipment, and we continue today to fund research and development for better, and more effective equipment. Finally, the FAA is responsible for ensuring that background checks (employment records/criminal records) of security screeners and those with access to secured airports are carried out in an effective and thorough manner. The FAA, at the direction of Congress, is responsible for certifying screening companies, and has developed ways to better test screeners. This is all done in the name of protecting the public. Seaports deserve no less consideration.

At land borders, there is a similar investment in security by the federal government. In TEA–21, approved $140 million a year for five years for the National Corridor Planning and Development and Coordinated Border Infrastructure Program. Eligible activities under this program include improvements to existing transportation and supporting infrastructure that facilitate cross-border vehicles and cargo movements; construction of highways and related safety enforcement facilities that facilitate movements related to international trade; operational improvements, including improvements relating to electronic data interchange and use of telecommunications, to expedite cross border vehicle and cargo movements; and planning, coordination, design and location studies. By way of contrast, at U.S. seaports, the federal government invests nothing in infrastructure, other than the human presence of the U.S. Coast Guard, U.S. Customs Service, and the Immigration and Naturalization Service, and whatever equipment those agencies have to accomplish their mandates. Physical infrastructure is provided by state-controlled port authorities, or by private sector marine terminal operators. There are no controls, or requirements in place, except for certain standards promulgated by the Coast Guard for the protection of cruise ship passenger terminals. Essentially, where sea ports are concerned we have abrogated the federal responsibility of border control to the state and private sector.

I think that the U.S. Coast Guard and Customs Agency are doing an outstanding job, but they are outgunned. There is simply too much money in the illegal activities they are seeking to curtail or eradicate, and there is too much traffic coming into, and out of the United States. For instance, in the latest data available, 1999, we had more than 10 million TEU's imported into the United States. For the uninitiated, a TEU refers to a twenty-foot equivalent unit shipping container. By way of comparison, a regular truck measures 48-feet in length. So in translation, we imported close to 5 million truckloads of cargo. According to the Customs Service, seaports are able to inspect between 1 percent and 2 percent of the containers, so in other words, a drug smuggler has a 98 percent chance of gaining illegal entry.

It is amazing to think, that when you or I walk through an international airport we will walk through a metal detector, and our bags will be x-rayed, and Customs will interview us, and may check our bags. However, at a U.S. seaport you could import a 48 foot truck load of cargo, and have at least a 98 percent chance of not even being inspected. It just doesn't seem right.

For instance, in my own state, the Port of Charleston which is the fourth largest container port in the United States, Customs officials have no equipment even capable of x-raying intermodal shipping containers. Customs, which is understaffed to start with, must physically open containers, and request the use of a canine unit from local law enforcement to help with drug or illegal contraband detection. This is simply not sufficient.

The need for the evaluation of higher scrutiny of our system of seaport security came at the request of Senator

GRAHAM, and I would like to at this time commend him for his persistent efforts to address this issue. Senator GRAHAM has had problems with security at some of the Florida seaports, and although the state has taken some steps to address the issue, there is a great need for considerable improvement. Senator GRAHAM laudably convinced the President to appoint a Commission, designed similarly to the Aviation Security Commission, to review security at U.S. seaports.

The Commission visited twelve major U.S. seaports, as well as two foreign ports. It compiled a record of countless hours of testimony and heard from, and reviewed the security practices of the shipping industry. It also met with local law enforcement officials to discuss the issues and their experiences as a result of seaport related crime. Unfortunately, the report will not be publicly available until sometime in the fall; however, Senator GRAHAM's staff and my staff have worked closely with the Commission, to develop legislation—the bill that we are introducing—to address the Commission's concerns.

For instance, the Commission found that twelve U.S. seaports accounted for 56 percent of the number of cocaine seizures, 32 percent of the marijuana seizures, and 65 percent of heroin seizures in commercial cargo shipments and vessels at all ports of entry nationwide. Yet, we have done relatively little, other than send in an undermanned contingency of Coast Guards and Customs officials to do whatever they can.

Drugs are not the only criminal problem confronting U.S. seaports. For example, alien smuggling has become increasingly lucrative enterprise. To illustrate, in August of 1999, I.N.S. officials found 132 Chinese men hiding aboard a container ship docked in Savannah, Georgia. The INS district director was quoted as saying; ''This was a very sophisticated ring, and never in my 23 years with the INS have I seen anything as large or sophisticated''. According to a recent GAO report on INS efforts on alien smuggling (RPT-Number: B–283952), smugglers collectively may earn as much as several billion dollars per year bringing in illegal aliens.

Another problem facing seaports is cargo theft. Cargo theft does not always occur at seaports, but in many instances the theft has occurred because of knowledge of cargo contents. International shipping provides access to a lot of information and a lot of cargo to many different people along the course of its journey. We need to take steps to ensure that we do not facilitate theft. Losses as a result of cargo theft have been estimated as high as $12 billion annually, and it has been reported to have increased by as much as 20 percent recently. The FBI has become so concerned that it recently established a multi-district task force, Operation Sudden Stop, to crack down on cargo crime.

The other issues facing seaport security may be less evident, but potentially of greater threat. As a nation in general, we have been relatively lucky to have been free of some of the terrorist threats that have plagued other nations. However, we must not become complacent. U.S. seaports are extremely exposed. On a daily basis many seaports have cargo that could cause serious illness and death to potentially large populations of civilians living near seaports if targeted by terrorism.

The sheer magnitude of most seaports, their historical proximity to established population bases, the open nature of the facility, and the massive quantities of hazardous cargoes being shipped through a port could be extremely threatening to the large populations that live in areas surrounding our seaports. The same conditions in U.S. seaports, that could expose us to threats from terrorism, could also be used to disrupt our abilities to mobilize militarily. During the Persian Gulf War, 95 percent of our military cargo was carried by sea. Disruption of sea service, could have resulted in a vastly different course of history. We need to ensure that it does not happen to any future military contingencies.

As I mentioned before, our seaports are international borders, and consequently we should treat them as such. However, I am realistic about the possibilities for increasing seaport security, the realities of international trade, and the many functional differences inherent in the different seaport localities. Seaports by their very nature, are open and exposed to surrounding areas, and as such it will be impossible to control all aspects of security, however, sensitive or critical safety areas should be protected. I also understand that U.S. seaports have different security needs in form and scope. For instance, a seaport in Alaska, that has very little international cargo does not need the same degree of attention that a seaport in a major metropolitan center, which imports and exports thousands of international shipments. However, the legislation we are introducing today will allow for public input and will consider local issues in the implementation of new guidelines on port security, so as to address such details.

Substantively, the Port and Maritime Security Act establishes a multi-pronged effort to address security needs at U.S. Seaports, and in some cases formalizes existing practices that have proven effective. The bill authorizes the Coast Guard to establish a task force on port security in consultation with U.S. Customs and the Maritime Administration.

The purpose of the task force is to implement the provisions of the act; to coordinate programs to enhance the security and safety of U.S. seaports; to provide long-term solutions for seaport safety issues; to coordinate with local port security committees established by the Coast Guard to implement the provisions of the bill; and to ensure that the public and local port security committees are kept informed about seaport security enhancement developments.

The bill requires the U.S. Coast Guard to establish local port security committees at each U.S. seaport. The membership of these committees is to include representatives of the port authority, labor organizations, the private sector, and federal, state, and local government officials. These committees will be chaired by the U.S. Coast Guard's Captain-of-the-Port, and will implement the provisions and requirements of the bill locally, to ensure that local considerations are considered in the establishment of security guidelines.

The bill requires the task force, in consultation with the U.S. Customs Service and MarAd, to develop a system of providing port security threat assessments for U.S. seaports, and to revise this assessment at least triennially. The threat assessment shall be performed with the assistance of local officials, through local port security committees, and ensure the port is made aware of and participates in the analysis of security concerns.

The bill also requires the task force to develop voluntary minimum security guidelines that are linked to the U.S. Coast Guard Captain-of-the-Port controls, to include a model port concept, and to include recommended ''best practices'' guidelines for use of maritime terminal operators. Local port security committees are to participate in the formulation of security guidelines, and the Coast Guard is required to pursue the international adoption of similar security guidelines. Additionally, the Maritime Administration (MarAd) is required to pursue the adoption of proper private sector accreditation of ports that adhere to guidelines (similar to a underwriters lab approval, or ISO 9000 accreditations).

The bill authorizes MarAd to provide Title XI loan guarantees to cover the costs of port security infrastructure improvements, such as cameras and other monitoring equipment, fencing systems and other types of physical enhancements. The bill authorizes $10 million, annually for four years, to cover costs, as defined by the Credit Reform Act, which could guarantee up to $400 million in loans for security enhancements. The bill also establishes a matching grant program to develop and transfer technology to enhance security at U.S. seaports. The U.S. Customs Service may award up to $12 million annually for four years for this technology program, which is required to be awarded on a competitive basis. Long-term technology development is needed to ensure that we can develop non-intrusive technology that will allow trade to expand, but also allow us greater ability to detect criminal threat.

The bill also authorizes additional funding for the U.S. Customs Service to carry out the requirements of the

bill, and more generally, to enhance seaport security. The bill requires a report to be attached on security and a revision of 1997 document entitled ''Port Security: A National Planning Guide.'' The report and revised guide are to be submitted to Congress and are to include a description of activities undertaken under the Port and Maritime Security Act of 2000, in addition to analysis of the effect of those activities on port security and preventing acts of terrorism and crime.

The bill requires the Attorney General, to the extent feasible, to coordinate reporting of seaport related crimes and to work with state law enforcement officials to harmonize the reporting of data on cargo theft. Better data will be crucial in identifying the extent and location of criminal threats and will facilitate law enforcement efforts combating crime. The bill also requires the Secretaries of Agriculture, Treasury, and Transportation, as well as the Attorney General to work together to establish shared dockside inspection facilities at seaports for federal and state agencies, and authorizes $3 million, annually for four years, to carry out this section. The bill also requires the Customs Service to improve reporting of imports at seaports, and to eliminate user fees for domestic U.S.-flag carriers carrying in-bond domestic cargo.

Finally, the bill reauthorizes an extension of tonnage duties through 2006, and makes available $40,000,000 from the collections of these duties to carry out the Port and Maritime Security Act. These fees currently are set at certain levels, and are scheduled to be reduced in 2002. The legislation reauthorizes and extends the current fee level for an additional four years, but dedicates its use to enhancing our efforts to fight crime at U.S. seaports and to facilitating improved protection of our borders, as well as to enhance our efforts to ward off potential threats of terrorism.

Mr. GRAHAM. Mr. President, I rise today, joined by Senators HOLLINGS, BREAUX, and CLELAND, to introduce the Port and Maritime Security Act of 2000, a bill that would significantly improve the overall security and cargo processing operations at U.S. seaports.

For some time, I have very been concerned that seaports—unlike our airports, lack the advanced security procedures and equipment that are necessary to prevent acts of terrorism, cargo theft and drug trafficking. In addition, although seaports conduct the vast majority of our international trade, the activities of law enforcement and trade processing agencies—such as the Coast Guard, Customs, the Department of Agriculture, the FBI, and state and local agencies—are often uncoordinated and fragmented. Taken together, the lack of security and interagency coordination at U.S. seaports present an extremely attractive target for criminals and a variety of criminal activities.

Before discussing the specifics of this legislation, it is important to describe the circumstances that have caused the security crisis at our seaports. Today, U.S. seaports conduct 95 percent of the Nation's international trade. Over the next twenty years, the total volume of imported and exported goods at seaports is expected to increase three-fold.

In addition, the variety of trade and commerce that are carried out at seaports has greatly expanded. Bulk cargo, containerized cargo, passenger cargo and tourism, intermodal transportation systems, and complex domestic and international trade relationships have significantly changed the nature and conduct of seaport commerce. This continuing expansion of activity at seaports has increased the opportunities for a variety of illegal activities, including drug trafficking, cargo theft, auto theft, illegal immigration, and the diversion of cargo, such as food, to avoid safety inspections.

In the face of these new challenges, it appears that the U.S. port management system has fallen behind the rest of the world. We lack a comprehensive, nationwide strategy to address the security issues that face our seaport system.

Therefore, in 1998, I asked the President to establish a Federal commission to evaluate both the nature and extent of crime and the overall state of security in seaports and to develop recommendations for improving the response of Federal, State and local agencies to all types of seaport crime. In response to my request, President Clinton established the Interagency Commission on Crime and Security in U.S. Seaports on April 27, 1999.

Over the past year, the Commission has conducted on-site surveys of twelve (12) U.S. seaports, including the Florida ports of Miami and Port Everglades. At each location, interviews and focus group sessions were held with representatives of Government agencies and the trade community. The focus group meetings with Federal agencies, State and local government officials, and the trade community were designed to solicit their input regarding issues involving crime, security, cooperation, and the appropriate government response to these issues. The Commission also visited two large foreign ports—Rotterdam and Felixstowe—in order to assess their security procedures and use their standards and procedures as a ''benchmark'' for operations at U.S. ports.

In February of this year, the Commission issued preliminary findings which outlined many of the common security problems that were discovered in U.S. seaports. Among other conclusions, the Commission found that: (1) intelligence and information sharing among law enforcement agencies needs to be improved at many ports; (2) many ports do not have any idea about the threats they face, because vulnerability assessments are not performed locally; (3) a lack of minimum security standards at ports and at terminals, warehouses, and trucking firms, leaves many ports and port users vulnerable to theft, pilferage, and unauthorized access by criminals; and (4) advanced equipment, such as small boats, cameras, vessel tracking devices, and large scale x-rays, are lacking at many high-risk ports. Although the Commission's final report will not be released until later this summer, I have worked closely with them to draft this legislation.

The legislation Senator HOLLINGS and I are introducing today will begin to address the problems of our seaports by directing the Commandant of the Coast Guard, in consultation with the Customs Service and the Maritime Administration, to establish a Task Force on Port Security. The new Task Force on Port Security will be responsible for implementing all of the provisions of our legislation. It will have a balanced representation, including Federal, State, local, and private sector representatives familiar with port operations, including port labor.

To ensure full implementation of this legislation, the bill requires the U.S. Coast Guard to establish local port security committees at each U.S. seaport. Membership of these committees will include representatives of the local port authority, labor organizations, the private sector, and Federal, State, and local government officials. The committees will be chaired by the local U.S. Coast Guard Captain-of-the-Port.

In addition, our bill requires the Task Force on Port Security to develop a system of providing port security threat assessments for U.S. seaports, and to revise these assessments at least every three years. The local port security committees will participate in the analysis of threat and security concerns.

Perhaps most important, the bill requires the Task Force to develop voluntary minimum security guidelines for seaports, develop a ''model port'' concept for all seaports, and include recommended ''best practices'' guidelines for use by maritime terminal operators. Again, local port security committees are to participate in the formulation of these security guidelines, and the Coast Guard is required to pursue the international adoption—through the International Maritime Organization and other organizations—of similar security guidelines.

Some States and localities have already conducted seaport security reviews, and have implemented strategies to correct the security shortfalls that they have discovered. In 1999, Florida initiated comprehensive security review of seaports within the state. Led by James McDonough, Director of the governor's Office of Drug Control, the review found that 150 to 200 metric tons of cocaine—or fifty percent of the U.S. total-flow into Florida annually through ports throughout the state.

Both the Florida Legislature and the Florida National Guard recognized the need to address this growing problem and acted decisively. Legislation was introduced in the Florida Senate that called for the development and implementation of statewide port security plans, including requirements for minimum security standards and compliance inspections. In fiscal year 2001, the Florida National Guard will commit $1 million to provide counter-narcotics support at selected ports-of-entry to both strengthen U.S. Customs Service interdiction efforts and enhance overall security at these ports.

In a July 21, 2000, editorial in the Tallahassee Democrat, Mr. McDonough identifies the evaluation of Florida's seaports and the implementation of security standards as a priority initiative in stemming the flow of drugs into Florida.

We realize that U.S. seaports are a joint federal, state, and local responsibility, and we seek to support comprehensive port security efforts such as the one in Florida. Therefore, our bill provides significant incentives for both port infrastructure improvements and research and development on new port security equipment.

The bill authorizes the Maritime Administration to provide title XI loan guarantees to cover the costs of port security infrastructure improvements, such as cameras and other monitoring equipment, fencing systems, as well as other physical security enhancements. The authorization level of $10 million annually, for four years, could guarantee up to $400 million in loans for seaport security enhancements.

In addition, the legislation will also establish a matching grant program to develop and transfer technology to enhance security at U.S. seaports. The U.S. Customs Service may award up to $12 million annually, for four years, for this competitive grant program.

We also must improve the reporting on, and response to, seaport crimes as they take place. Therefore, the bill requires the Attorney General to coordinate reports of seaport related crimes and to work with State law enforcement officials to harmonize the reporting of data of cargo theft. To facilitate this coordination, the bill authorizes $2 million annually, for four years, to modify the Justice Department's National Incident-Based Reporting System. It also authorizes grants to states to help them modify their reporting systems to capture crime data more accurately.

In order to pay for all of these important initiatives, the bill would reauthorize an extension of tonnage duties through 2006. It would also make available $40,000,000 from the collection of these duties to carry out all of the provisions of the Port and Maritime Security Act. Currently, the collection of tonnage duties is not directed towards a specific program. Implementing the provisions of the Port and Maritime Security Act of 2000 will produce concrete improvements in the efficiency, safety, and security of our nation's seaports, and will result in a demonstrable benefit for those who currently pay tonnage duties.

Seaports play one of the most critical roles in expanding our international trade and protecting our borders from international threats. The ''Port and Maritime Security Act'' recognizes these important responsibilities of our seaports, and devotes the necessary resources to move ports into the 21st century. I urge my colleagues to look towards the future by supporting this critical legislation—and by taking action to protect one of our most valuable tools in promoting economic growth.

Mr. President, I ask unanimous consent to print the July 21, 2000 editorial from The Tallahasee Democrat in the RECORD.

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

[From the Tallahassee Democrat, July 21, 2000]

FLORIDA'S DRUG WAR: LOOKING BACK—AND AHEAD

(By James R. McDonough)

The recent signing of anti-drug legislation by Gov. Jeb Bush should come as welcome news to Debbie Alumbaugh and parents like her.

In 1998, Michael Tiedemann, the Fort Pierce woman's 15-year-old son, choked to death on his vomit after getting sick from ingesting GHB and another drug. GHB is one of several ''club'' or ''designer'' drugs that are a growing problem in Tallahassee, as pointed out recently in a letter to the Democrat by Rosalind Tompkins, director of the newly created Anti-Drug Anti-Violence Alliance. The new law won't bring Michael back, but it lessens the chance that GHB and other dangerous substances will fall into other young hands. Gov. Bush, who has made reducing drug abuse one of his top priorities, approved the following anti-drug measures passed during the 2000 session:

A controlled substance act, which is aimed at GHB, ecstasy and other club drugs, and more established drugs such as methamphetamine. The new law addresses the trafficking, sale, purchase, manufacture and possession of these drugs.

A nitrous oxide criminalization act that addresses the illegal possession, sale, purchase or distribution of this substance.

A money-laundering bill designed to tighten security at Florida's seaports. The measure also creates a contraband interdiction team that will search vehicles for illegal drugs.

A bill that applies the penalties under Florida's ''10/20/Life'' law to juveniles who carry a gun while trafficking in illegal drugs.

Gov. Bush also approved a budget that includes an estimated $270 million for drug abuse prevention and treatment. This is a big step in the right direction, as these services, especially drug prevention programs aimed at children, are critical.

Considering the above legislation—along with the publication of the Florida Drug Control Strategy, a statewide crackdown on rave clubs, a survey that shows significant reductions in youth use of marijuana, cocaine and inhalants, and a decline in heroin and cocaine overdose deaths—the past year has shown some progress toward reducing drug abuse.

Even with additional dollars for drug abuse treatment, the number of treatment beds still falls far short of demand. The wait time to enter a treatment program is measured in weeks. This is unacceptable when you consider the damage done to the individual and to society as an addict awaits treatment. We must continue to narrow the treatment gap until those who need this vital help can get it in a timely manner.

Our efforts cannot be solely focused on the demand for drugs. A sound drug control strategy must also address supply. The Office of Drug Control has several initiatives to stem the flow of drugs into Florida.

An intelligence effort to determine the types of drugs entering our state, the way in which they enter, who brings them in and the amounts. This includes the expansion of a drug supply database, all of which go to better inform counter-drug operations.

An evaluation of Florida's seaports and the implementation of standards for security against drug smuggling and money laundering.

The addition of a third High Intensity Drug Trafficking Area—a formal designation that creates a multi-agency anti-drug task force—covering Northeast Florida.

A systematic counter-drug effort aimed at interdicting and deterring drug trafficking on Florida's roads and highways.

Development of intelligence-driven multi-jurisdictional counter-drug operations that combine the efforts of law enforcement agencies at the federal, state and local levels.

Our efforts will continue. As history has taught us, the struggle against drugs is one that never ends. The minute we believe we have put the matter to rest and relax our guard, drug use immediately begins to resurge. Conversely, if we address the problem in a rational, balanced way, drug abuse abates. The fact is that government can only do so much in countering illegal drugs. Because substance abuse has such as pervasive impact on the family and on society, addressing the problem falls to the entire community: government, educators, community and business leaders, clergy, coaches and, most importantly, parents.

By Mr. JEFFORDS (for himself, Mr. BAUCUS, Mr. EDWARDS, and Mr. ROTH):

S. 2966. A bill to amend the Fair Labor Standards Act of 1938 to prohibit retaliation and confidentiality policies relating to disclosure of employee wages, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

THE WAGE AWARENESS PROTECTION ACT

Mr. JEFFORDS. Mr. President, it is with great pride that I introduce the Wage Awareness Protection Act.

We have made great strides in the fight against workplace discrimination. The enactment of the Civil Rights Act more than 30 years ago served to codify this Nation's commitment to the basic principles of equal opportunity and fairness in the workplace. At the time, we enacted not one, but two laws, aimed at ensuring that women receive equal pay for equal work: the Equal Pay Act (''EPA'') of 1963, and to Title VII of the 1964 Civil Rights Act. More recently, Congress reaffirmed this commitment by passing the Civil Rights Act of 1991, which expanded the 1964 Civil Rights Act and gave victims of intentional discrimination the ability to recover compensatory and punitive damages.

Certainly a lot has changed since we first enacted these laws. It should come as no surprise that more women are participating in the labor force than ever before, with women now making up an estimated 46 percent of the workforce. Women are also spending more time in school and are now earning over half of all bachelor's and master's degrees. In addition, women are breaking down longstanding barriers in certain industries and occupations.

Despite these advances, the unfortunate reality is that pay discrimination has continued to persist in some workplaces. In a recent hearing before the Committee on Health, Education, Labor and Pensions, we heard testimony that a principal reason why gender-based wage discrimination has continued is that many female employees are simply unaware that they are being paid less than their male counterparts. These unwitting victims of wage discrimination are often kept in the dark by employer policies that prohibit employees from sharing salary information. Employees are warned that they will be reprimanded or terminated if they discuss salary information with their co-workers.

I believe that a fundamental barrier to uncovering and resolving gender-based pay discrimination is fear of employer retaliation. Employees who suspect wage discrimination should be able to share their salary information with co-workers. I am not alone in my belief. According to a recent Business and Professional Women/USA survey, Americans overwhelmingly support anti-retaliation legislation. And, 65 percent of those polled, said they believe legislation should protect those who suspect wage discrimination from employer retaliation for discussing salary information with co-workers.

The Worker Awareness Protection Act will prohibit employers from having blanket wage confidentiality policies preventing employees from sharing their salary information. In addition, this new legislation will bolster the Equal Pay Act's retaliation provisions including providing workers with protection from employer retaliation for voluntarily discussing their own salary information with coworkers. I am excited about this legislation. It is my hope that it will help point the way to elimination of any pernicious discriminatory pay practices.

I urge all my colleagues to join me in supporting this bill.

I ask unanimous consent that a copy of this bill be printed in the RECORD.

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

S. 2966

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 ''Wage Awareness Protection Act''.

SEC. 2. PROHIBITED ACTS.

(a) PROHIBITION ON RETALIATION AND CONFIDENTIALITY POLICIES.—Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended—

(1) by redesignating paragraph (4) as paragraph (6); and

(2) by inserting after paragraph (3) the following:

''(4) It shall be unlawful for any person—

''(A) to discharge or in any other manner discriminate against any employee because such employee—

''(i) has made a charge, assisted, or participated in any manner in an investigation, hearing, or other proceeding under this subsection; or

''(ii) has inquired about, discussed, or otherwise disclosed the wages of the employee, or another employee who is not covered by a confidentiality policy that is lawful under subparagraph (B); or

''(B) to make or enforce a written or oral confidentiality policy that prohibits an employee from inquiring about, discussing, or otherwise disclosing the wages of the employee or another employee, except that nothing in this subparagraph shall be construed—

''(i) to prohibit an employer from making or enforcing such a confidentiality policy, for an employee who regularly, in the course of carrying out the employer's business, obtains information about the wages of other employees, that prohibits the employee from inquiring about, discussing, or otherwise disclosing the wages of another employee, except that an employee may discuss or otherwise disclose the employee's own wages; and

''(ii) to require the employer to disclose an employee's wages.

''(5) For purposes of sections 16 and 17, a violation of paragraph (4) shall be treated as a violation of section 15(a)(3), rather than as a violation of this section.''.

(b) CONFORMING AMENDMENT.—Section 6(d)(3) of the Fair Labor Standands Act of 1938 (29 U.S.C. 206(d)(3) is amended by inserting ''(other than paragraph (4))'' after ''this subsection''.

By Mr. MURKOWSKI (for himself, Mr. GORTON, Mr. KERREY, and Mr. JEFFORDS):

S. 2967. A bill to amend the Internal Revenue Code of 1986 to facilitate competition in the electric power industry; to the Committee on Finance.

THE ELECTRIC POWER INDUSTRY TAX MODERNIZATION ACT

Mr. MURKOWSKI. Mr. President, today I am joined by Senators, GORTON, KERREY and JEFFORDS in introducing the Electric Power Industry Tax Modernization Act, legislation that will facilitate the opening up of the nation's energy grid to electricity competition. This landmark legislation demonstrates the good faith of the most important players in the industry—the investor owned utilities (IOUs) and the municipal utilities.

In the Energy Committee, which I currently Chair, we have held more than 18 days of hearings and heard testimony from more than 160 witnesses on electricity restructuring. Although those 160 witnesses had many differing views, every witness agreed that the tax laws must be rewritten to reflect the new reality of a competitive electricity market.

Already, 24 states have implemented laws deregulating their electricity markets. And the other 36 states are all considering deregulation schemes. Faced with that reality, the federal tax laws must be updated to ensure that tax laws which made sense when electricity was a regulated monopoly are not allowed to interfere with opening up the nation's electrical infrastructure to competition.

Last October I held a hearing in the Finance Committee Subcommittee on Long Term Growth to examine all of the tax issues that confront the industry. At the end of the hearing I urged all parties to sit down at the negotiating table and hammer out a consensus that will resolve the tax issues.

The bill we are introducing today reflects the compromise that has been reached between the IOUs and the municipal utilities.

One of the major problems that the current tax rules create is to undermine the efficiency of the entire electric system in a deregulated environment because these rules effectively preclude public power entities from participating in State open access restructuring plans, without jeopardizing the exempt status of their bonds.

No one wants to see bonds issued to finance public power become retroactively taxable because a municipality chooses to participate in a state open access plan. That would cause havoc in the financial markets and could undermine the financial stability of many municipalities.

The bill we are introducing overcomes this problem by allowing municipal systems to elect to terminate the issuance of new tax-exempt bonds for generation facilities in return for grandfathering existing bonds. In addition, the bill allows tax-exempt bonds to be issued to finance some new transmission facilities.

I recognize that in making these two changes in the tax law, the municipal utilities have given up a substantial financing tool that has been at the heart of the controversy between the municipal utilities and the IOUs.

At the same time, the bill updates the tax code to reflect the fact that the regulated monopoly model no longer exists. For example, the bill modifies the current rules regarding the treatment of nuclear decommissioning costs to make certain that utilities will have the resources to meet those future costs and clarifies the tax treatment of these funds if a nuclear facility is sold.

The bill also provides tax relief for utilities that spin off or sell transmission facilities to independent participants in FERC approved regional transmission organizations.

Another section of the bill changes the tax rules regarding contributions in aid of construction for electric transmission and distribution facilities. This is an especially important provision; however when this bill is considered in the Finance Committee, I intend to modify this proposal so that it is expanded to all contributions in aid of construction, not just for electric transmission and distribution.

The IOUs and the Municipal utilities are to be commended for coming up

with this agreement. However, there is one other element of the tax code that needs to be addressed if we are going to open the entire grid to competition. And that sector is the cooperative sector.

Currently, coops may not participate in wheeling power through their lines because of concern that they will violate the so-called 85–15 test. I urge the coops to sit down with the other utilities and reach an accord so that when we consider this legislation, the coops' will be included in a tax bill.

Mr. GORTON. Mr. President, today I am extremely pleased to co-sponsor the Electric Power Industry Tax Modernization Act. This legislation, when enacted, will contribute to a more reliable and efficient electric power industry that will provide benefits for all Americans connected to the interstate power grid.

I have been working for three years to resolve the tax problems for consumer-owned municipal utilities, those that are often referred to as Public Power. Nearly half the citizens of my state are served by Public Power.

These problems are due to outdated tax statutes that were written in a different era-an era where the emerging competition in the wholesale electricity market was not envisioned. The negative effects of these outdated tax provisions have impacted not only consumers of Public Power, but also tens of millions of other customers. Public Power is often prevented from sharing the use of their transmission systems solely due to these tax provisions. These outdated tax provisions are negatively impacting the reliability of entire regions of our nation, adding stress to an already stressed system.

In addition to Public Power, other types of utilities are prevented from adapting to this new era of emerging competition by other constraints in this outdated area of the tax law. All of these uncertainties have led to a condition where investment has slowed in this critical area of the economy, just as we need more investment to assure sufficient power plants and transmission lines to feed a growing economy that is increasingly dependent on reliable and affordable electricity.

This compromise bill includes the essence of my legislation, S. 386, The Bond Fairness and Protection Act that I introduced last year with Senator KERREY from Nebraska, a bill that includes an additional 32 co-sponsors in the Senate. This legislative language will allow Public Power to move into the future with certainty, and protects the millions of American citizens who hold current investments in Public Power debt.

The bill also includes legislative language that resolves conflicts for investor-owned utilities. These changes are also needed to solve problems in other parts of the outdated tax code as it pertains to electricity. The new provisions will also help contribute to a more reliable and orderly electricity system in our nation.

I look forward to gaining additional support for this bill among the other members of the Senate, and I look forward to the Finance Committee's consideration of this legislation in September. As soon as this legislation can be enacted, American electricity consumers will begin to enjoy a more certain and reliable future regarding their electricity needs.

Mr. KERREY. Mr. President, today I wish to join my colleagues, Senator MURKOWSKI, GORTON, and JEFFORDS in introducing legislation that will help ensure that customers receive reliable and affordable electricity. The Electric Power Industry Tax Modernization Act is the culmination of months-long discussions between shareholder-owned utilities and publicly-owned utilities. Without the diligence and patience exhibited by these groups, it is doubtful that Congress could be in the position to act on this issue. Additionally, I would like to recognize the efforts of Senator MURKOWSKI and Senator GORTON, whose efforts at getting these groups to sit down and discuss these issues was invaluable to the final agreement.

Mr. President, this legislation will ensure that Nebraskans continue to benefit from the publicly-owned power they currently receive. Nebraska has 154 not-for-profit community-based public power systems. It is the only state which relies entirely on public power for electricity. This system has served my state well as Nebraskans enjoy some of the lowest electricity rates in the nation.

In closing, I would urge my colleagues to join this bipartisan effort to address the changes steaming from electrical restructuring.

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. 2967

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 ''Electric Power Industry Tax Modernization Act''.

SEC. 2. TAX-EXEMPT BOND FINANCING OF CERTAIN ELECTRIC FACILITIES.

(a) RULES APPLICABLE TO ELECTRIC OUTPUT FACILITIES.—Subpart A of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to tax exemption requirements for State and local bonds) is amended by inserting after section 141 the following new section:

''SEC. 141A. ELECTRIC OUTPUT FACILITIES.

''(a) ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING FOR CERTAIN ELECTRIC OUTPUT FACILITIES.—

''(1) IN GENERAL.—A governmental unit may make an irrevocable election under this paragraph to terminate certain tax-exempt financing for electric output facilities. If the governmental unit makes such election, then—

''(A) except as provided in paragraph (2), on or after the date of such election the governmental unit may not issue with respect to an electric output facility any bond the interest on which is exempt from tax under section 103, and

''(B) notwithstanding paragraph (1) or (2) of section 141(a) or paragraph (4) or (5) of section 141(b), no bond which was issued by such unit with respect to an electric output facility before the date of enactment of this subsection (or which is described in paragraph (2)(B), (D), (E) or (F)) the interest on which was exempt from tax on such date, shall be treated as a private activity bond.

''(2) EXCEPTIONS.—An election under paragraph (1) does not apply to any of the following bonds:

''(A) Any qualified bond (as defined in section 141(e)).

''(B) Any eligible refunding bond (as defined in subsection (d)(6)).

''(C) Any bond issued to finance a qualifying transmission facility or a qualifying distribution facility.

''(D) Any bond issued to finance equipment or facilities necessary to meet Federal or State environmental requirements applicable to an existing generation facility.

''(E) Any bond issued to finance repair of any existing generation facility. Repairs of facilities may not increase the generation capacity of the facility by more than 3 percent above the greater of its nameplate or rated capacity as of the date of enactment of this section.

''(F) Any bond issued to acquire or construct (i) a qualified facility, as defined in section 45(c)(3), if such facility is placed in service during a period in which a qualified facility may be placed in service under such section, or (ii) any energy property, as defined in section 48(a)(3).

''(3) FORM AND EFFECT OF ELECTION.—

''(A) IN GENERAL.—An election under paragraph (1) shall be made in such a manner as the Secretary prescribes and shall be binding on any successor in interest to, or any related party with respect to, the electing governmental unit. For purposes of this paragraph, a governmental unit shall be treated as related to another governmental unit if it is a member of the same controlled group.

''(B) TREATMENT OF ELECTING GOVERNMENTAL UNIT.—A governmental unit which makes an election under paragraph (1) shall be treated for purposes of section 141 as a person which is not a governmental unit and which is engaged in a trade or business, with respect to its purchase of electricity generated by an electric output facility placed in service after such election, if such purchase is under a contract executed after such election.

''(4) DEFINITIONS.—For purposes of this subsection:

''(A) EXISTING GENERATION FACILITY.—The term 'existing generation facility' means an electric generation facility in service on the date of the enactment of this subsection or the construction of which commenced before June 1, 2000.

''(B) QUALIFYING DISTRIBUTION FACILITY.—The term 'qualifying distribution facility' means a distribution facility over which open access distribution services described in subsection (b)(2)(C) are provided.

''(C) QUALIFYING TRANSMISSION FACILITY.—The term 'qualifying transmission facility' means a local transmission facility (as defined in subsection (c)(3)(A)) over which open access transmission services described in subparagraph (A), (B), or (E) of subsection (b)(2) are provided.

''(b) PERMITTED OPEN ACCESS ACTIVITIES AND SALES TRANSACTIONS NOT A PRIVATE BUSINESS USE FOR BONDS WHICH REMAIN SUBJECT TO PRIVATE USE RULES.—

''(1) GENERAL RULE.—For purposes of this section and section 141, the term 'private business use' shall not include a permitted

open access activity or a permitted sales transaction.

''(2) PERMITTED OPEN ACCESS ACTIVITIES.—For purposes of this section, the term 'permitted open access activity' means any of the following transactions or activities with respect to an electric output facility owned by a governmental unit:

''(A) Providing nondiscriminatory open access transmission service and ancillary services—

''(i) pursuant to an open access transmission tariff filed with and approved by FERC, but, in the case of a voluntarily filed tariff, only if the governmental unit voluntarily files a report described in paragraph (c) or (h) of section 35.34 of title 18 of the Code of Federal Regulations or successor provision (relating to whether or not the issuer will join a regional transmission organization) not later than the later of the applicable date prescribed in such paragraphs or 60 days after the date of the enactment of this section,

''(ii) under an independent system operator agreement, regional transmission organization agreement, or regional transmission group agreement approved by FERC, or

''(iii) in the case of an ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B)), pursuant to a tariff approved by the Public Utility Commission of Texas.

''(B) Participation in—

''(i) an independent system operator agreement,

''(ii) a regional transmission organization agreement, or

''(iii) a regional transmission group,

which has been approved by FERC, or by the Public Utility Commission of Texas in the case of an ERCOT utility (as so defined). Such participation may include transfer of control of transmission facilities to an organization described in clause (i), (ii), or (iii).

''(C) Delivery on a nondiscriminatory open access basis of electric energy sold to end-users served by distribution facilities owned by such governmental unit.

''(D) Delivery on a nondiscriminatory open access basis of electric energy generated by generation facilities connected to distribution facilities owned by such governmental unit.

''(E) Other transactions providing nondiscriminatory open access transmission or distribution services under Federal, State, or local open access, retail competition, or similar programs, to the extent provided in regulations prescribed by the Secretary.

''(3) PERMITTED SALES TRANSACTION.—For purposes of this subsection, the term 'permitted sales transaction' means any of the following sales of electric energy from existing generation facilities (as defined in subsection (a)(4)(A)):

''(A) The sale of electricity to an on-system purchaser, if the seller provides open access distribution service under paragraph (2)(C) and, in the case of a seller which owns or operates transmission facilities, if such seller provides open access transmission under subparagraph (A), (B), or (E) of paragraph (2).

''(B) The sale of electricity to a wholesale native load purchaser or in a wholesale stranded cost mitigation sale—

''(i) if the seller provides open access transmission service described in subparagraph (A), (B), or (E) of paragraph (2), or

''(ii) if the seller owns or operates no transmission facilities and transmission providers to the seller's wholesale native load purchasers provide open access transmission service described in subparagraph (A), (B), or (E) of paragraph (2).

''(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection:

''(A) ON-SYSTEM PURCHASER.—The term 'on-system purchaser' means a person whose electric facilities or equipment are directly connected with transmission or distribution facilities which are owned by a governmental unit, and such person—

''(i) purchases electric energy from such governmental unit at retail and either was within such unit's distribution area in the base year or is a person as to whom the governmental unit has a service obligation, or

''(ii) is a wholesale native load purchaser from such governmental unit.

''(B) WHOLESALE NATIVE LOAD PURCHASER.—The term 'wholesale native load purchaser' means a wholesale purchaser as to whom the governmental unit had—

''(i) a service obligation at wholesale in the base year, or

''(ii) an obligation in the base year under a requirements contract, or under a firm sales contract which has been in effect for (or has an initial term of) at least 10 years,

but only to the extent that in either case such purchaser resells the electricity at retail to persons within the purchaser's distribution area.

''(C) WHOLESALE STRANDED COST MITIGATION SALE.—The term 'wholesale stranded cost mitigation sale' means 1 or more wholesale sales made in accordance with the following requirements:

''(i) A governmental unit's allowable sales under this subparagraph during the recovery period may not exceed the sum of its annual load losses for each year of the recovery period.

''(ii) The governmental unit's annual load loss for each year of the recovery period is the amount (if any) by which—

''(I) sales in the base year to wholesale native load purchasers which do not constitute a private business use, exceed

''(II) sales during that year of the recovery period to wholesale native load purchasers which do not constitute a private business use.

''(iii) If actual sales under this subparagraph during the recovery period are less than allowable sales under clause (i), the amount not sold (but not more than 10 percent of the aggregate allowable sales under clause (i)) may be carried over and sold as wholesale stranded cost mitigation sales in the calendar year following the recovery period.

''(D) RECOVERY PERIOD.—The recovery period is the 7-year period beginning with the start-up year.

''(E) START-UP YEAR.—The start-up year is whichever of the following calendar years the governmental unit elects:

''(i) The year the governmental unit first offers open transmission access.

''(ii) The first year in which at least 10 percent of the governmental unit's wholesale customers' aggregate retail native load is open to retail competition.

''(iii) The calendar year which includes the date of the enactment of this section, if later than the year described in clause (i) or (ii).

''(F) PERMITTED SALES TRANSACTIONS UNDER EXISTING CONTRACTS.—A sale to a wholesale native load purchaser (other than a person to whom the governmental unit had a service obligation) under a contract which resulted in private business use in the base year shall be treated as a permitted sales transaction only to the extent that sales under the contract exceed the lesser of—

''(i) in any year, the private business use which resulted during the base year, or

''(ii) the maximum amount of private business use which could occur (absent the enactment of this section) without causing the bonds to be private activity bonds.

This subparagraph shall only apply to the extent that the sale is allocable to bonds issued before the date of the enactment of this section (or bonds issued to refund such bonds).

''(G) JOINT ACTION AGENCIES.—A joint action agency, or a member of (or a wholesale native load purchaser from) a joint action agency, which is entitled to make a sale described in subparagraph (A) or (B) in a year, may transfer the entitlement to make that sale to the member (or purchaser), or the joint action agency, respectively.

''(c) CERTAIN BONDS FOR TRANSMISSION AND DISTRIBUTION FACILITIES NOT TAX EXEMPT.—

''(1) GENERAL RULE.—For purposes of this title, no bond the interest on which is exempt from taxation under section 103 may be issued on or after the date of the enactment of this subsection if any of the proceeds of such issue are used to finance—

''(A) any transmission facility which is not a local transmission facility, or

''(B) a start-up utility distribution facility.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A) any qualified bond (as defined in section 141(e)),

''(B) any eligible refunding bond (as defined in subsection (d)(6)), or

''(C) any bond issued to finance—

''(i) any repair of a transmission facility in service on the date of the enactment of this section, so long as the repair does not increase the voltage level over its level in the base year or increase the thermal load limit of the transmission facility by more than 3 percent over such limit in the base year,

''(ii) any qualifying upgrade of a transmission facility in service on the date of the enactment of this section, or

''(iii) a transmission facility necessary to comply with an obligation under a shared or reciprocal transmission agreement in effect on the date of the enactment of this section.

''(3) LOCAL TRANSMISSION FACILITY DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) LOCAL TRANSMISSION FACILITY.—The term 'local transmission facility' means a transmission facility which is located within the governmental unit's distribution area or which is, or will be, necessary to supply electricity to serve retail native load or wholesale native load of 1 or more governmental units. For purposes of this subparagraph, the distribution area of a public power authority which was created in 1931 by a State statute and which, as of January 1, 1999, owned at least one-third of the transmission circuit miles rated at 230kV or greater in the State, shall be determined under regulations of the Secretary.

''(B) RETAIL NATIVE LOAD.—The term 'retail native load' is the electric load of end-users served by distribution facilities owned by a governmental unit.

''(C) WHOLESALE NATIVE LOAD.—The term 'wholesale native load' is—

''(i) the retail native load of a governmental unit's wholesale native load purchasers, and

''(ii) the electric load of purchasers (not described in clause (i)) under wholesale requirements contracts which—

''(I) do not constitute private business use under the rules in effect absent this subsection, and

''(II) were in effect in the base year.

''(D) NECESSARY TO SERVE LOAD.—For purposes of determining whether a transmission or distribution facility is, or will be, necessary to supply electricity to retail native load or wholesale native load—

''(i) electric reliability standards or requirements of national or regional reliability organizations, regional transmission organizations, and the Electric Reliability Council of Texas shall be taken into account, and

''(ii) transmission, siting, and construction decisions of regional transmission organizations or independent system operators and State and Federal agencies shall be presumptive evidence regarding whether transmission facilities are necessary to serve native load.

''(E) QUALIFYING UPGRADE.—The term 'qualifying upgrade' means an improvement or addition to transmission facilities in service on the date of the enactment of this section which is ordered or approved by a regional transmission organization, by an independent system operator, or by a State regulatory or siting agency.

''(4) START-UP UTILITY DISTRIBUTION FACILITY DEFINED.—For purposes of this subsection, the term 'start-up utility distribution facility' means any distribution facility to provide electric service to the public that is placed in service—

''(A) by a governmental unit which did not operate an electric utility on the date of the enactment of this section, and

''(B) before the date on which such governmental unit operates in a qualified service area (as such term is defined in section 141(d)(3)(B)).

A governmental unit is deemed to have operated an electric utility on the date of the enactment of this section if it operates electric output facilities which were operated by another governmental unit to provide electric service to the public on such date.

''(d) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

''(1) BASE YEAR.—The term 'base year' means the calendar year which includes the date of the enactment of this section or, at the election of the governmental unit, either of the 2 immediately preceding calendar years.

''(2) DISTRIBUTION AREA.—The term 'distribution area' means the area in which a governmental unit owns distribution facilities.

''(3) ELECTRIC OUTPUT FACILITY.—The term 'electric output facility' means an output facility that is an electric generation, transmission, or distribution facility.

''(4) DISTRIBUTION FACILITY.—The term 'distribution facility' means an electric output facility that is not a generation or transmission facility.

''(5) TRANSMISSION FACILITY.—The term 'transmission facility' means an electric output facility (other than a generation facility) that operates at an electric voltage of 69kV or greater, except that the owner of the facility may elect to treat any output facility that is a transmission facility for purposes of the Federal Power Act as a transmission facility for purposes of this section.

''(6) ELIGIBLE REFUNDING BOND.—The term 'eligible refunding bond' means any State or local bond issued after an election described in subsection (a) that directly or indirectly refunds any tax-exempt bond (other than a qualified bond) issued before such election, if the weighted average maturity of the issue of which the refunding bond is a part does not exceed the remaining weighted average maturity of the bonds issued before the election. In applying such term for purposes of subsection (c)(2)(B), the date of election shall be deemed to be the date of the enactment of this section.

''(7) FERC.—The term 'FERC' means the Federal Energy Regulatory Commission.

''(8) GOVERNMENT-OWNED FACILITY.—An electric output facility shall be treated as owned by a governmental unit if it is an electric output facility that either is—

''(A) owned or leased by such governmental unit, or

''(B) a transmission facility in which the governmental unit acquired before the base year long-term firm capacity for the purposes of serving customers to which the unit had at that time either—

''(i) a service obligation, or

''(ii) an obligation under a requirements contract.

''(9) REPAIR.—The term 'repair' shall include replacement of components of an electric output facility, but shall not include replacement of the facility.

''(10) SERVICE OBLIGATION.—The term 'service obligation' means an obligation under State or Federal law (exclusive of an obligation arising solely from a contract entered into with a person) to provide electric distribution services or electric sales service, as provided in such law.

''(e) SAVINGS CLAUSE.—Subsection (b) shall not affect the applicability of section 141 to (or the Secretary's authority to prescribe, amend, or rescind regulations respecting) any transaction which is not a permitted open access transaction or permitted sales transaction.''.

(b) REPEAL OF EXCEPTION FOR CERTAIN NONGOVERNMENTAL ELECTRIC OUTPUT FACILITIES.—Section 141(d)(5) of the Internal Revenue Code of 1986 is amended by inserting ''(except in the case of an electric output facility which is a distribution facility),'' after ''this subsection''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 141 the following new item:

Sec. 141A. Electric output facilities.

(d) EFFECTIVE DATE; APPLICABILITY.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that a governmental unit may elect to apply paragraphs (1) and (2) of section 141A(b), as added by subsection (a), with respect to permitted open access activities entered into on or after April 14, 1996.

(2) CERTAIN EXISTING AGREEMENTS.—The amendment made by subsection (b) (relating to repeal of the exception for certain nongovernmental output facilities) does not apply to any acquisition of facilities made pursuant to an agreement that was entered into before the date of the enactment of this Act.

(3) APPLICABILITY.—References in this Act to sections of the Internal Revenue Code of 1986, shall be deemed to include references to comparable sections of the Internal Revenue Code of 1954.

SEC. 3. INDEPENDENT TRANSMISSION COMPANIES.

(a) SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

(1) IN GENERAL.—Section 1033 of the Internal Revenue Code of 1986 (relating to involuntary conversions) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction and the proceeds received from such transaction are invested in exempt utility property, such transaction shall be treated as an involuntary conversion to which this section applies.

''(2) EXTENSION OF REPLACEMENT PERIOD.—In the case of any involuntary conversion described in paragraph (1), subsection (a)(2)(B) shall be applied by substituting '4 years' for '2 years' in clause (i) thereof.

''(3) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition of property used in the trade or business of electric transmission, or an ownership interest in a person whose primary trade or business consists of providing electric transmission services, to another person that is an independent transmission company.

''(4) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

''(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

''(B) a person—

''(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 823b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

''(ii) whose transmission facilities to which the election under this subsection applies are placed under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization within the period specified in such order, but not later than the close of the replacement period, or

''(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

''(5) EXEMPT UTILITY PROPERTY.—For purposes of this subsection, the term 'exempt utility property' means—

''(A) property used in the trade or business of generating, transmitting, distributing, or selling electricity or producing, transmitting, distributing, or selling natural gas, or

''(B) stock in a person whose primary trade or business consists of generating, transmitting, distributing, or selling electricity or producing, transmitting, distributing, or selling natural gas.

''(6) SPECIAL RULES FOR CONSOLIDATED GROUPS.—

''(A) INVESTMENT BY QUALIFYING GROUP MEMBERS.—

''(i) IN GENERAL.—This subsection shall apply to a qualifying electric transmission transaction engaged in by a taxpayer if the proceeds are invested in exempt utility property by a qualifying group member.

''(ii) QUALIFYING GROUP MEMBER.—For purposes of this subparagraph, the term 'qualifying group member' means any member of a consolidated group within the meaning of section 1502 and the regulations promulgated thereunder of which the taxpayer is also a member.

''(B) COORDINATION WITH CONSOLIDATED RETURN PROVISIONS.—A sale or other disposition of electric transmission property or an ownership interest in a qualifying electric transmission transaction, where an election is made under this subsection, shall not result in the recognition of income or gain under the consolidated return provisions of subchapter A of chapter 6. The Secretary shall prescribe such regulations as may be necessary to provide for the treatment of any exempt utility property received in a qualifying electric transmission transaction as successor assets subject to the application of such consolidated return provisions.

''(7) ELECTION.—Any election made by a taxpayer under this subsection shall be made by a statement to that effect in the return for the taxable year in which the qualifying electric transmission transaction takes

place in such form and manner as the Secretary shall prescribe, and such election shall be binding for that taxable year and all subsequent taxable years.''.

(2) SAVINGS CLAUSE.—Nothing in section 1033(k) of the Internal Revenue Code of 1986, as added by subsection (a), shall affect Federal or State regulatory policy respecting the extent to which any acquisition premium paid in connection with the purchase of an asset in a qualifying electric transmission transaction can be recovered in rates.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transactions occurring after the date of the enactment of this Act.

(b) DISTRIBUTIONS OF STOCK TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(1) IN GENERAL.—Section 355(e)(4) of the Internal Revenue Code of 1986 is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) DISTRIBUTIONS OF STOCK TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

''(i) IN GENERAL.—Paragraph (1) shall not apply to any distribution that is a qualifying electric transmission transaction. For purposes of this subparagraph, a 'qualifying electric transmission transaction' means any distribution of stock in a corporation whose primary trade or business consists of providing electric transmission services, where such stock is later acquired (or where the assets of such corporation are later acquired) by another person that is an independent transmission company.

''(ii) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

''(I) a regional transmission organization approved by the Federal Energy Regulatory Commission,

''(II) a person who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and whose transmission facilities transferred as a part of such qualifying electric transmission transaction are placed under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization within the period specified in such order, but not later than the close of the replacement period (as defined in section 1033(k)(2)), or

''(III) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person that is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to distributions occurring after the date of the enactment of this Act.

SEC. 4. CERTAIN AMOUNTS RECEIVED BY ELECTRIC UTILITIES EXCLUDED FROM GROSS INCOME AS CONTRIBUTIONS TO CAPITAL.

(a) IN GENERAL.—Subsection (c) of section 118 of the Internal Revenue Code of 1986 (relating to contributions to the capital of a corporation) is amended—

(1) by striking ''WATER AND SEWAGE DISPOSAL'' in the heading and inserting ''CERTAIN'',

(2) by striking ''water or,'' in the matter preceding subparagraph (A) of paragraph (1) and inserting ''electric energy, water, or'',

(3) by striking ''water or'' in paragraph (1)(B) and inserting ''electric energy (but not including assets used in the generation of electricity), water, or'',

(4) by striking ''water or'' in paragraph (2)(A)(ii) and inserting ''electric energy (but not including assets used in the generation of electricity), water, or'',

(5) by inserting ''such term shall include amounts paid as customer connection fees (including amounts paid to connect the customer's line to an electric line or a main water or sewer line) and'' after ''except that'' in paragraph (3)(A), and

(6) by striking ''water or'' in paragraph (3)(C) and inserting ''electric energy, water, or''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.

SEC. 5. TAX TREATMENT OF NUCLEAR DECOMMISSIONING FUNDS.

(a) INCREASE IN AMOUNT PERMITTED TO BE PAID INTO NUCLEAR DECOMMISSIONING RESERVE FUND.—Subsection (b) of section 468A of the Internal Revenue Code of 1986 (relating to special rules for nuclear decommissioning costs) is amended to read as follows:

''(b) LIMITATION ON AMOUNTS PAID INTO FUND.—

''(1) IN GENERAL.—The amount which a taxpayer may pay into the Fund for any taxable year during the funding period shall not exceed the level funding amount determined pursuant to subsection (d), except—

''(A) where the taxpayer is permitted by Federal or State law or regulation (including authorization by a public service commission) to charge customers a greater amount for nuclear decommissioning costs, in which case the taxpayer may pay into the Fund such greater amount, or

''(B) in connection with the transfer of a nuclear powerplant, where the transferor or transferee (or both) is required pursuant to the terms of the transfer to contribute a greater amount for nuclear decommissioning costs, in which case the transferor or transferee (or both) may pay into the Fund such greater amount.

''(2) CONTRIBUTIONS AFTER FUNDING PERIOD.—Notwithstanding any other provision of this section, a taxpayer may make deductible payments to the Fund in any taxable year between the end of the funding period and the termination of the license issued by the Nuclear Regulatory Commission for the nuclear powerplant to which the Fund relates provided such payments do not cause the assets of the Fund to exceed the nuclear decommissioning costs allocable to the taxpayer's current or former interest in the nuclear powerplant to which the Fund relates. The foregoing limitation shall be applied by taking into account a reasonable rate of inflation for the nuclear decommissioning costs and a reasonable after-tax rate of return on the assets of the Fund until such assets are anticipated to be expended.''.

(b) DEDUCTION FOR NUCLEAR DECOMMISSIONING COSTS WHEN PAID.— Paragraph (2) of section 468A(c) of the Internal Revenue Code of 1986 (relating to income and deductions of the taxpayer) is amended to read as follows:

''(2) DEDUCTION OF NUCLEAR DECOMMISSIONING COSTS.—In addition to any deduction under subsection (a), nuclear decommissioning costs paid or incurred by the taxpayer during any taxable year shall constitute ordinary and necessary expenses in carrying on a trade or business under section 162.''.

(c) LEVEL FUNDING AMOUNTS.—Subsection (d) of section 468A of the Internal Revenue Code of 1986 is amended to read as follows:

''(d) LEVEL FUNDING AMOUNTS.—

''(1) ANNUAL AMOUNTS.—For purposes of this section, the level funding amount for any taxable year shall equal the annual amount required to be contributed to the Fund in each year remaining in the funding period in order for the Fund to accumulate the nuclear decommissioning costs allocable to the taxpayer's current or former interest in the nuclear powerplant to which the Fund relates. The annual amount described in the preceding sentence shall be calculated by taking into account a reasonable rate of inflation for the nuclear decommissioning costs and a reasonable after-tax rate of return on the assets of the Fund until such assets are anticipated to be expended.

''(2) FUNDING PERIOD.—The funding period for a Fund shall end on the last day of the last taxable year of the expected operating life of the nuclear powerplant.

''(3) NUCLEAR DECOMMISSIONING COSTS.—For purposes of this section—

''(A) IN GENERAL.—The term 'nuclear decommissioning costs' means all costs to be incurred in connection with entombing, decontaminating, dismantling, removing, and disposing of a nuclear powerplant, and shall include all associated preparation, security, fuel storage, and radiation monitoring costs. Such term shall include all such costs which, outside of the decommissioning context, might otherwise be capital expenditures.

''(B) IDENTIFICATION OF COSTS.—The taxpayer may identify nuclear decommissioning costs by reference either to a site-specific engineering study or to the financial assurance amount calculated pursuant to section 50.75 of title 10 of the Code of Federal Regulations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid after June 30, 2000, in taxable years ending after such date.

By Mr. ALLARD:

S. 2968. A bill to empower communities and individuals by consolidating and reforming the programs of the Department of Housing and Urban Development; to the Committee on Banking, Housing, and Urban Affairs.

LOCAL HOUSING OPPORTUNITIES ACT

Mr. ALLARD. Mr. President, today I am introducing the ''Local Housing Opportunities Act'', legislation to empower communities and individuals by consolidating and reforming HUD programs. I ask unanimous consent that the following section-by-section description of the bill be printed in the RECORD and that the text of the bill be printed in the RECORD following the description.

In 1994, there were 240 separate programs at the Department of Housing and Urban Development (HUD). By 1997, the number of programs had grown to 328. Many of these programs have never been authorized by Congress, and operate under questionable legal authority. While the number of HUD programs has grown, HUD's workforce has declined from 12,000 employees in 1995 to 9,000 employees today. As a result, scarce resources are diverted away from core housing and enforcement programs, dramatically increasing the risks of mismanagement and fraud. HUD remains the only Cabinet level agency designated by the General Accounting Office (GAO) as ''High Risk''. In order to promote the interests of taxpayers and improve the delivery of services to beneficiaries, Congress should transfer more programs to

the States and localities and enact legislation to consolidate, terminate, and streamline HUD programs.

SECTION-BY-SECTION DESCRIPTION

I. Prohibition of Unauthorized Programs at the Department of Housing and Urban Development—Prohibits HUD from carrying out any program that is not explicitly authorized in statute by the Congress. This provision takes effect one year after the effective date to give the Congress sufficient time to authorize those programs that it wishes to maintain. Within 60 days of the date of enactment the Department of Housing and Urban Development shall provide a report detailing every HUD program along with the statutory authorization for that program. This report shall be provided annually to the Senate Committee on Banking, Housing and Urban Affairs, the Senate Subcommittee on Housing and Transportation, the House Committee on Banking and Financial Services, and the House Subcommittee on Housing and Community Opportunity.

II. Elimination of Certain HUD Programs—Terminates certain programs as recommended by the HUD Secretary in the ''HUD 2020 Program Repeal and Streamlining Act''. The Department has determined that these programs are unnecessary, outdated, or inactive.

Community Investment Corporation Demonstration—never funded, superseded by the Community Development Financial Institutions program administered by the Department of the Treasury.

New Towns Demonstration Program for Emergency Relief of Los Angeles—not funded since FY 1993.

Solar Assistance Financing Entity—not funded in recent years.

Urban Development Action Grants—discontinued program, not funded in recent years.

Certain Special Purpose Grants—not funded since FY 1993 and FY 1995.

Moderate Rehabilitation Assistance in Disasters—no additional assistance for the Moderate Rehabilitation program has been provided (other than for the homeless under the McKinney Act) since FY 1989.

Rent Supplement Program—not funded for many years.

National Home Ownership Trust Demonstration—authority expired at the end of FY 1994.

Repeal of HOPE I, II, and III—all HOPE funds have been awarded, no additional funding has been requested since FY 1995, and no future funding is anticipated.

Energy Efficiency Demonstration Program, section 961 of NAHA—never funded.

Technical Assistance and Training for IHAs—no funds have been provided for this program since FY 1994.

Termination of the investor mortgages portion of the Section 203(k) rehabilitation mortgage insurance program as recommended by the HUD IG. Investor rehabilitation mortgages constitute approximately 20% of the loans insured under this program, and recent IG audits have found this portion of the program to be particularly vulnerable to fraud and abuse by investor-owners. The larger portion of the program for owner/occupants is retained.

Certificate and Voucher Assistance for Rental Rehabilitation Projects—rental rehabilitation program has been repealed, section 289 of NAHA.

Single Family Loan Insurance for Home Improvement Loans in Urban Renewal Areas—unnecessary.

Single Family and Multifamily Mortgage Insurance for Miscellaneous Special Situations, section 223 (a)(1)–(6) and (8)—obsolete.

Single Family Mortgage Insurance for so-called ''Modified'' Graduated Payment Mortgages, section 245 (b)—insurance authority terminated in 1987 but provision never repealed.

War Housing Insurance—authority for new insurance terminated in 1954, but provision never repealed.

Insurance for Investments (Yield Insurance)—program never implemented, but authority and provision never repealed.

National Defense Housing—authority for new insurance terminated in 1954, but provision never repealed.

Rural Homeless Housing Assistance—not funded since FY 1994, all HUD homeless assistance will be part of the McKinney Homeless Assistance Performance Fund created under this legislation.

Innovative Homeless Initiatives Demonstration—not funded since FY 1995, all HUD homeless assistance will be part of the McKinney Homeless Assistance Performance Fund created under this legislation.

During the remainder of 2000, the Senate Housing and Transportation Subcommittee will hold hearings on this discussion draft. At that time the Subcommittee will solicit the recommendations of the Department, the IG, the GAO, and other organizations for other HUD programs that can be streamlined or eliminated. This legislation also provides for the creation of a ''HUD Consolidation Task Force'' which will report to the Congress with recommendations on how to reduce the number of programs at HUD through consolidation, termination, or transfer to other levels of government.

III. HUD Consolidation Task Force—Mandates the creation of a task force that will focus exclusively on legislative and regulatory options to reduce the number of HUD programs. The task force will consist of three individuals: the Comptroller General of the United States, the HUD Secretary, and the HUD Inspector General. Within six months of the enactment of this legislation, the task force will produce a report outlining options to reduce the number of HUD programs through consolidation, elimination, and transfer to other levels of government. The report will be provided to the Senate and House Housing Subcommittees as well as the Senate and House Banking Committees.

I. Community Development Block Grant Authorization (CDBG) and Prohibition of Set-Asides and Earmarks—Restores local control over the CDBG program by prohibiting Congressional set-asides and earmarks not specifically authorized in statute. The original intent of CDBG was that program dollars would be allocated directly to cities and states according to formula. In FY 1999 over 10 percent of the funds were earmarked for specific projects (the earmarks have increased steadily in recent years). CDBG was last authorized in 1994, this legislation would authorize the program through FY 2005, with an initial authorization of $4,850,000,000 in FY 2001.

II. Community Notification of Opt-Outs—Requires that when HUD receives notice of a Section 8 opt-out that it forward that notice within 10 days to the top elected official for the unit of local government where the property is located. This supplements the requirement in Section 8 (c)(8)(A) of the Housing Act of 1937 that HUD and tenants be notified one year in advance if a Section 8 opt-out is anticipated.

III. Urban Homestead Requirement—Directs that HUD-held properties that have not been disposed of within six months following acquisition by HUD or a determination that they are substandard or unoccupied, shall be made available upon written request for sale or donation to local governments or Community Development Corporations (CDCs).

IV. Permanent ''Moving To Work'' Authorization—Continues the deregulation of Public Housing Authorities (PHAs) by opening the ''Moving To Work'' program to all PHAs. This program was authorized as a demonstration in the 1996 VA/HUD Appropriation bill and granted up to 30 PHAs the option to receive HUD funds as a block grant. The program provides autonomy from HUD micromanagement and the freedom to innovate with reforms such as work requirements, time limits, job training, and Home ownership assistance. The Secretary shall approve an application under this program for all but the lowest performing PHAs unless the Secretary makes a written determination, within 60 days after receiving the application, that the application fails to comply with the statutory provisions authorizing the ''Moving to Work'' program.

Consolidate HUD Homeless Assistance Funds into the ''McKinney Homeless Assistance Performance Fund''—Combines HUD's McKinney programs (Supportive Housing Program, Shelter Plus Care, Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings, Safe Havens, Rural Homeless Housing Assistance, and the Emergency Shelter Grants), into a single McKinney Homeless Assistance Performance Fund (and authorizes funding through FY 2003, at an initial level of $1,050,000,000 in FY 2001). Distributes funds according to the CDBG block grant formula with 70 percent to units of local government and 30 percent to states.

Eligible units of local government include metropolitan cities, urban counties, and consortia. The formula is to be reviewed after one year with a statutory requirement that HUD provide alternative formulas for the Congress to consider. State funds are available for use in areas throughout the entire state. Codifies and requires a Continuum of Care system by grant recipients. The Continuum of Care submission is linked with the Consolidated Plan. Every three dollars of federal block grant money is to be matched with one dollar of state or local money. Funds qualifying for the match are the same as those currently permitted under the Emergency Shelter Grants program, and would include salaries paid to staff, volunteer labor, and the value of a lease on a building. There is a five year transition period—state and local governments would receive no less than 90 percent of prior award amounts (average for FY 96–99) in the first year after enactment, 85 percent in the second year after enactment, 80 percent in the third and fourth year after enactment, and 75 percent in the fifth year after enactment. Eligible projects and activities include emergency assistance, safe haven housing, transitional housing, permanent housing, supportive services for persons with disabilities, single room occupancy housing, prevention, outreach and assessment, acquisition and rehabilitation of property, new construction, operating costs, leasing, tenant assistance, supportive services, administrative (generally limited to 10 percent of funds), capacity building, targeting to subpopulations of persons with disabilities. Performance measures and benchmarks are included, along with periodic performance reports, reviews, and audits.

I. Mutual and Self-Help Housing Technical Assistance and Training Grants Program—Reauthorizes technical assistance grants to facilitate the construction of self-help housing in rural areas. Program beneficiaries are required to contribute a significant amount of sweat equity to the construction of the homes that they will own. Authorizes funding of $40 million for FY 2001 and 2002, and $45 million for FY 2003–2005.

II. Improve the Rural Housing Repair Loan Program for the Elderly—Increases the amount for which a promissory note is considered a sufficient security for housing repairs from $2,500 to $7,500.

III. Enhance Efficiency of Rural Housing Preservation Grants—Eliminates the existing statutory requirement that prohibits a State from obligating more than 50 percent of its Housing Preservation Grants allocation to any one grantee. Many states receive only a small amount from this formula program. In many cases the money can only be most effectively invested in one project.

IV. Project Accounting Records and Practices—Requires section 515 rural housing borrowers to maintain records in accordance with GAAP (Generally Accepted Accounting Principles).

V. Operating Assistance for Migrant Farmworker Projects Authority—Permits rural housing operating assistance payments in migrant and seasonal farm labor housing complexes.

I. Authorization of Appropriations for Rental Vouchers for Relocation of Witnesses and Victims of Crime—Authorizes specific funding for vouchers for victims and witnesses of crime. These vouchers were authorized in the Quality Housing and Work Responsibility Act of 1998 (QHWRA). No funds have yet been appropriated and HUD has yet to write regulations. The current authorization directs the Secretary to make available such sums as may be necessary for the relocation of families residing in public housing who are victims of a crime of violence reported to an appropriate law enforcement authority, and requires that PHAs notify tenants of the availability of such funds. This legislation would authorize a funding level in each of FY 2001–2005 of $25,000,000.

II. Revise the HUD Lease Addendum—Prohibits the HUD lease addendum from overriding local law. Participating housing providers and residents sign a three-party lease along with the public housing authority. The law requires the attachment of a HUD Lease Addendum (HUD Form 52647.3) which overrides some local market provisions and practices, holding the voucher resident to a nonstandard lease contract. The use of federally promulgated forms that counter local practice incurs additional training, legal and management costs. The voucher lease addendum shall be nullified to the extent that it conflicts with State or local law.

III. Reduce the Burden of Housing Quality Standard Inspections—Provides the option that Housing Quality Standard inspections be conducted on a property basis rather than a unit basis. Currently each individual unit that is rented under the program must be inspected for compliance with HUD's Housing Quality Standards. Individual inspections are a time-consuming administrative headache for PHAs and Section 8 landlords, result in slow unit turnover, and significant lost revenue. This legislation provides the Section 8 landlord with the option to have annual inspections conducted on a property or building basis, rather than a unit basis.

IV. HUD Report to the Congress on Ways to Improve the Voucher Program—Requires that the HUD Secretary solicit comments and recommendations for improvement in the voucher program through notice in the Federal Register. Six months after enactment, the Secretary shall submit to the House and Senate Housing Subcommittees and the House and Senate Banking Committees a summary of the recommendations received by the Secretary regarding suggestions for improvement in the voucher program.

I. Reauthorize the Self-Help Homeownership Opportunity Program (SHOP)—Reauthorizes the SHOP program which provides funding for land and infrastructure purchases to facilitate self-help housing. Utilized by Habitat for Humanity and the Housing Assistance Council. Reauthorize through FY 2005, beginning with $25 million in FY 2001. Adds new language allowing an additional year to use funds for local groups building five or more homes (increase from two years to three years), and also making it possible for local and national non-profit organizations using SHOP funds to advance their own money to purchase property, pending the environmental review approvals, to be repaid from federal funds after the environmental reviews have been approved.

II. Capacity Building for Community Development and Affordable Housing Program—Reauthorizes and increases grants to non-profits to expand affordable housing capacity. Presently authorized for The Enterprise Foundation, Local Initiatives Support Corporation, Habitat for Humanity, Youthbuild USA, and the National Community Development Initiative. Expands access to this program to include the ''National Association of Housing Partnerships'' and authorizes a funding level of $40 million for each of FY 2001–2003. Amounts must be matched three to one from other sources.

III. Work Requirement for Public Housing Residents: Coordinate Federal Housing Assistance with State Welfare Reform Work Programs—Requires that able-bodied and non-elderly public housing residents be in compliance with the work requirements of welfare reform in their state. Those unable to comply would be provided the opportunity to engage in community service or participate in an economic self-sufficiency program. There is substantial overlap in families receiving welfare and those benefitting from assisted housing. Among families with children, it is estimated that 72 percent of those who live in public housing receive some type of welfare. These families are currently subject to Welfare Reform work requirements and this provision simply applies the requirement to the remaining able-bodied recipients of federal housing assistance. Public housing was originally conceived as temporary assistance for working low-income families to help them during times of financial distress. Recent housing legislation has recognized this fact by placing increasing emphasis on self-sufficiency. These efforts should be coordinated with the self sufficiency efforts of Welfare Reform. PHAs shall monitor compliance with the state work requirement. There shall be an exception for the elderly and disabled, and as with Welfare Reform, there will be a broad definition of work including; employment, community service, vocational and job training, work associated with self help housing construction, refurbishing publicly assisted housing, the provision of certain child care services, and participation in education programs or economic self-sufficiency programs. This work requirement will replace the 8 hour per month ''Community Service'' Requirement that exists in current law for residents of public housing. Public Housing Authorities shall not be prohibited by this legislation from implementing more stringent work requirements and States electing the housing assistance block grant would be excluded from this requirement and be free to design their own self-sufficiency requirements.

IV. Flexible Use of CDBG Funds to Maintain Properties—Amends Section 105(a)(23) of the Housing and Community Development Act, which currently authorizes use of CDBG funding for activities necessary to make essential repairs and payment of operating expenses needed to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low- and moderate-income neighborhoods. This language is amended to permit the use of CDBG funds for property upkeep in instances in which a court has wrested effective control of a distressed residential property from the owner and appointed a responsible third party (often a non-profit organization or other owner/manager of properties in the area) to operate the property on an interim basis as administrator, although legal title remains with the original owner.

IV. Allows Vouchers in Grandfamily Housing Assisted with HOME Dollars—Permits flexible use of Section 8 vouchers in Grandfamily Housing assisted with HOME dollars. Current law restricts the level of Section 8 assistance that may be used in projects assisted with HOME funds. This legislation creates an exception to the general rule for projects designed to benefit Grandfamilies, by permitting the use of Section 8 vouchers at the Fair Market Rent (FMR) level by Grandparents choosing to live in low income housing projects assisted with HOME dollars. This change is designed to assist low-income, elderly residents and their grandchildren for whom they provide full-time care and custody.

V. Simplified FHA Downpayment Calculation.—Makes permanent the temporary simplified FHA downpayment calculation provided in section 203(b) of the National Housing Act. The current downpayment calculation on FHA loans is needlessly complex. Recent appropriations bills have included a simplified pilot program that replaces the current multi-part formula with a single calculation based solely on the appraised value of the property. The simplified formula yields substantially the same downpayment result as the multi-part formula.

VI. Authorize the Use of Section 8 Funds for Downpayment Assistance—Permits tenants to receive up to one year's worth of Section 8 assistance in a lump sum to be used toward the down payment on a home. This compliments innovative programs that allow the use of Section 8 assistance for mortgage payments.

VII. Reauthorize the Neighborhood Reinvestment Corporation through 2003—Reauthorizes the Neighborhood Reinvestment Corporation, a congressionally chartered, public non-profit corporation established in 1978 to revitalize declining lower-income communities and provide affordable housing. Funding is authorized at $90 million in FY 2001, and $95 million in each of FY 2002 and 2003.

Provides States the option to receive certain federal assisted housing funds (tenant assistance programs) in the form of a block grant. Modeled on Welfare Reform, this would give States the freedom to innovate absent HUD micro-management. States accepted into the program would sign a five year performance agreement with the federal government that details how the State intends to combine and use housing assistance funds from programs included in the performance agreement to advance low income housing priorities, improve the quality of low income housing, reduce homelessness, and encourage economic opportunity and self-sufficiency. States electing the block grant would determine how funds are distributed to state agencies, Public Housing Authorities, project owners, and tenants. During the first year of the performance agreement States would receive the highest of the prior three years funding for each program included in the performance agreement. There would then be an annual inflation adjustment in each future year until Congress (following consultation with HUD) enacts a formula that reflects the relative low-income/affordable housing needs of each State. A performance agreement submitted to the Secretary would have to be approved by the Secretary unless the Secretary makes a written determination, within 60 days after

receiving the performance agreement, that the performance agreement fails to comply with provisions of the Act. Eligible programs for inclusion in the block grant shall include: the voucher program for rental assistance under section 8(o) of the United States Housing Act of 1937; the programs for project-based assistance under section 8 of the United States Housing Act of 1937; the program for housing for the elderly under section 202 of the Housing Act of 1959; the program for housing for persons with disabilities under section 811 of the Cranston-Gonzales National Affordable Housing Act. The distribution of block granted funds within the State from programs included in the performance agreement shall be determined by the Legislature and the Governor of the State. In a State in which the constitution or state law designates another individual, entity, or agency to be responsible for housing, such other individual, entity, or agency shall work in consultation with the Governor and Legislature to determine the local distribution of funds. Existing contracts involving federal housing dollars shall be honored by the States until their expiration. States shall at such point handle the renewal of all contracts. A State may not use more than 3 percent of the total amount of funds allocated to such State under the programs included in the performance agreement for administrative purposes. Performance criteria shall include at a minimum a measure of; the improvement in housing conditions, the number of units that pass housing quality inspections, the number of residents that find employment and move to self-sufficiency, the level of crime against residents, the level of homelessness, the level of poverty, the cost of assisted housing units provided, the level of assistance provided to people with disabilities and to the elderly, success in maintaining the stock of affordable housing, and increasing homeownership. If at the end of the 5-year term of the performance agreement a State has failed to meet at least 80 percent of the performance goals submitted in the performance agreement, the Secretary shall terminate the performance agreement and the State or community shall be required to comply with the program requirement, in effect at the time of termination, of each program included in the performance agreement. To reward States that make significant progress in meeting performance goals, the HUD Secretary shall annually set aside sufficient funds to grant a reward of up to 5 percent of the funds allocated to participating States.

Sense of the Congress Supporting Tax Incentives

SENSE OF THE CONGRESS THAT THE LOW INCOME HOUSING TAX CREDIT STATE CEILINGS AND THE PRIVATE ACTIVITY BOND CAPS SHOULD BE INCREASED

It is the sense of the Congress that the Low Income Housing Tax Credit and Private Activity Bonds have been valuable resources in the effort to increase affordable housing.

It is the sense of the Congress that the Low Income Housing Tax Credit and Private Activity Bonds effectively utilize the ability of the states to deliver resources to the areas of greatest need within their jurisdictions.

It is the sense of the Congress that the value of the Low Income Housing Tax Credit and the Private Activity Bonds have been eroded by inflation.

Therefore, be it resolved, That the Low Income Housing Tax Credit State Ceilings should be increased by forty percent in the year 2000, and that the level of the state ceilings should be adjusted annually to account for increases in the cost-of-living, and

That the Private Activity Bond Caps should be increased by fifty percent in the year 2000, and that the value of the caps should be adjusted annually to account for increases in the cost-of-living.

I. Tighten Language on Lobbying Restrictions on HUD employees—Prohibits employees at HUD from lobbying, or attempting to influence legislation before the Congress. This language is based on current restrictions on Department of Interior employees. No federally appropriated funds may be used for any activity that in any way tends to promote public support or opposition to legislation, a nomination, or a treaty. The President, the Vice President and Senate confirmed agency officials are exempt from these provisions. However, these individuals may not delegate their authority to any other employees of the Department. Provides civil money penalties against non-exempt employees who independently violate the statute, and against exempt employees who have delegated their lobbying authority.

II. The Department of Housing and Urban Development shall promulgate regulations under the provisions of this Act within 6 months of the enactment of this Act.

S. 2968

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 ''Local Housing Opportunities Act''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Effective date.

TITLE I—PROGRAM CONSOLIDATION

Sec. 101. Prohibition of unauthorized programs at the Department.
Sec. 102. Elimination and consolidation of HUD programs.
Sec. 103. HUD consolidation task force.

TITLE II—COMMUNITY EMPOWERMENT

Sec. 201. Reauthorization of community development block grants and prohibition of set-asides.
Sec. 202. Community notification of opt-outs.
Sec. 203. Urban homestead requirement.
Sec. 204. Authorization of Moving to Work program.

TITLE III—HOMELESS ASSISTANCE REFORM

Sec. 301. Consolidation of HUD homeless assistance funds.
Sec. 302. Establishment of the McKinney Homeless Assistance Performance Fund.
Sec. 303. Repeal and savings provisions.
Sec. 304. Implementation.

TITLE IV—RURAL HOUSING

Sec. 401. Mutual and self-help housing technical assistance and training grants authorization.
Sec. 402. Enhancement of the Rural Housing Repair loan program for the elderly.
Sec. 403. Enhancement of efficiency of rural housing preservation grants.
Sec. 404. Project accounting records and practices.
Sec. 405. Operating assistance for migrant farm worker projects.

TITLE V—VOUCHER REFORM

Sec. 501. Authorization of appropriations for rental vouchers for relocation of witnesses and victims of crime.
Sec. 502. Revisions to the lease addendum.
Sec. 503. Report regarding housing voucher program.
Sec. 504. Conducting quality standard inspections on a property basis rather than a unit basis.

TITLE VI—PROGRAM MODERNIZATION

Sec. 601. Assistance for self-help housing providers.
Sec. 602. Local capacity building for community development and affordable housing.
Sec. 603. Work requirement for public housing residents: coordination of Federal housing assistance with State welfare reform work programs.
Sec. 604. Simplified FHA downpayment calculation.
Sec. 605. Flexible use of CDBG funds.
Sec. 606. Use of section 8 assistance in grandfamily housing assisted with HOME funds.
Sec. 607. Section 8 homeownership option downpayment assistance.
Sec. 608. Reauthorization of Neighborhood Reinvestment Corporation.

TITLE VII—STATE HOUSING BLOCK GRANT

Sec. 701. State control of public and assisted housing funds.

TITLE VIII—PRIVATE SECTOR INCENTIVES

Sec. 801. Sense of Congress regarding low-income housing tax credit State ceilings and private activity bond caps.

TITLE IX—ENFORCEMENT

Sec. 901. Prohibition on use of appropriated funds for lobbying by the department.
Sec. 902. Regulations.

SEC. 2. DEFINITIONS.

In this Act—

(1) the term ''Committees'' means—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate and the Subcommittee on Housing and Transportation of that Committee; and

(B) the Committee on Banking and Financial Services of the House of Representatives and the Subcommittee on Housing and Community Opportunity of that Committee;

(2) the term ''Department'' means the Department of Housing and Urban Development; and

(3) the term ''Secretary'' means the Secretary of Housing and Urban Development.

SEC. 3. EFFECTIVE DATE.

Except as otherwise expressly provided in this Act or an amendment made by this Act, this Act and the amendments made by this Act shall take effect on October 1, 2001.

TITLE I—PROGRAM CONSOLIDATION

SEC. 101. PROHIBITION OF UNAUTHORIZED PROGRAMS AT THE DEPARTMENT.

(a) IN GENERAL.—Beginning on the effective date of this Act, the Secretary may not carry out any program that is not explicitly authorized by Federal law.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall submit to the Committees a report, which shall include a detailed description of each program carried out by the Department, and the statutory authorization for that program or, if no explicit authorization exists, an explanation of the legal authority under which the program is being carried out.

SEC. 102. ELIMINATION AND CONSOLIDATION OF HUD PROGRAMS.

(a) COMMUNITY INVESTMENT CORPORATION DEMONSTRATION.—Section 853 of the Housing and Community Development Act of 1992 (42 U.S.C. 5305 note) is repealed.

(b) NEW TOWNS DEMONSTRATION PROGRAM FOR EMERGENCY RELIEF OF LOS ANGELES.—

Title XI of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is repealed.

(c) SOLAR ASSISTANCE FINANCING ENTITY.—Section 912 of the Housing and Community Development Act of 1992 (42 U.S.C. 5511a) is repealed.

(d) URBAN DEVELOPMENT ACTION GRANTS.—

(1) UDAG REPEAL.—Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. 5318) is repealed.

(2) CONFORMING AMENDMENTS.—Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended—

(A) in section 104(d)(1), by striking ''or 119'' and ''or section 119'';

(B) in section 104(d)(2), by striking ''or 119'';

(C) in section 104(d)(2)(C), by striking ''or 119'';

(D) in section 107(e)(1), by striking '', section 106(a)(1), or section 119'' and inserting ''or section 106(a)(1),'';

(E) in section 107(e)(2), by striking ''section 106(a)(1), or section 119'' and inserting ''or section 106(a)(1)''; and

(F) in section 113(a)—

(i) in paragraph (2), by adding ''and'' at the end;

(ii) by striking paragraph (3); and

(iii) by redesignating paragraph (4) as paragraph (3).

(e) SPECIAL PURPOSE GRANTS.—Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307) is amended—

(1) in subsection (a)(1)—

(A) by striking subparagraphs (C), (D), and (G);

(B) by redesignating subparagraphs (E), (F), (H), and (I) as subparagraphs (C), (D), (E), and (F), respectively; and

(C) in subparagraph (D) (as redesignated) by striking ''(6)'' and inserting ''(5)''; and

(2) in subsection (b)—

(A) in paragraph (4), by adding ''and'' at the end;

(B) by striking paragraphs (5) and (7);

(C) by redesignating paragraph (6) as paragraph (5); and

(D) in paragraph (5) (as redesignated) by striking ''; and'' and inserting a period.

(f) MODERATE REHABILITATION ASSISTANCE IN DISASTERS.—Section 932 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437c note) is repealed.

(g) RENT SUPPLEMENT PROGRAM.—

(1) REPEAL.—Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) is repealed.

(2) REFERENCES.—Any reference in any provision of law to section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) shall be construed to refer to that section as in existence immediately before the effective date of this Act.

(h) NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION.—Subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12851 et seq.) is repealed.

(i) HOPE PROGRAMS.—

(1) REPEAL OF HOPE I PROGRAM.—

(A) HOPE I PROGRAM REPEAL.—Title III of the United States Housing Act of 1937 (42 U.S.C. 1437aaa et seq.) is repealed.

(B) CONFORMING AMENDMENTS.—

(i) UNITED STATES HOUSING ACT OF 1937.—Section 8(b) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b)) is amended—

(I) in paragraph (1), by striking ''(1) IN GENERAL.—''; and

(II) by striking paragraph (2).

(ii) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—Section 213(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(e)) is amended by striking ''(b)(1)'' and inserting ''(b)''.

(2) REPEAL OF HOPE II AND III PROGRAMS.—

(A) HOPE II.—Subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12871 et seq.) is repealed.

(B) HOPE III.—

(i) IN GENERAL.—Subtitle C of title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12891 et seq.) is repealed.

(ii) CLOSEOUT AUTHORITY.—Notwithstanding the repeal made by clause (i), the Secretary may continue to exercise the authority under sections 445(b), 445(c)(3), 445(c)(4), and 446(4) of title IV of the Cranston-Gonzalez National Affordable Housing Act (as amended by subparagraph (C) of this paragraph) after the effective date of this Act, to the extent necessary to terminate the programs under subtitle C of title IV of that Act.

(C) AMENDMENT OF HOPE III PROGRAM AUTHORITY FOR CLOSEOUT.—

(i) SALE AND RESALE PROCEEDS.—Section 445 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12895) is amended—

(I) in subsection (b), by striking ''costs'' and all that follows through ''expenses,'';

(II) in subsection (c)(3), by striking ''the Secretary or''; and

(III) in subsection (c)(4)—

(aa) in the first sentence, by striking ''Fifty percent of any'' and inserting ''Any''; and

(bb) by striking the second and third sentences.

(ii) ELIGIBILITY OF PRIVATE PROPERTY.—Section 446(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12896(4)) is amended to read as follows:

''(4) The term 'eligible property' means a single family property containing not more than 4 units (excluding public housing under the United States Housing Act of 1937, or Indian housing under the Native American Housing Assistance and Self-Determination Act of 1996).''.

(3) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Title IV of the Cranston-Gonzalez National Affordable Housing Act is amended—

(i) by striking sections 401 and 402 (42 U.S.C. 1437aaa note; 12870);

(ii) in section 454(b)(2) (42 U.S.C. 12899c(b)(2)), by striking ''to be used for the purposes of providing homeownership under subtitle B and subtitle C of this title''; and

(iii) in section 455 (42 U.S.C. 12899d), by striking subsection (d) and redesignating subsections (e) through (g) as subsections (d) through (f), respectively.

(B) DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT.—Section 7(r)(2) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(r)(2)) is amended—

(i) in subparagraph (A), by striking ''titles I and II'' and inserting ''title I''; and

(ii) in subparagraph (K), by striking ''titles II, III, and IV'' and inserting ''title II''.

(j) ENERGY EFFICIENCY DEMONSTRATION.—Section 961 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12712 note) is repealed.

(k) TECHNICAL ASSISTANCE AND TRAINING FOR IHAS.—Section 917 of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 Stat. 3882) is repealed.

(*l*) ELIMINATION OF INVESTOR-OWNERS UNDER THE SECTION 203(k) PROGRAM.—Section 203(g)(2) of the National Housing Act (12 U.S.C. 1709(g)(2)) is amended—

(1) in subparagraph (D), by adding ''or'' at the end;

(2) by striking subparagraph (E); and

(3) by redesignating subparagraph (F) as subparagraph (E).

(m) CERTIFICATE AND VOUCHER ASSISTANCE FOR RENTAL REHABILITATION PROJECTS.—Section 8(u) of the United States Housing Act of 1937 (42 U.S.C. 1437f(u)) is repealed.

(n) MORTGAGE AND LOAN INSURANCE PROGRAMS.—

(1) IN GENERAL.—Sections 220(h), 245(b), and titles VI, VII, and IX of the National Housing Act are repealed.

(2) ADDITIONAL AMENDMENTS.—The National Housing Act is amended—

(A) in section 1 (12 U.S.C. 1702), by striking ''VI, VII, VIII, IX'' each place it appears and inserting ''VIII,'';

(B) in section 203(k)(5) (12 U.S.C. 1709(k)(5)), by striking the second sentence; and

(C) in section 223 (12 U.S.C. 1715n)—

(i) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—Notwithstanding any of the provisions of this Act and without regard to limitations upon eligibility contained in any section or title of this Act, other than the limitation in section 203(g), the Secretary is authorized upon application by the mortgagee, to insure or make commitments to insure under any section or title of this Act any mortgage—

''(1) given to refinance an existing mortgage insured under this Act, except that the principal amount of any such refinancing mortgage shall not exceed the original principal amount or the unexpired term of such existing mortgage and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee, except that—

''(A) the principal amount of any such refinancing mortgage may equal the outstanding balance of an existing mortgage insured pursuant to section 245, if the amount of the monthly payment due under the refinancing mortgage is less than that due under the existing mortgage for the month in which the refinancing mortgage is executed;

''(B) a mortgagee may not require a minimum principal amount to be outstanding on the loan secured by the existing mortgage;

''(C) in any case involving the refinancing of a loan in which the Secretary determines that the insurance of a mortgage for an additional term will inure to the benefits of the applicable insurance fund, taking into consideration the outstanding insurance liability under the existing insured mortgage, such refinancing mortgage may have a term not more than twelve years in excess of the unexpired term of such existing insured mortgage; and

''(D) any multifamily mortgage that is refinanced under this paragraph shall be documented through amendments to the existing insurance contract and shall not be structured through the provisions of a new insurance contract; or

''(2) executed in connection with the sale by the Government of any housing acquired pursuant to section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966.''; and

(ii) in subsection (d)(5), by striking ''A loan'' and all that follows through ''and loans'' and inserting ''Loans''.

(o) TRANSITION RULES.—

(1) EFFECT ON CONTRACTS.—The repeal of program authorities under this section shall not affect any legally binding obligation entered into before the effective date of this Act.

(2) SAVINGS PROVISIONS.—

(A) IN GENERAL.—Except as otherwise provided in this Act, any funds or obligation authorized by, activity conducted under, or mortgage or loan insured under, a provision of law repealed by this section shall continue to be governed by the provision as in existence immediately before the effective date of this Act.

(B) INSURANCE.—The insurance authorities repealed by subsection (n)(1) and the provisions of the National Housing Act applicable to a mortgage or loan insured under any of such authorities, as such authorities and provisions existed immediately before repeal, shall continue to apply to a mortgage or loan insured under any of such authorities prior to repeal, and a mortgage or loan for which, prior to the date of repeal, the Secretary has issued a firm commitment for insurance under any of such authorities or a Direct Endorsement underwriter has approved, in a form acceptable to the Secretary, a mortgage or loan for insurance under such authorities.

SEC. 103. HUD CONSOLIDATION TASK FORCE.

(a) IN GENERAL.—There is established a task force to be known as the ''HUD Consolidation Task Force'', which shall—

(1) consist of the Comptroller General of the United States, the Secretary, and the Inspector General of the Department; and

(2) conduct an analysis of legislative and regulatory options to reduce the number of programs carried out by the Department through consolidation, elimination, and transfer to other departments and agencies of the Federal government and to State and local governments.

(b) REPORT.—Not later than 6 months after the effective date of this Act, the HUD Consolidation Task Force shall submit to the Committees a report, which shall include the results of the analysis under subsection (a)(2).

TITLE II—COMMUNITY EMPOWERMENT

SEC. 201. REAUTHORIZATION OF COMMUNITY DEVELOPMENT BLOCK GRANTS AND PROHIBITION OF SET-ASIDES.

(a) REAUTHORIZATION.—The last sentence of section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) is amended to read as follows: ''For purposes of assistance under section 106, there is authorized to be appropriated $4,850,000,000 for fiscal year 2001 and such sums as may be necessary for each of fiscal years 2002 through 2005.''.

(b) PROHIBITION OF SET-ASIDES.—Section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) is amended—

(1) by inserting ''(a) IN GENERAL.—'' after ''SEC. 103.''; and

(2) by adding at the end the following:

''(b) PROHIBITION OF SET-ASIDES.—Except as provided in paragraphs (1) and (2) of section 106(a) and in section 107, amounts appropriated pursuant to subsection (a) of this section or otherwise to carry out this title (other than section 108) shall be used only for formula-based grants allocated pursuant to section 106 and may not be otherwise used unless the provision of law providing for such other use specifically refers to this subsection and specifically states that such provision modifies or supersedes the provisions of this subsection.

''(c) POINT OF ORDER.—Notwithstanding any other provision of law, it shall not be in order in the Senate to consider any measure or amendment that provides for a set-aside prohibited under subsection (b). The point of order provided by this subsection may only be waived or suspended by a vote of three-fifths of the members of the Senate duly chosen and sworn.''.

SEC. 202. COMMUNITY NOTIFICATION OF OPT-OUTS.

Section 8(c)(8)(A) of the Housing Act of 1937 (42 U.S.C. 1437f(c)(8)(A)) is amended by adding at the end the following: ''Upon receipt of a written notice under this subparagraph, the Secretary shall forward a copy of the notice to the top elected official for the unit of local government in which the property is located.''.

SEC. 203. URBAN HOMESTEAD REQUIREMENT.

(a) DISPOSITION OF UNOCCUPIED AND SUBSTANDARD PUBLIC HOUSING.—

(1) PUBLICATION IN FEDERAL REGISTER.—

(A) IN GENERAL.—Subject to subparagraph (B), beginning 6 months after the effective date of this Act, and every 6 months thereafter, the Secretary shall publish in the Federal Register a list of each unoccupied multifamily housing project, substandard multifamily housing project, and other residential property that is owned by the Secretary.

(B) EXCEPTION FOR CERTAIN PROJECTS AND PROPERTIES.—

(i) PROJECTS.—A project described in subparagraph (A) shall not be included in a list published under subparagraph (A) if less than 6 months have elapsed since the later of—

(I) the date on which the project was acquired by the Secretary; or

(II) the date on which the project was determined to be unoccupied or substandard.

(ii) PROPERTIES.—A property described in subparagraph (A) shall not be included in a list published under subparagraph (A) if less than 6 months have elapsed since the date on which the property was acquired by the Secretary.

(b) TRANSFER OF UNOCCUPIED AND SUBSTANDARD HUD-HELD HOUSING TO LOCAL GOVERNMENTS AND COMMUNITY DEVELOPMENT CORPORATIONS.—Section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a) is amended—

(1) by striking ''FLEXIBLE AUTHORITY.—'' and inserting the following: ''(a) FLEXIBLE AUTHORITY FOR DISPOSITION OF MULTIFAMILY PROJECTS.—''; and

(2) by adding at the end the following:

''(b) TRANSFER OF UNOCCUPIED AND SUBSTANDARD HOUSING TO LOCAL GOVERNMENTS AND COMMUNITY DEVELOPMENT CORPORATIONS.—

''(1) DEFINITIONS.—In this subsection:

''(A) COMMUNITY DEVELOPMENT CORPORATION.—The term 'community development corporation' means a nonprofit organization whose primary purpose is to promote community development by providing housing opportunities for low-income families.

''(B) COST RECOVERY BASIS.—The term 'cost recovery basis' means, with respect to any sale of a residential property by the Secretary, that the purchase price paid by the purchaser is equal to or greater than or equal to the costs incurred by the Secretary in connection with such property during the period beginning on the date on which the Secretary acquires title to the property and ending on the date on which the sale is consummated.

''(C) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' has the meaning given the term in section 203 of the Housing and Community Development Amendments of 1978.

''(D) QUALIFIED HUD PROPERTY.—The term 'qualified HUD property' means any property that is owned by the Secretary and is—

''(i) an unoccupied multifamily housing project;

''(ii) a substandard multifamily housing project; or

''(iii) an unoccupied single family property that—

''(I) has been determined by the Secretary not to be an eligible property under section 204(h) of the National Housing Act (12 U.S.C. 1710(h)); or

''(II) is an eligible property under such section 204(h), but—

''(aa) is not subject to a specific sale agreement under such section; and

''(bb) has been determined by the Secretary to be inappropriate for continued inclusion in the program under such section 204(h) pursuant to paragraph (10) of such section.

''(E) RESIDENTIAL PROPERTY.—The term 'residential property' means a property that is a multifamily housing project or a single family property.

''(F) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''(G) SEVERE PHYSICAL PROBLEMS.—The term 'severe physical problems' means, with respect to a dwelling unit, that the unit—

''(i) lacks hot or cold piped water, a flush toilet, or both a bathtub and a shower in the unit, for the exclusive use of that unit;

''(ii) on not less than 3 separate occasions during the preceding winter months, was uncomfortably cold for a period of more than 6 consecutive hours due to a malfunction of the heating system for the unit;

''(iii) has no functioning electrical service, exposed wiring, any room in which there is not a functioning electrical outlet, or has experienced 3 or more blown fuses or tripped circuit breakers during the preceding 90-day period;

''(iv) is accessible through a public hallway in which there are no working light fixtures, loose or missing steps or railings, and no elevator; or

''(v) has severe maintenance problems, including water leaks involving the roof, windows, doors, basement, or pipes or plumbing fixtures, holes or open cracks in walls or ceilings, severe paint peeling or broken plaster, and signs of rodent infestation.

''(H) SINGLE FAMILY PROPERTY.—The term 'single family property' means a 1- to 4-family residence.

''(I) SUBSTANDARD.—The term 'substandard' means, with respect to a multifamily housing project, that 25 percent or more of the dwelling units in the project have severe physical problems.

''(J) UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'unit of general local government' has the meaning given that term in section 102(a) of the Housing and Community Development Act of 1974.

''(K) UNOCCUPIED.—The term 'unoccupied' means, with respect to a residential property, that the unit of general local government having jurisdiction over the area in which the project is located has certified in writing that the property is not inhabited.

''(2) TRANSFER AUTHORITY.—Notwithstanding the authority under subsection (a) and the last sentence of section 204(g) of the National Housing Act (12 U.S.C. 1710(g)), the Secretary of Housing and Urban Development shall transfer ownership of any qualified HUD property included in the most recent list published by the Secretary under subsection (a) to a unit of general local government having jurisdiction for the area in which the property is located or to a community development corporation which operates within such a unit of general local government in accordance with this subsection, but only to the extent that units of general local government and community development corporations submit a written request for the transfer.

''(3) TIMING.—The Secretary shall establish procedures that provide for—

''(A) time deadlines for transfers under this subsection;

''(B) notification to units of general local government and community development corporations of qualified HUD properties in their jurisdictions;

''(C) such units and corporations to express interest in the transfer under this subsection of such properties;

''(D) a right of first refusal for transfer of qualified HUD properties to such units and corporations, under which the Secretary shall accept an offer to purchase such a property made by such unit or corporation during a period established by the Secretary,

but in the case of an offer made by a community development corporation only if the offer provides for purchase on a cost recovery basis; and

''(E) a written explanation, to any unit of general local government or community development corporation making an offer to purchase a qualified HUD property under this subsection that is not accepted, of the reason that such offer was not acceptable.

''(4) OTHER DISPOSITION.—With respect to any qualified HUD property, if the Secretary does not receive an acceptable offer to purchase the property pursuant to the procedure established under paragraph (3), the Secretary shall dispose of the property to the unit of general local government in which property is located or to community development corporations located in such unit of general local government on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate.

''(5) SATISFACTION OF INDEBTEDNESS.—Before transferring ownership of any qualified HUD property pursuant to this subsection, the Secretary shall satisfy any indebtedness incurred in connection with the property to be transferred, by canceling the indebtedness.

''(6) DETERMINATION OF STATUS OF PROPERTIES.—To ensure compliance with the requirements of this subsection, the Secretary shall take the following actions:

''(A) UPON ENACTMENT.—Not later than 60 days after the effective date of the Local Housing Opportunities Act, the Secretary shall assess each residential property owned by the Secretary to determine whether the property is a qualified HUD property.

''(B) UPON ACQUISITION.—Upon acquiring any residential property, the Secretary shall promptly determine whether the property is a qualified HUD property.

''(C) UPDATES.—The Secretary shall periodically reassess the residential properties owned by the Secretary to determine whether any such properties have become qualified HUD properties.

''(7) TENANT LEASES.—This subsection shall not affect the terms or the enforceability of any contract or lease entered into with respect to any residential property before the date that such property becomes a qualified HUD property.

''(8) USE OF PROPERTY.—Property transferred under this subsection shall be used only for appropriate neighborhood revitalization efforts, including homeownership, rental units, commercial space, and parks, consistent with local zoning regulations, local building codes, and subdivision regulations and restrictions of record.

''(9) INAPPLICABILITY TO PROPERTIES MADE AVAILABLE FOR HOMELESS.—Notwithstanding any other provision of this subsection, this subsection shall not apply to any property that the Secretary determines is to be made available for use by the homeless pursuant to subpart E of part 291 of title 24, Code of Federal Regulations (as in effect on January 1, 2000), during the period that the properties are so available.

''(10) PROTECTION OF EXISTING CONTRACTS.—This subsection may not be construed to alter, affect, or annul any legally binding obligations entered into with respect to a qualified HUD property before the property becomes a qualified HUD property.''.

(c) PROCEDURES.—Not later than 6 months after the date of enactment of this Act, the Secretary shall establish, by rule, regulation, or order, such procedures as may be necessary to carry out this section and the amendments made by this section.

SEC. 204. AUTHORIZATION OF MOVING TO WORK PROGRAM.

Section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996) (42 U.S.C. 1437f note) is amended—

(1) in the section heading, by striking ''DEMONSTRATION'' and inserting ''PROGRAM'';

(2) in subsection (a), by striking ''this demonstration'' and inserting ''this section'';

(3) in subsection (b)—

(A) in the first sentence—

(i) by striking ''demonstration''; and

(ii) by striking ''up to 30'';

(B) in the third sentence, by striking ''Under the demonstration, notwithstanding'' and inserting ''Notwithstanding''; and

(C) by striking the second sentence;

(4) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking ''demonstration'' and inserting ''program under this section'';

(B) in paragraph (3)—

(i) in subparagraph (A), by striking ''demonstration'';

(ii) in subparagraph (B), by striking ''demonstration'' and inserting ''section''; and

(iii) in subparagraph (E), by striking ''demonstration program'' and inserting ''program under this section''; and

(C) in paragraph (4), by striking ''demonstration'' and inserting ''program under this section'';

(5) by striking subsection (d) and inserting the following:

''(d) APPROVAL OF APPLICATIONS.—Not later than 60 days after receiving an application submitted in accordance with subsection (c), the Secretary shall approve the application, unless the Secretary makes a written determination that the applicant has a most recent score under the public housing management assessment program under section 6(j)(2) of the United States Housing Act of 1937 (or any successor assessment program for public housing agencies), that is among the lowest 20 percent of the scores of all public housing agencies.'';

(6) in subsection (e)—

(A) in paragraph (1), by striking ''this demonstration'' and inserting ''the program under this section''; and

(B) in paragraph (2), by striking ''demonstration'' and inserting ''program under this section'';

(7) in subsection (f), by striking ''demonstration under this part'' and inserting ''program under this section'';

(8) in subsection (g)—

(A) in paragraph (1), by striking ''this demonstration'' and inserting ''the program under this section''; and

(B) in paragraph (2), by striking ''demonstration'' and inserting ''program under this section'';

(9) in subsection (h), by striking ''demonstration'' each place it appears and inserting ''program under this section'';

(10) in subsection (i), by striking ''demonstration'' and inserting ''program under this section''; and

(11) in subsection (j), by striking ''demonstration'' and inserting ''program''.

TITLE III—HOMELESS ASSISTANCE REFORM

SEC. 301. CONSOLIDATION OF HUD HOMELESS ASSISTANCE FUNDS.

The purposes of this title are to facilitate the effective and efficient management of the homeless assistance programs of the Department by—

(1) reducing and preventing homelessness by supporting the creation and maintenance of community-based, comprehensive systems dedicated to returning families and individuals to self-sufficiency;

(2) reorganizing the homeless housing assistance authorities under the Stewart B. McKinney Homeless Assistance Act into a McKinney Homeless Assistance Performance Fund;

(3) assisting States and local governments, in partnership with private nonprofit service providers, to use homeless funding more efficiently and effectively;

(4) simplifying and making more flexible the provision of Federal homeless assistance;

(5) maximizing the ability of a community to implement a coordinated, comprehensive system for providing assistance to homeless families and individuals;

(6) making more efficient and equitable the manner in which homeless assistance is distributed;

(7) reducing the Federal role in local decisionmaking for homeless assistance programs;

(8) reducing the costs to governmental jurisdictions and private nonprofit organizations in applying for and using assistance; and

(9) advancing the goal of meeting the needs of the homeless population through mainstream programs and establishing continuum of care systems necessary to achieve that goal.

SEC. 302. ESTABLISHMENT OF THE McKINNEY HOMELESS ASSISTANCE PERFORMANCE FUND.

Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended to read as follows:

''TITLE IV—McKINNEY HOMELESS ASSISTANCE PERFORMANCE FUND

''SEC. 401. DEFINITIONS.

''In this title:

''(1) ALLOCATION UNIT OF GENERAL LOCAL GOVERNMENT.—

''(A) IN GENERAL.—The term 'allocation unit of general local government' means a metropolitan city or an urban county.

''(B) CONSORTIA.—The term 'allocation unit of general local government' may include a consortium of geographically contiguous metropolitan cities and urban counties, if the Secretary determines that the consortium—

''(i) has sufficient authority and administrative capability to carry out the purposes of this title on behalf of its member jurisdictions; and

''(ii) will, according to a written certification by the State (or States, if the consortium includes jurisdictions in more than 1 State), direct its activities to the implementation of a continuum of care system within the State or States.

''(2) APPLICANT.—The term 'applicant' means a grantee submitting an application under section 403.

''(3) CONSOLIDATED PLAN.—The term 'consolidated plan' means the single comprehensive plan that the Secretary prescribes for submission by jurisdictions (which shall be coordinated and consistent with any 5-year comprehensive plan of the public housing agency required under section 14(e) of the United States Housing Act of 1937) that consolidates and fulfills the requirements of—

''(A) the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;

''(B) the community development plan under section 104 of the Housing and Community Development Act of 1974; and

''(C) the submission requirements for formula funding under—

''(i) the Community Development Block Grant program (authorized by title I of the Housing and Community Development Act of 1974);

''(ii) the HOME program (authorized by title II of the Cranston-Gonzalez National Affordable Housing Act);

''(iii) the McKinney Homeless Assistance Performance Fund (authorized under this title); and

''(iv) the AIDS Housing Opportunity Act (authorized by subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act).

''(4) CONTINUUM OF CARE SYSTEM.—The term 'continuum of care system' means a system developed by a State or local homeless assistance board that includes—

''(A) a system of outreach and assessment, including drop-in centers, 24-hour hotlines, counselors, and other activities designed to engage homeless individuals and families, bring them into the continuum of care system, and determine their individual housing and service needs;

''(B) emergency shelters with essential services to ensure that homeless individuals and families receive shelter;

''(C) transitional housing with appropriate supportive services to help ensure that homeless individuals and families are prepared to make the transition to increased responsibility and permanent housing;

''(D) permanent housing, or permanent supportive housing, to help meet the long-term housing needs of homeless individuals and families;

''(E) coordination between assistance provided under this title and assistance provided under other Federal, State, and local programs that may be used to assist homeless individuals and families, including both targeted homeless assistance programs and other programs administered by the Departments of Veterans Affairs, Labor, Health and Human Services, and Education; and

''(F) a system of referrals for subpopulations of the homeless (such as homeless veterans, families with children, battered spouses, persons with mental illness, persons who have chronic problems with alcohol, drugs, or both, persons with other chronic health problems, and persons who have acquired immunodeficiency syndrome and related diseases) to the appropriate agencies, programs, or services (including health care, job training, and income support) necessary to meet their needs.

''(5) GRANTEE.—The term 'grantee' means—

''(A) an allocation unit of general local government or insular area that administers a grant under section 408(b)(1); or

''(B) an allocation unit of general local government or insular area that designates a public agency or a private nonprofit organization (or a combination of such organizations) to administer grant amounts under section 408(b)(2).

''(6) HOMELESS INDIVIDUAL.—The term 'homeless individual' has the same meaning as in section 103 of this Act.

''(7) INSULAR AREA.—The term 'insular area' means the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

''(8) LOW-DEMAND SERVICES AND REFERRALS.—The term 'low-demand services and referrals' means the provision of health care, mental health, substance abuse, and other supportive services and referrals for services in a noncoercive manner, which may include medication management, education, counseling, job training, and assistance in obtaining entitlement benefits and in obtaining other supportive services, including mental health and substance abuse treatment.

''(9) METROPOLITAN CITY.—The term 'metropolitan city' has the same meaning as in section 102(a) of the Housing and Community Development Act of 1974.

''(10) PERSON WITH DISABILITIES.—The term 'person with disabilities' means a person who—

''(A) has a disability as defined in section 223 of the Social Security Act;

''(B) is determined to have, as determined by the Secretary, a physical, mental, or emotional impairment which—

''(i) is expected to be of long-continued and indefinite duration;

''(ii) substantially impedes his or her ability to live independently; and

''(iii) is of such a nature that such ability could be improved by more suitable housing conditions;

''(C) has a developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act; or

''(D) has the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome, except that this subparagraph shall not be construed to limit eligibility under subparagraphs (A) through (C) or the provisions referred to in subparagraphs (A) through (C).

''(11) PRIVATE NONPROFIT ORGANIZATION.—The term 'private nonprofit organization' means a private organization—

''(A) no part of the net earnings of which inures to benefits of any member, founder, contributor, or individual;

''(B) that has a voluntary board;

''(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

''(D) that practices nondiscrimination in the provision of assistance.

''(12) PROJECT SPONSOR.—The term 'project sponsor' means an entity that—

''(A) provides housing or assistance for homeless individuals or families by carrying out activities under this title; and

''(B) meets such minimum standards as the Secretary considers appropriate.

''(13) RECIPIENT.—The term 'recipient' means a grantee (other than a State when it is distributing grant amounts to State recipients) and a State recipient.

''(14) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''(15) STATE.—The term 'State' means each of the several States and the Commonwealth of Puerto Rico. The term includes an agency or instrumentality of a State that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the jurisdiction with regard to provisions of this title.

''(16) STATE RECIPIENT.—The term 'State recipient' means the following entities receiving amounts from the State under section 408(c)(2)(B):

''(A) A unit of general local government within the State.

''(B) In the case of an area of the State with significant homeless needs, if no State recipient is identified, 1 or more private nonprofit organizations serving that area.

''(17) UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'unit of general local government' means—

''(A) a city, town, township, county, parish, village, or other general purpose political subdivision of a State;

''(B) the District of Columbia; and

''(C) any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the jurisdiction with regard to provisions of this title.

''(18) URBAN COUNTY.—The term 'urban county' has the same meaning as in section 102(a) of the Housing and Community Development Act of 1974.

''(19) VERY LOW-INCOME FAMILIES.—The term 'very low-income families' has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

''SEC. 402. AUTHORIZATIONS.

''(a) IN GENERAL.—The Secretary may make grants to carry out activities to assist homeless individuals and families in support of continuum of care systems in accordance with this title.

''(b) FUNDING AMOUNTS.—There are authorized to be appropriated to carry out this title, to remain available until expended—

''(1) $1,050,000,000 for fiscal year 2001;

''(2) $1,070,000,000 for fiscal year 2002; and

''(3) $1,090,000,000 for fiscal year 2003.

''SEC. 403. APPLICATION.

''(a) IN GENERAL.—Each applicant shall submit the application required under this section in such form and in accordance with such procedures as the Secretary shall prescribe. If the applicant is a State or unit of general local government, the application shall be submitted as part of the homeless assistance component of the consolidated plan.

''(b) CONTINUUM OF CARE SUBMISSION.—

''(1) IN GENERAL.—The allocation unit of general local government, insular area, or State shall prepare, and submit those portions of the application related to the development and implementation of the continuum of care system, as described in paragraph (2) or (3), as applicable.

''(2) SUBMISSION BY ALLOCATION UNIT OF GENERAL LOCAL GOVERNMENT OR INSULAR AREA.—The allocation unit of general local government or insular area shall develop and submit to the Secretary—

''(A) a continuum of care system consistent with that defined under section 401(4), which shall be designed to incorporate any strengths and fill any gaps in the current homeless assistance activities of the jurisdiction, and shall include a description of efforts to address the problems faced by each of the different subpopulations of homeless individuals;

''(B) a multiyear strategy for implementing the continuum of care system, including appropriate timetables and budget estimates for accomplishing each element of the strategy;

''(C) a 1-year plan, identifying all activities to be carried out with assistance under this title and with assistance from other HUD resources allocated in accordance with the consolidated plan, and describing the manner in which these activities will further the strategy; and

''(D) any specific performance measures and benchmarks for use in assessing the performance of the grantee under this title that are in addition to national performance measures and benchmarks established by the Secretary.

''(3) SUBMISSION BY STATE.—The State shall develop and submit to the Secretary—

''(A) a continuum of care system consistent with that defined under section 401(4), which shall be designed to incorporate any strengths and fill any gaps in the current homeless assistance activities of the jurisdiction, and shall include a description of efforts to address the problems faced by each of the different subpopulations of homeless individuals;

''(B) a multiyear strategy for implementing the continuum of care systems in areas of the State outside allocation units of general local government, including the actions the State will take to achieve the goals set out in the strategy;

''(C) a 1-year plan identifying—

''(i) in the case of a State carrying out its own activities under section 408(c)(2)(A), the activities to be carried out with assistance under this title and describing the manner in which these activities will further the strategy; and

''(ii) in the case of a State distributing grant amounts to State recipients under section 408(c)(2)(B), the criteria that the State will use in distributing amounts awarded under this title, the method of distribution, and the relationship of the method of distribution to the homeless assistance strategy; and

''(D) any specific performance measures and benchmarks for use in assessing the performance of the grantee under this title that are in addition to national performance measures and benchmarks established by the Secretary.

''(c) SUBMISSION REQUIREMENTS FOR APPLICANTS OTHER THAN STATES.—Each application from an applicant other than a State shall include, at a minimum—

''(1) the continuum of care submission described in subsection (b)(2);

''(2) a determination on whether the assistance under this title will be administered by the jurisdiction, a public agency or private nonprofit organization, or the State, as appropriate under subsections (b) and (c) of section 408;

''(3) certifications or other such forms of proof of commitments of financial and other resources sufficient to comply with the match requirements under section 405(a)(1);

''(4) a certification that the applicant is following a current approved consolidated plan;

''(5) a certification that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Fair Housing Act, and the grantee will affirmatively further fair housing; and

''(6) a certification that the applicant will comply with the requirements of this title and other applicable laws.

''(d) SUBMISSION REQUIREMENTS FOR STATES.—Each application from a State shall include—

''(1) the continuum of care submission described in subsection (b)(3);

''(2) certifications or other such forms of proof of commitments of financial and other resources sufficient to comply with the match requirements under section 405(a)(1);

''(3) a certification that the applicant is following a current approved consolidated plan;

''(4) a certification that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Fair Housing Act, and the grantee will affirmatively further fair housing; and

''(5) a certification that the State and State recipients will comply with the requirements of this title and other applicable laws.

''(e) APPLICATION APPROVAL.—The application shall be approved by the Secretary unless the Secretary determines that the application is substantially incomplete.

''SEC. 404. ELIGIBLE PROJECTS AND ACTIVITIES; CONTINUUM OF CARE APPROVAL.

''(a) ELIGIBLE PROJECTS.—Grants under this title may be used to carry out activities described in subsection (b) in support of the following types of projects:

''(1) EMERGENCY ASSISTANCE.—Assistance designed to prevent homelessness or to meet the emergency needs of homeless individuals and families, including 1 or more of the following:

''(A) PREVENTION.—Efforts to prevent homelessness of a very low-income individual or family that has received an eviction notice, notice of mortgage foreclosure, or notice of termination of utilities, if—

''(i) the individual or family cannot make the required payments due to a sudden reduction in income or other financial emergency; and

''(ii) the assistance is necessary to avoid imminent eviction, foreclosure, or termination of services.

''(B) OUTREACH AND ASSESSMENT.—Efforts designed to inform individuals and families about the availability of services, to bring them into the continuum of care system, and to determine which services or housing are appropriate to the needs of the individual or family.

''(C) EMERGENCY SHELTER.—The provision of short-term emergency shelter with essential supportive services for homeless individuals and families.

''(2) SAFE HAVEN HOUSING.—A structure or a clearly identifiable portion of a structure that—

''(A) provides housing and low-demand services and referrals for homeless individuals with serious mental illness—

''(i) who are currently residing primarily in places not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; and

''(ii) who have been unwilling or unable to participate in mental health or substance abuse treatment programs or to receive other supportive services; except that a person whose sole impairment is substance abuse shall not be considered an eligible person;

''(B) provides 24-hour residence for eligible individuals who may reside for an unspecified duration;

''(C) provides private or semiprivate accommodations;

''(D) may provide for the common use of kitchen facilities, dining rooms, and bathrooms;

''(E) may provide supportive services to eligible persons who are not residents on a drop-in basis;

''(F) provides occupancy limited to not more than 25 persons; and

''(G) provides housing for victims of spousal abuse, and their dependents.

''(3) TRANSITIONAL HOUSING.—Housing and appropriate supportive services that are designed to facilitate the movement of homeless individuals to permanent housing, generally within 24 months.

''(4) PERMANENT HOUSING AND PERMANENT HOUSING AND SUPPORTIVE SERVICES FOR PERSONS WITH DISABILITIES.—Permanent housing for homeless individuals, and permanent housing and supportive services for homeless persons with disabilities, the latter of which may be designed to provide housing and services solely for persons with disabilities, or may provide housing for such persons in a multifamily housing, condominium, or cooperative project.

''(5) SINGLE ROOM OCCUPANCY HOUSING.—A unit for occupancy by 1 person, which need not (but may) contain food preparation or sanitary facilities, or both, and may provide services such as mental health services, substance abuse treatment, job training, and employment programs.

''(6) OTHER PROJECTS.—Such other projects as the Secretary determines will further the purposes of title I of the Homelessness Assistance and Management Reform Act of 1997.

''(b) ELIGIBLE ACTIVITIES.—Grants under this title may be used to carry out the following activities in support of projects described in subsection (a):

''(1) HOMELESSNESS PREVENTION ACTIVITIES.—Short-term mortgage, rental, and utilities payments and other short-term assistance designed to prevent the imminent homelessness of the individuals and families described in subsection (a)(1)(A).

''(2) OUTREACH AND ASSESSMENT.—Drop-in centers, 24-hour hotlines, counselors, and other activities designed to engage homeless individuals and families, bring them into the continuum of care system, and determine their individual housing and service needs.

''(3) ACQUISITION AND REHABILITATION.—The acquisition, rehabilitation, or acquisition and rehabilitation of real property.

''(4) NEW CONSTRUCTION.—The new construction of a project, including the cost of the site.

''(5) OPERATING COSTS.—The costs of operating a project, including salaries and benefits, maintenance, insurance, utilities, replacement reserve accounts, and furnishings.

''(6) LEASING.—Leasing of an existing structure or structures, or units within these structures, including the provision of long-term rental assistance contracts.

''(7) TENANT ASSISTANCE.—The provision of security or utility deposits, rent, or utility payments for the first month of residence at a new location, and relocation assistance.

''(8) SUPPORTIVE SERVICES.—The provision of essential supportive services including case management, housing counseling, job training and placement, primary health care, mental health services, substance abuse treatment, child care, transportation, emergency food and clothing, family violence services, education services, moving services, assistance in obtaining entitlement benefits, and referral to veterans services and referral to legal services.

''(9) ADMINISTRATION.—

''(A) IN GENERAL.—Expenses incurred in—

''(i) planning, developing, and establishing a program under this title; and

''(ii) administering the program.

''(B) LIMITATIONS.—Not more than the following amounts may be used for administrative costs under subparagraph (A):

''(i) 10 percent of any grant amounts provided for a recipient for a fiscal year (including amounts used by a State to carry out its own activities under section 408(c)(1)(A)).

''(ii) 5 percent of any grant amounts provided to a State for a fiscal year that the State uses to distribute funds to a State recipient under section 408(c)(1)(B).

''(10) CAPACITY BUILDING.—

''(A) IN GENERAL.—Building the capacity of private nonprofit organizations to participate in the continuum of care system of the recipient.

''(B) LIMITATIONS.—Not more than the following amounts may be used for capacity building under subparagraph (A):

''(i) 2 percent of any grant amounts provided for a recipient for a fiscal year (including amounts used by a State to carry out its own activities under section 408(c)(1)(A)).

''(ii) 2 percent of any grant amounts provided to a State for a fiscal year that the State uses to distribute funds to a State recipient under section 408(c)(1)(B).

''(11) OTHER ACTIVITIES.—Other activities as the Secretary determines will further the purposes of title I of the Homelessness Assistance and Management Reform Act of 1997.

''(c) TARGETING TO SUBPOPULATIONS OF PERSONS WITH DISABILITIES.—Notwithstanding any other provision of law, projects for persons with disabilities assisted under this title may be targeted to specific subpopulations of such persons, including persons who—

''(1) are seriously mentally ill;

''(2) have chronic problems with drugs, alcohol, or both; or

''(3) have acquired immunodeficiency syndrome or any conditions arising from the etiologic agency for acquired immunodeficiency syndrome.

''SEC. 405. MATCHING REQUIREMENT AND MAINTENANCE OF EFFORT.

''(a) MATCHING REQUIREMENT.—

''(1) IN GENERAL.—Each recipient shall make contributions totaling not less than $1 for every $3 made available for the recipient

for any fiscal year under this title to carry out eligible activities. At the end of each program year, each recipient shall certify to the Secretary that it has complied with this section, and shall include with the certification a description of the sources and amounts of the matching contributions. Contributions under this section may not come from assistance provided under this title.

''(2) CALCULATION OF AMOUNTS.—In calculating the amount of matching contributions required under paragraph (1), a recipient may include—

''(A) any funds derived from a source, other than assistance under this title or amounts subject to subsection (b);

''(B) the value of any lease on a building; and

''(C) any salary paid to staff or any volunteer labor contributed to carry out the program.

''(b) LIMITATION ON USE OF FUNDS.—No assistance received under this title may be used to replace other funds previously used, or designated for use, by the State, State recipient (except when a State recipient is a private nonprofit organization), allocation unit of general local government or insular area to assist homeless individuals and families.

''SEC. 406. RESPONSIBILITIES OF RECIPIENTS, PROJECT SPONSORS, AND OWNERS.

''(a) USE OF ASSISTANCE THROUGH PRIVATE NONPROFIT ORGANIZATIONS.—

''(1) IN GENERAL.—Each recipient shall ensure that at least 50 percent of the grant amounts that are made available to it under this title for any fiscal year are made available to project sponsors that are private nonprofit organizations.

''(2) WAIVER.—The Secretary may waive or reduce the requirement of paragraph (1), if the recipient demonstrates to the Secretary that the requirement interferes with the ability of the recipient to provide assistance under this title because of the paucity of qualified private nonprofit organizations in the jurisdiction of the recipient.

''(b) HOUSING QUALITY.—Each recipient shall ensure that housing assisted with grant amounts provided under this title is decent, safe, and sanitary and complies with all applicable State and local housing codes, building codes, and licensing requirements in the jurisdiction in which the housing is located.

''(c) PREVENTION OF UNDUE BENEFIT.—The Secretary may prescribe such terms and conditions as the Secretary considers necessary to prevent project sponsors from unduly benefiting from the sale or other disposition of projects, other than a sale or other disposition resulting in the use of the project for the direct benefit of very low-income families.

''(d) CONFIDENTIALITY.—Each recipient shall develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided services assisted under this title for family violence prevention or treatment or for such medical or other conditions as the Secretary may prescribe, and to ensure that the address or location of any project providing such services will, except with written authorization of the person or persons responsible for the operation of such project, not be made public.

''(e) EMPLOYMENT OF HOMELESS INDIVIDUALS.—

''(1) IN GENERAL.—To the maximum extent practicable, the Secretary shall ensure that recipients, through employment, volunteer services, or otherwise, provide opportunities for homeless individuals and families to participate in—

''(A) constructing, renovating, maintaining, and operating facilities assisted under this title;

''(B) providing services so assisted; and

''(C) providing services for occupants of facilities so assisted.

''(2) NO DISPLACEMENT OF EMPLOYED WORKERS.—In carrying out paragraph (1), recipients shall not displace employed workers.

''(f) OCCUPANCY CHARGE.—Any homeless individual or family residing in a dwelling unit assisted under this title may be required to pay an occupancy charge in an amount determined by the grantee providing the assistance, which may not exceed an amount equal to 30 percent of the adjusted income (as defined in section 3(b) of the United States Housing Act of 1937 or any other subsequent provision of Federal law defining the term for purposes of eligibility for, or rental charges in, public housing) of the individual or family. Occupancy charges paid may be reserved, in whole or in part, to assist residents in moving to permanent housing.

''SEC. 407. ALLOCATION AND DISTRIBUTION OF FUNDS.

''(a) INSULAR AREAS.—

''(1) ALLOCATION.—For each fiscal year, the Secretary shall allocate assistance under this title to insular areas, in an amount equal to 0.20 percent of the amounts appropriated under the first sentence of section 402(b).

''(2) DISTRIBUTION.—The Secretary shall provide for the distribution of amounts reserved under paragraph (1) for insular areas pursuant to specific criteria or a distribution formula prescribed by the Secretary.

''(b) STATES AND ALLOCATION UNITS OF GENERAL LOCAL GOVERNMENT.—

''(1) IN GENERAL.—For each fiscal year, of the amounts appropriated under the first sentence of section 402(b) that remain after amounts are reserved for insular areas under subsection (a), the Secretary shall allocate assistance according to the formula described in paragraph (2).

''(2) FORMULA.—

''(A) ALLOCATION.—The Secretary shall allocate amounts for allocation units of general local government and States, in a manner that ensures that the percentage of the total amount available under this title for any fiscal year for any allocation unit of general local government or State is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 for the same fiscal year that is allocated for the allocation unit of general local government or State.

''(B) MINIMUM ALLOCATION.—

''(i) GRADUATED MINIMUM GRANT ALLOCATIONS.—A State, metropolitan city, or urban county shall receive no less funding in the first fiscal year after the effective date of this Act than 90 percent of the average of the amounts awarded annually to that jurisdiction for homeless assistance programs administered by the Secretary under this title during fiscal years 1996 through 1999, not less than 85 percent in the second full fiscal year after the effective date of this Act, not less than 80 percent in the third and fourth fiscal years after the effective date of this Act, and not less than 75 percent in the fifth full fiscal year after the effective date of this Act, but only if the amount appropriated in each such fiscal year exceeds $1,000,000,000. If that amount does not exceed $1,000,000,000 in any fiscal year referred to in the first sentence of this paragraph, the jurisdiction may receive its proportionate share of the amount appropriated which may be less than the amount in such sentence for such fiscal year.

''(ii) REDUCTION.—In any fiscal year, the Secretary may provide a grant under this subsection for a State, metropolitan city, or urban county, in an amount less than the amount allocated under those paragraphs, if the Secretary determines that the jurisdiction has failed to comply with requirements of this title, or that such action is otherwise appropriate.

''(C) STUDY; SUBMISSION OF INFORMATION TO CONGRESS RELATED TO ALTERNATIVE METHODS OF ALLOCATION.—Not later than 1 year after the effective date of the Local Housing Opportunities Act, the Secretary shall—

''(i) submit to Congress—

''(I) the best available methodology for determining a formula relative to the geographic allocation of funds under this subtitle among entitlement communities and nonentitlement areas based on the incidence of homelessness and factors that lead to homelessness;

''(II) proposed alternatives to the formula submitted pursuant to subclause (I) for allocating funds under this section, including an evaluation and recommendation on a 75/25 percent formula and other allocations of flexible block grant homeless assistance between metropolitan cities and urban counties and States under subparagraph (A);

''(III) an analysis of the deficiencies in the current allocation formula described in section 106(b) of the Housing and Community Development Act of 1974;

''(IV) an analysis of the adequacy of current indices used as proxies for measuring homelessness; and

''(V) an analysis of the bases underlying each of the proposed allocation methods;

''(ii) perform the duties required by this paragraph in ongoing consultation with—

''(I) the Subcommittee on Housing Opportunity and Community Development of the Committee on Banking, Housing, and Urban Affairs of the Senate;

''(II) the Subcommittee on Housing and Community Opportunity of the Committee on Banking and Financial Services of the House of Representatives;

''(III) organizations representing States, metropolitan cities, and urban counties;

''(IV) organizations representing rural communities;

''(V) organizations representing veterans;

''(VI) organizations representing persons with disabilities;

''(VII) members of the academic community; and

''(VIII) national homelessness advocacy groups; and

''(iii) estimate the amount of funds that will be received annually by each entitlement community and nonentitlement area under each such alternative allocation system and compare such amounts to the amount of funds received by each entitlement community and nonentitlement area in prior years under this section.

''SEC. 408. ADMINISTRATION OF PROGRAM.

''(a) IN GENERAL.—The Secretary shall prescribe such procedures and requirements as the Secretary deems appropriate for administering grant amounts under this title.

''(b) ALLOCATION UNITS OF GENERAL LOCAL GOVERNMENT AND INSULAR AREAS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an allocation unit of general local government or insular area shall administer grant amounts received under subsection (a) or (b) of section 407 for any fiscal year.

''(2) AGENCIES AND ORGANIZATIONS DESIGNATED BY JURISDICTION.—

''(A) DESIGNATION OF OTHER ENTITIES TO ADMINISTER GRANT AMOUNTS.—An allocation unit of general local government or insular area may elect for any fiscal year to designate a public agency or a private nonprofit organization (or a collaboration of such organizations) to administer grant amounts received under subsection (a) or (b) of section 407 instead of the jurisdiction.

''(B) PROVISION OF GRANT AMOUNTS.—The Secretary may, at the request of a jurisdiction under subparagraph (A), provide grant amounts directly to the agency or organization designated under that subparagraph.

''(c) STATES.—

''(1) IN GENERAL.—The State—

''(A) may use not more than 15 percent of the amount made available to the State under section 407(b)(2) for a fiscal year to carry out its own homeless assistance program under this title; and

''(B) shall distribute the remaining amounts to State recipients.

''(2) DISTRIBUTION OF AMOUNTS TO STATE RECIPIENTS.—

''(A) IN GENERAL.—

''(i) OPTIONS.—States distributing amounts under paragraph (1)(B) to State recipients that are units of general local government shall, for each fiscal year, afford each such recipient the options of—

''(I) administering the grant amounts on its own behalf;

''(II) designating (as provided by subsection (b)(2)) a public agency or a private nonprofit organization (or a combination of such organizations) to administer the grant amounts instead of the jurisdiction; or

''(III) entering into an agreement with the State, in consultation with private nonprofit organizations providing assistance to homeless individuals and families in the jurisdiction, under which the State will administer the grant amounts instead of the jurisdiction.

''(ii) EFFECT OF DESIGNATION.—A State recipient designating an agency or organization as provided by clause (i)(II), or entering into an agreement with the State under clause (i)(III), shall remain the State recipient for purposes of this title.

''(iii) DIRECT ASSISTANCE.—The State may, at the request of the State recipient, provide grant amounts directly to the agency or organization designated under clause (i)(II).

''(B) APPLICATION.—

''(i) IN GENERAL.—The State shall distribute amounts to State recipients (or to agencies or organizations designated under subparagraph (A)(i)(II), as appropriate) on the basis of an application containing such information as the State may prescribe, except that each application shall reflect the State application requirements in section 403(d) and evidence an intent to facilitate the establishment of a continuum of care system.

''(ii) WAIVER.—The State may waive the requirements in clause (i) with respect to 1 or more proposed activities, if the State determines that—

''(I) the activities are necessary to meet the needs of homeless individuals and families within the jurisdiction; and

''(II) a continuum of care system is not necessary, due to the nature and extent of homelessness in the jurisdiction.

''(C) PREFERENCE.—In selecting State recipients and making awards under subparagraph (B), the State shall give preference to applications that demonstrate higher relative levels of homeless need and fiscal distress.

''SEC. 409. CITIZEN PARTICIPATION.

''(a) IN GENERAL.—Each recipient shall ensure that citizens, appropriate private nonprofit organizations, and other interested groups and entities participate fully in the development and carrying out of the program authorized under this title.

''(b) ALLOCATION UNITS OF GENERAL LOCAL GOVERNMENT AND INSULAR AREAS.—The chief executive officer of each allocation unit of general local government or insular area shall designate an entity, which shall assist the jurisdiction—

''(1) by developing the continuum of care system and other submission requirements, and by submitting the system and such other submission requirements for its approval under section 403(b);

''(2) in overseeing the activities carried out with assistance under this title; and

''(3) in preparing the performance report under section 410(b).

''(c) STATE RECIPIENTS.—The chief executive officer of the State shall designate an entity which shall assist the State—

''(1) by developing the continuum of care system and other submission requirements, and by submitting the system and such other submission requirements for its approval under section 403(b);

''(2) in determining the percentage of the grant that the State should use—

''(A) to carry out its own homeless assistance program under section 408(c)(1)(A); or

''(B) to distribute amounts to State recipients under section 408(c)(1)(B);

''(3) in carrying out the responsibilities of the State, if the State enters into an agreement with a State recipient to administer the amounts of the State recipient under section 408(c)(2)(A)(i)(III);

''(4) in overseeing the activities carried out with assistance under this title; and

''(5) in preparing the performance report under section 410(b).

''SEC. 410. PERFORMANCE REPORTS, REVIEWS, AUDITS, AND GRANT ADJUSTMENTS.

''(a) NATIONAL PERFORMANCE MEASURES AND BENCHMARKS.—The Secretary shall establish national performance measures and benchmarks to assist the Secretary, grantees, citizens, and others in assessing the use of funds made available under this title.

''(b) GRANTEE PERFORMANCE AND EVALUATION REPORT.—

''(1) IN GENERAL.—Each grantee shall submit to the Secretary a performance and evaluation report concerning the use of funds made available under this title.

''(2) TIMING AND CONTENTS.—The report under subsection (a) shall be submitted at such time as the Secretary shall prescribe and contain an assessment of the performance of the grantee as measured against any specific performance measures and benchmarks (developed under section 403), the national performance measures and benchmarks (as established under subsection (a)), and such other information as the Secretary shall prescribe. Such performance measures and benchmarks shall include a measure of the number of homeless individuals who transition to self-sufficiency, and a measure of the number of homeless individuals who have ended a chemical dependency or drug addiction.

''(3) AVAILABILITY TO PUBLIC.—Before the submission of a report under subsection (a), the grantee shall make the report available to citizens, public agencies, and other interested parties in the jurisdiction of the grantee in sufficient time to permit them to comment on the report before submission.

''(c) PERFORMANCE REVIEWS, AUDITS, AND GRANT ADJUSTMENTS.—

''(1) PERFORMANCE REVIEWS AND AUDITS.—The Secretary shall, not less than annually, make such reviews and audits as may be necessary or appropriate to determine—

''(A) in the case of a grantee (other than a grantee referred to in subparagraph (B)), whether the grantee—

''(i) has carried out its activities in a timely manner;

''(ii) has made progress toward implementing the continuum of care system in conformity with its application under this title; and

''(iii) has carried out its activities and certifications in accordance with the requirements of this title and other applicable laws; and

''(B) in the case of States distributing grant amounts to State recipients, whether the State—

''(i) has distributed amounts to State recipients in a timely manner and in conformance with the method of distribution described in its application;

''(ii) has carried out its activities and certifications in compliance with the requirements of this title and other applicable laws; and

''(iii) has made such performance reviews and audits of the State recipients as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria set forth in subparagraph (A).

''(2) GRANT ADJUSTMENTS.—The Secretary may make appropriate adjustments in the amount of grants in accordance with the findings of the Secretary under this subsection. With respect to assistance made available for State recipients, the Secretary may adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with the performance reviews and audits of the Secretary under this subsection, except that amounts already properly expended on eligible activities under this title shall not be recaptured or deducted from future assistance to such recipients.

''SEC. 411. NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES.

''No person in the United States shall, on the ground of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified individual with a disability, as provided in section 504 of the Rehabilitation Act of 1973, shall also apply to any such program or activity.

''SEC. 412. RETENTION OF RECORDS, REPORTS, AND AUDITS.

''(a) RETENTION OF RECORDS.—Each recipient shall keep such records as may be reasonably necessary—

''(1) to disclose the amounts and the disposition of the grant amounts, including the types of activities funded and the nature of populations served with these funds; and

''(2) to ensure compliance with the requirements of this title.

''(b) ACCESS TO DOCUMENTS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient that are pertinent to grant amounts received in connection with this title.

''(c) ACCESS TO DOCUMENTS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any duly authorized representative of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient that are pertinent to grant amounts received in connection with this title.''.

SEC. 303. REPEAL AND SAVINGS PROVISIONS.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—Beginning on the effective date of this Act, the Secretary may not make assistance available under title IV of the Stewart B. McKinney Homeless Assistance Act (as in existence immediately before such effective date), except pursuant to a legally binding commitment entered into before that date.

(b) LAW GOVERNING.—Any amounts made available under title IV of the Stewart B.

McKinney Homeless Assistance Act before the effective date of this Act shall continue to be governed by the provisions of that title, as they existed immediately before that effective date, except that each grantee may, in its discretion, provide for the use, in accordance with the provisions of title IV of the Stewart B. McKinney Homeless Assistance Act (as amended by this title), of any such amounts that it has not obligated.

(c) STATUS OF FUNDS.—

(1) IN GENERAL.—Any amounts appropriated under title IV of the Stewart B. McKinney Homeless Assistance Act before the effective date of this Act that are available for obligation immediately before such effective date, or that become available for obligation on or after that date, shall be transferred and added to amounts appropriated for title IV of the Stewart B. McKinney Homeless Assistance Act (as amended by this title), and shall be available for use in accordance with the provisions of such title IV.

(2) AVAILABILITY.—Any amounts transferred under paragraph (1) shall remain available for obligation only for the time periods for which such respective amounts were available before such transfer.

SEC. 304. IMPLEMENTATION.

(a) INITIAL ALLOCATION OF ASSISTANCE.—Not later than the expiration of the 60-day period following the date of enactment of an Act appropriating funds to carry out title IV of the Stewart B. McKinney Homeless Assistance Act (as amended by this title), the Secretary shall notify each allocation unit of general local government, insular area, and State of its allocation under the McKinney Homeless Assistance Performance Fund.

(b) ISSUANCE OF NECESSARY REGULATIONS.—Notwithstanding section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)), the Secretary shall issue such regulations as may be necessary to implement any provision of title I of this Act, and any amendment made by this title, in accordance with section 552 or 553 of title 5, United States Code, as determined by the Secretary.

(c) USE OF EXISTING RULES.—In implementing any provision of this title, the Secretary may, in the discretion of the Secretary, provide for the use of existing rules to the extent appropriate, without the need for further rulemaking.

TITLE IV—RURAL HOUSING

SEC. 401. MUTUAL AND SELF-HELP HOUSING TECHNICAL ASSISTANCE AND TRAINING GRANTS AUTHORIZATION.

Section 513(b) of the Housing Act of 1949 (42 U.S.C. 1483(b)) is amended by striking paragraph (8) and inserting the following:

''(8) For grants under paragraphs (1)(A) and (2) of section 523(b)—

''(A) $40,000,000 for fiscal year 2001;

''(B) $45,000,000 for fiscal year 2002; and

''(C) $50,000,000 for fiscal year 2003.''.

SEC. 402. ENHANCEMENT OF THE RURAL HOUSING REPAIR LOAN PROGRAM FOR THE ELDERLY.

Section 504(a) of the Housing Act of 1949 (42 U.S.C. 1474(a)) is amended by striking ''$2,500'' and inserting ''$7,500''.

SEC. 403. ENHANCEMENT OF EFFICIENCY OF RURAL HOUSING PRESERVATION GRANTS.

Section 533 of the Housing Act of 1949 (42 U.S.C. 1490m) is amended—

(1) by striking subsection (c);

(2) in subsection (d)(3)(H), by striking ''(e)(1)(B)(iv)'' and inserting ''(d)(1)(B)(iv)''; and

(3) by redesignating subsections (d) through (i) as subsections (c) through (h), respectively.

SEC. 404. PROJECT ACCOUNTING RECORDS AND PRACTICES.

Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by striking subsection (z) and inserting the following:

''(z) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

''(1) ACCOUNTING STANDARDS.—The Secretary shall require that borrowers in programs authorized by this section maintain accounting records in accordance with generally accepted accounting principles for all projects that receive funds from loans made or guaranteed by the Secretary under this section.

''(2) RECORD RETENTION REQUIREMENTS.—The Secretary shall require that borrowers in programs authorized by this section retain for a period of not less than 6 years and make available to the Secretary in a manner determined by the Secretary, all records required to be maintained under this subsection and other records identified by the Secretary in applicable regulations.

''(aa) DOUBLE DAMAGE REMEDY FOR UNAUTHORIZED USE OF HOUSING PROJECTS ASSETS AND INCOME.—

''(1) ACTION TO RECOVER ASSETS OR INCOME.—

''(A) IN GENERAL.—The Secretary may request the Attorney General to bring an action in a district court of the United States to recover any assets or income used by any person in violation of the provisions of a loan made or guaranteed by the Secretary under this section or in violation of any applicable statute or regulation.

''(B) IMPROPER DOCUMENTATION.—For purposes of this subsection, a use of assets or income in violation of the applicable loan, loan guarantee, statute, or regulation shall include any use for which the documentation in the books and accounts does not establish that the use was made for a reasonable operating expense or necessary repair of the project or for which the documentation has not been maintained in accordance with the requirements of the Secretary and in reasonable condition for proper audit.

''(C) DEFINITION OF PERSON.—In this subsection, the term 'person' means—

''(i) any individual or entity that borrows funds in accordance with programs authorized by this section;

''(ii) any individual or entity holding 25 percent or more interest of any entity that borrows funds in accordance with programs authorized by this section; or

''(iii) any officer, director, or partner of an entity that borrows funds in accordance with programs authorized by this section.

''(2) AMOUNT RECOVERABLE.—

''(A) IN GENERAL.—In any judgment favorable to the United States entered under this subsection, the Attorney General may recover double the value of the assets and income of the project that the court determines to have been used in violation of the provisions of a loan made or guaranteed by the Secretary under this section or any applicable statute or regulation, plus all costs related to the action, including reasonable attorney and auditing fees.

''(B) APPLICATION OF RECOVERED FUNDS.—Notwithstanding any other provision of law, the Secretary may apply any recovery of funds under this subsection to activities authorized under this section and such funds shall remain available until expended.

''(3) TIME LIMITATION.—Notwithstanding any other statute of limitations, the Attorney General may bring an action under this subsection at any time up to and including 6 years after the date that the Secretary discovered or should have discovered the violation of the provisions of this section or any related statutes or regulations.

''(4) CONTINUED AVAILABILITY OF OTHER REMEDIES.—The remedy provided in this subsection is in addition to and not in substitution of any other remedies available to the Secretary or the United States.''.

SEC. 405. OPERATING ASSISTANCE FOR MIGRANT FARM WORKER PROJECTS.

Section 521(a)(5)(A) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(5)(A)) is amended in the last sentence by striking ''project'' and inserting ''tenant or unit''.

TITLE V—VOUCHER REFORM

SEC. 501. AUTHORIZATION OF APPROPRIATIONS FOR RENTAL VOUCHERS FOR RELOCATION OF WITNESSES AND VICTIMS OF CRIME.

Section 8(o)(16) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(16)) is amended—

(1) in subparagraph (A), by striking ''Of amounts made available for assistance under this subsection'' and inserting ''Of the amount made available under subparagraph (C)'';

(2) in subparagraph (B), by striking ''Of amounts made available for assistance under this section'' and inserting ''Of the amount made available under subparagraph (C)''; and

(3) by adding at the end the following:

''(C) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available to carry out this section for each fiscal year, there is authorized to be appropriated to carry out this paragraph $25,000,000 for each fiscal year.''.

SEC. 502. REVISIONS TO THE LEASE ADDENDUM.

Section 8(o)(7)(F) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)(F)) is amended striking the period at the end and inserting the following: '', except that—

''(i) the provisions of any such addendum shall supplement any existing standard rental agreement to the extent that the addendum does not modify, nullify, or in any way materially alter any material provision of the rental agreement; and

''(ii) a provision of the addendum shall be nullified only to extent that the provision conflicts with applicable State or local law.''.

SEC. 503. REPORT REGARDING HOUSING VOUCHER PROGRAM.

(a) IN GENERAL.—The Secretary shall publish in the Federal Register a notice soliciting comments and recommendations regarding the means by which the voucher program under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) may be changed and enhanced to promote increased participation by private rental housing owners.

(b) REPORT.—Not later than 6 months after the effective date of this Act, the Secretary shall submit to the Committees a report on the results of the solicitation under subsection (a), which shall include a summary and analysis of the recommendations received, especially recommendations regarding legislative and administrative changes to the program described in subsection (a).

SEC. 504. CONDUCTING QUALITY STANDARD INSPECTIONS ON A PROPERTY BASIS RATHER THAN A UNIT BASIS.

Section 8(o)(8) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(8)) is amended—

(1) in the paragraph heading, by inserting ''AND PROPERTIES'' after ''UNITS'';

(2) in subparagraph (A)—

(A) by striking ''Except as provided'' and inserting the following:

''(i) INSPECTION REQUIREMENT.—Except as provided''; and

(B) by adding at the end the following:

''(ii) INSPECTION AND CERTIFICATION ON A PROPERTY-WIDE BASIS.—

''(I) IN GENERAL.—For purposes of this subparagraph, each owner shall have the option

of having the property of the owner inspected and certified on a property-wide basis, subject to the inspection guidelines set forth in subparagraphs (C) and (D).

''(II) CERTIFICATION.—Owners of properties electing a property-wide inspection and not currently receiving tenant-based assistance for any dwelling unit in those properties may elect a property-wide certification by having each dwelling unit that is to be made available for tenant-based assistance inspected before any housing assistance payments are made. Any owner participating in the voucher program under this subsection as of the effective date of Local Housing Opportunities Act shall have the option of electing property-wide certification by sending written notice to the appropriate administering agency. Any property that is inspected and certified on a property-wide basis shall not be required to have units in the property inspected individually in conjunction with each new rental agreement.'';

(3) in subparagraph (C)—

(A) in the first sentence—

(i) by inserting ''or property'' after ''dwelling unit''; and

(ii) by inserting ''or property'' after ''the unit''; and

(B) in the second sentence, by inserting ''or properties'' after ''dwelling units''; and

(4) in subparagraph (D), in the first sentence—

(A) by inserting ''or property'' after ''dwelling unit'';

(B) by inserting ''or property'' after ''payments contract for the unit''; and

(C) by inserting ''or property'' after ''whether the unit''.

TITLE VI—PROGRAM MODERNIZATION

SEC. 601. ASSISTANCE FOR SELF-HELP HOUSING PROVIDERS.

(a) REAUTHORIZATION.—Section 11 of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note) is amended by striking subsection (p) and inserting the following:

''(p) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 2001 and such sums as may be necessary for each of fiscal years 2002 and 2003.''.

(b) ELIGIBLE EXPENSES.—Section 11(d)(2)(A) of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note) is amended by inserting before the period at the end the following: '', which may include reimbursing an organization, consortium, or affiliate, upon approval of any required environmental review, for nongrant amounts of the organization, consortium, or affiliate advanced before such review to acquire land''.

(c) DEADLINE FOR RECAPTURE OF FUNDS.—Section 11 of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note) is amended—

(1) in subsection (i)(5)—

(A) by striking ''if the organization or consortia has not used any grant amounts'' and inserting ''the Secretary shall recapture any grant amounts provided to the organization or consortia that are not used'';

(B) by striking ''(or,'' and inserting '', except that such period shall be 36 months''; and

(C) by striking ''within 36 months), the Secretary shall recapture such unused amounts'' and inserting ''and in the case of a grant amounts provided to a local affiliate of the organization or consortia that is developing 5 or more dwellings in connection with such grant amounts''; and

(2) in subsection (j), by inserting ''and grant amounts provided to a local affiliate of the organization or consortia that is developing 5 or more dwellings in connection with such grant amounts'' before the period at the end.

(d) TECHNICAL CORRECTION.—Section 11(e) of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note) is amended by striking ''consoria'' and inserting ''consortia''.

SEC. 602. LOCAL CAPACITY BUILDING FOR COMMUNITY DEVELOPMENT AND AFFORDABLE HOUSING.

Section 4 of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note) is amended—

(1) in subsection (a), by inserting ''National Association of Housing Partnerships,'' after ''Humanity,''; and

(2) in subsection (e), by striking ''$25,000,000'' and all that follows before the period and inserting ''to carry out this section, $40,000,000 for each of fiscal years 2001 through 2003''.

SEC. 603. WORK REQUIREMENT FOR PUBLIC HOUSING RESIDENTS: COORDINATION OF FEDERAL HOUSING ASSISTANCE WITH STATE WELFARE REFORM WORK PROGRAMS.

(a) IN GENERAL.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

''SEC. 36. WORK REQUIREMENT.

''(a) IN GENERAL.—Each family residing in public housing, shall comply with the requirements of section 407 of the Social Security Act (42 U.S.C. 607) in the same manner and to the same extent as a family receiving assistance under a State program funded under part A of title IV of that Act (42 U.S.C. 601 et seq.).

''(b) WORK REQUIREMENTS.—

''(1) ANNUAL DETERMINATIONS.—

''(A) REQUIREMENT.—For each family residing in public housing that is subject to the requirement under subsection (a), the public housing agency shall, 30 days before the expiration of each lease term of the family under section 6(l)(1), review and determine the compliance of the family with the requirement under subsection (a) of this subsection.

''(B) DUE PROCESS.—Each determination under subparagraph (A) shall be made in accordance with the principles of due process and on a nondiscriminatory basis.

''(C) NONCOMPLIANCE.— If a public housing agency determines that a family subject to the requirement under subsection (a) has not complied with the requirement, the agency—

''(i) shall notify the family—

''(I) of such noncompliance;

''(II) that the determination of noncompliance is subject to the administrative grievance procedure under subsection (k); and

''(III) that, unless the family enters into an agreement under clause (ii) of this subparagraph, the family's lease will not be renewed; and

''(ii) may not renew or extend the family's lease upon expiration of the lease term and shall take such action as is necessary to terminate the tenancy of the household, unless the agency enters into an agreement, before the expiration of the lease term, with the family providing for the family to cure any noncompliance with the requirement under paragraph (1), by participating in an economic self-sufficiency program (as defined in section 12(g)) for or contributing to community service as many additional hours as the family needs to comply in the aggregate with such requirement over the 12-month term of the lease.

''(2) INELIGIBILITY FOR OCCUPANCY FOR NONCOMPLIANCE.—A public housing agency may not renew or extend any lease, or provide any new lease, for a dwelling unit in public housing for any family who was subject to the requirement under subsection (a) and failed to comply with the requirement.

''(3) INCLUSION IN PLAN.—Each public housing agency shall include in its public housing agency plan a detailed description of the manner in which the agency intends to implement and administer this subsection.''.

(b) CONFORMING AMENDMENT.—Section 12(c) of the United States Housing Act of 1937 (42 U.S.C. 1437j(c)) is repealed.

SEC. 604. SIMPLIFIED FHA DOWNPAYMENT CALCULATION.

Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) is amended—

(1) in paragraph (2), by striking subparagraph (B) and all that follows through ''applicability of this requirement.'' and inserting the following:

''(B) not to exceed an amount equal to—

''(i) 98.75 percent of the appraised value of the property, if such value is equal to or less than $50,000;

''(ii) 97.65 percent of the appraised value of the property, if such value is in excess of $50,000 but not in excess of $125,000;

''(iii) 97.15 percent of the appraised value of the property, if such value is in excess of $125,000; or

''(iv) notwithstanding clauses (ii) and (iii), 97.75 percent of the appraised value of the property, if such value is in excess of $50,000 and the property is in a State for which the average closing cost exceeds 2.10 percent of the average, for the State, of the sales price of properties located in the State for which mortgages have been executed, as determined by the Secretary, except that, in this clause, the term 'average closing cost' means, with respect to a State, the average, for mortgages executed for properties in the State, of the total amounts (as determined by the Secretary) of initial service charges, appraisal, inspection, and other fees and costs (as the Secretary shall approve) that are paid in connection with such mortgages.''; and

(2) by striking paragraph (10).

SEC. 605. FLEXIBLE USE OF CDBG FUNDS.

Section 105(a)(23) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(23)) is amended by striking ''housing units acquired'' and all that follows before the semicolon and inserting the following: ''housing (A) acquired through tax foreclosure proceedings brought by a unit of State or local government, or (B) placed under the supervision of a court for the purpose of remedying conditions dangerous to life, health, and safety, in order to prevent the abandonment and deterioration of such housing primarily in low- and moderate-income neighborhoods''.

SEC. 606. USE OF SECTION 8 ASSISTANCE IN GRANDFAMILY HOUSING ASSISTED WITH HOME FUNDS.

Section 215(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(a)) is amended by adding at the end the following:

''(6) WAIVER OF QUALIFYING RENT.—

''(A) IN GENERAL.—For the purpose of providing affordable housing appropriate for families described in subparagraph (B), the Secretary may, upon the application of the project owner, waive the applicability of paragraph (1)(A) with respect to a dwelling unit if—

''(i) the unit is occupied by such a family, on whose behalf tenant-based assistance is provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

''(ii) the rent for the unit is not greater than the existing fair market rent for comparable units in the area, as established by the Secretary under section 8 of the United States Housing Act of 1937; and

''(iii) the Secretary determines that the waiver, together with waivers under this paragraph for other dwelling units in the project, will result in the use of amounts described in clause (iii) in an effective manner that will improve the provision of affordable housing for such families.

''(B) ELIGIBLE FAMILIES.—A family described in this subparagraph is a family that consists of at least 1 elderly person (who is the head of household) and 1 or more of such person's grandchildren, great grandchildren, great nieces, great nephews, or great great grandchildren (as defined by the Secretary), but does not include any parent of such grandchildren, great grandchildren, great nieces, great nephews, or great great grandchildren. Such term includes any such grandchildren, great grandchildren, great nieces, great nephews, or great great grandchildren who have been legally adopted by such elderly person.''.

SEC. 607. SECTION 8 HOMEOWNERSHIP OPTION DOWNPAYMENT ASSISTANCE.

(a) AMENDMENTS.—Section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following:

''(7) DOWNPAYMENT ASSISTANCE.—

''(A) AUTHORITY.—A public housing agency may, in lieu of providing monthly assistance payments under this subsection on behalf of a family eligible for such assistance and at the discretion of the public housing agency, provide assistance for the family in the form of a single grant to be used only as a contribution toward the downpayment required in connection with the purchase of a dwelling for fiscal year 2001 and each fiscal year thereafter to the extent provided in advance in appropriations Acts.

''(B) AMOUNT.—The amount of a downpayment grant on behalf of an assisted family may not exceed the amount that is equal to the sum of the assistance payments that would be made during the first year of assistance on behalf of the family, based upon the income of the family at the time the grant is to be made.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect immediately after the amendments made by section 555(c) of the Quality Housing and Work Responsibility Act of 1998 take effect pursuant to such section.

SEC. 608. REAUTHORIZATION OF NEIGHBORHOOD REINVESTMENT CORPORATION.

Section 608(a)(1) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)(1)) is amended by striking the first sentence and inserting the following: ''There is authorized to be appropriated to the corporation to carry out this title $90,000,000 for fiscal year 2001, $95,000,000 for fiscal year 2002, and $95,000,000 for fiscal year 2003.''.

TITLE VII—STATE HOUSING BLOCK GRANT

SEC. 701. STATE CONTROL OF PUBLIC AND ASSISTED HOUSING FUNDS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

''SEC. 37. STATE HOUSING BLOCK GRANT.

''(a) PURPOSE.—The purpose of this section is to create options for States and to provide maximum freedom to States to determine the manner in which to implement assisted housing reforms.

''(b) AUTHORITY.—Notwithstanding any other provision of law, a State may assume control of the Federal housing assistance funds available to residents in that State following the execution of a performance agreement with the Secretary in accordance with this section.

''(c) PERFORMANCE AGREEMENT.—

''(1) IN GENERAL.—A State may, at its option, execute a performance agreement with the Secretary under which the provisions of law described in subsection (d) shall not apply to such State, except as otherwise provided in this section.

''(2) APPROVAL OF PERFORMANCE AGREEMENT.—A performance agreement submitted to the Secretary under this section shall be approved by the Secretary unless the Secretary makes a written determination, within 60 days after receiving the performance agreement, that the performance agreement is in violation of the provisions of this section.

''(3) TERMS OF PERFORMANCE AGREEMENT.—Each performance agreement executed pursuant to this section shall include each of the following provisions:

''(A) TERM.—A statement that the term of the performance agreement shall be 5 years.

''(B) APPLICATION OF PROGRAM REQUIREMENTS.—A statement that no program requirements of any program included by the State in the performance agreement shall apply, except as otherwise provided in this Act.

''(C) LIST.—A list provided by the State of the programs that the State would like to include in the performance agreement.

''(D) USE OF FUNDS TO IMPROVE HOUSING OPPORTUNITIES FOR LOW-INCOME INDIVIDUALS AND FAMILIES.—Include a 5-year plan describing the manner in which the State intends to combine and use the funds for programs included in the performance agreement to advance the low-income housing priorities of the State, improve the quality of low-income housing, reduce homelessness, reduce crime, and encourage self-sufficiency by achieving the performance goals.

''(E) PERFORMANCE GOALS.—

''(i) IN GENERAL.—A statement of performance goals established by the State for the 5-year term of the performance agreement that, at a minimum measures—

''(I) improvement in housing conditions for low-income individuals and families;

''(II) the increase in the number of assisted units that pass housing quality inspections;

''(III) the increase in economic opportunity and self-sufficiency and increases the number of residents that obtain employment;

''(IV) the reduction in crime and assistance to victims of crime;

''(V) the reduction in homelessness and the level of poverty;

''(VI) the cost of assisted housing units provided;

''(VII) the level of assistance provided to people with disabilities and to the elderly;

''(VIII) the success in maintaining and increasing the stock of affordable housing and increasing home ownership.

''(IX) sets numerical goals to attain for each performance goal by the end of the performance agreement.

''(ii) ADDITIONAL INDICATORS OF PERFORMANCE.—A State may identify in the performance agreement any indicators of performance such as reduced cost.

''(F) FISCAL RESPONSIBILITIES.—An assurance that the State will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State or community under this Act. Recipients will use Generally Accepted Accounting Principles (GAAP).

''(G) CIVIL RIGHTS.—An assurance that the State will meet the requirements of applicable Federal civil rights laws including section 25(k).

''(H) STATE FINANCIAL PARTICIPATION.—An assurance that the State will not significantly reduce the level of spending of State funds for housing during the term of the performance agreement.

''(I) ANNUAL REPORT.—An assurance that not later than 1 year after the execution of the performance agreement, and annually thereafter, each State shall disseminate widely to the general public, submit to the Secretary, and post on the Internet, a report that includes low-income housing performance data and a detailed description of the manner in which the State has used Federal funds to provide low-income housing assistance to meet the terms of the performance agreement.

''(4) AMENDMENT TO PERFORMANCE AGREEMENT.—A State may submit an amendment to the performance agreement to the Secretary under the following circumstances:

''(A) REDUCE SCOPE OF PERFORMANCE AGREEMENT.—Not later than 1 year after the execution of the performance agreement, a State may amend the performance agreement through a request to withdraw a program from such agreement. Upon approval by the Secretary of the amendment, the requirements of existing law shall apply for any program withdrawn from the performance agreement.

''(B) EXPAND SCOPE OF PERFORMANCE AGREEMENT.—Not later than 1 year after the execution of the performance agreement, a State may amend its performance agreement to include additional programs and performance indicators for which it will be held accountable.

''(d) ELIGIBLE PROGRAMS.—

''(1) IN GENERAL.—The provisions of law referred to in subsection (c), are—

''(A) the voucher program for rental assistance under section 8(o) of the United States Housing Act of 1937;

''(B) the programs for project-based assistance under section 8 of the United States Housing Act of 1937;

''(C) the program for housing for the elderly under section 202 of the Housing Act of 1959;

''(D) the program for housing for persons with disabilities under section 811 of the Cranston-Gonzales National Affordable Housing Act; and

''(2) ALLOCATION AMOUNTS.—A State may choose to combine funds from any or all the programs described in paragraph (1) without regard to the program requirements of such provisions, except as otherwise provided in this Act.

''(3) USES OF FUNDS.—Funds made available under this section to a State shall be used for any housing purpose other than those prohibited by State law of the participating State.

''(e) WITHIN-STATE DISTRIBUTION OF FUNDS.—The distribution of funds from programs included in the performance agreement from a State to a local housing agency within the State shall be determined by the State legislature and the Governor of the State. In a State in which the State constitution or State law designates another individual, entity, or agency to be responsible for housing, such other individual, entity, or agency shall work in consultation with the Governor and State legislature to determine the local distribution of funds.

''(f) SET-ASIDE FOR STATE ADMINISTRATIVE EXPENDITURES.—A State may use not more than 3 percent of the total amount of funds allocated to such State under the programs included in the performance agreement for administrative purposes.

''(g) LEVEL OF BLOCK GRANT.—

''(1) IN GENERAL.—During the initial 5 years following execution of the performance agreement, a participating State shall receive the highest level of funding for the 3 years prior to the first year of the performance agreement in each program included in the block grant. This level will be adjusted each year by multiplying the prior year's amount by the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code of 1986.

''(2) FORMULA.—Six months after the effective date of the Local Housing Opportunities Act, the Secretary shall submit to Congress

recommendations for a block grant formula that reflects the relative low-income level and affordable housing needs of each State.

''(h) PERFORMANCE REVIEW.—

''(1) IN GENERAL.—If at the end of the 5-year term of the performance agreement a State has failed to meet at least 80 percent of the performance goals submitted in the performance agreement, the Secretary shall terminate the performance agreement and the State shall be required to comply with the program requirement, in effect at the time of termination, of each program included in the performance agreement.

''(2) RENEWAL.—A State that seeks to renew its performance agreement shall notify the Secretary of its renewal request not less that 6 months prior to the end of the term of the performance agreement. A State that has met at least 80 percent of its performance goals submitted in the performance agreement at the end of the 5-year term may reapply to the Secretary to renew its performance agreement for an additional 5-year period. Upon the completion of the 5-year term of the performance agreement or as soon thereafter as the State submits data required under the agreement, the Secretary shall renew, for an additional 5-year term, the performance agreement of any State or community that has met at least 80 percent of its performance goals.

''(i) PERFORMANCE REWARD FUND.—To reward States that make significant progress in meeting performance goals, the Secretary shall annually set aside sufficient funds to grant a reward of up to 5 percent of the funds allocated to participating States.

''(j) DEFINITIONS.—In this section:

''(1) COMMUNITY.—The term 'community' means any local governing jurisdiction within a State.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''(3) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa.''.

TITLE VIII—PRIVATE SECTOR INCENTIVES

SEC. 801. SENSE OF CONGRESS REGARDING LOW-INCOME HOUSING TAX CREDIT STATE CEILINGS AND PRIVATE ACTIVITY BOND CAPS.

(a) FINDINGS.—Congress finds that—

(1) the low-income housing tax credit and private activity bonds have been valuable resources in the effort to increase affordable housing;

(2) the low-income housing tax credit and private activity bonds effectively utilize the ability of the States to deliver resources to the areas of greatest need within their jurisdictions; and

(3) the value of the low-income housing tax credit and the private activity bonds have been eroded by inflation.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the State ceiling for the low-income housing tax credit should be increased by 40 percent in the year 2000, and the level for the State ceiling should be adjusted annually to account for increases in the cost of living; and

(2) the private activity bond cap should be increased by 50 percent in the year 2000, and the value of the cap should be adjusted annually to account for increases in the cost of living.

TITLE IX—ENFORCEMENT

SEC. 901. PROHIBITION ON USE OF APPROPRIATED FUNDS FOR LOBBYING BY THE DEPARTMENT.

(a) IN GENERAL.—Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following:

''§ 1354. Prohibition on lobbying by the Department of Housing and Urban Development

''(a) PROHIBITION.—Except as provided in subsection (b), unless such activity has been specifically authorized by an Act of Congress and notwithstanding any other provision of law, no funds made available to the Department of Housing and Urban Development by appropriation shall be used by such agency for any activity (including the preparation, publication, distribution, or use of any kit, pamphlet, booklet, public presentation, news release, radio, television, or film presentation, video, or other written or oral statement) that in any way tends to promote public support or opposition to any legislative proposal (including the confirmation of the nomination of a public official or the ratification of a treaty) on which congressional action is not complete.

''(b) EXCEPTIONS.—

''(1) PRESIDENT AND VICE PRESIDENT.—Subsection (a) shall not apply to the President or Vice President.

''(2) CONGRESSIONAL COMMUNICATIONS.—Subsection (a) shall not be construed to prevent any officer or employee of the Department of Housing and Urban Development from—

''(A) communicating directly to a Member of Congress (or to any staff of a Member or committee of Congress) a request for legislation or appropriations that such officer or employee deems necessary for the efficient conduct of the public business; or

''(B) responding to a request for information or technical assistance made by a Member of Congress (or by any staff of a Member or committee of Congress).

''(3) PUBLIC COMMUNICATIONS ON VIEWS OF PRESIDENT.—

''(A) IN GENERAL.—Subsection (a) shall not be construed to prevent any Federal agency official whose appointment is confirmed by the Senate, any official in the Executive Office of the President directly appointed by the President or Vice President, or the head of any Federal agency described in subsection (e)(2), from communicating with the public, through radio, television, or other public communication media, on the views of the President for or against any pending legislative proposal.

''(B) NONDELEGATION.—Subparagraph (A) does not permit any Federal agency official described in that subparagraph to delegate to another person the authority to make communications subject to the exemption provided by that subparagraph.

''(c) COMPTROLLER GENERAL.—

''(1) ASSISTANCE OF INSPECTOR GENERAL.—In exercising the authority provided in section 712, as applied to this section, the Comptroller General may obtain, without reimbursement from the Comptroller General, the assistance of the Inspector General within the Department of Housing and Urban Development when any activity prohibited by subsection (a) of this section is under review.

''(2) EVALUATION.—One year after the date of enactment of this section, the Comptroller General shall report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the implementation of this section.

''(3) ANNUAL REPORT.—The Comptroller General shall, in the annual report under section 719(a), include summaries of investigations undertaken by the Comptroller General with respect to subsection (a).

''(d) PENALTIES AND INJUNCTIONS.—

''(1) PENALTIES.—

''(A) IN GENERAL.—The Attorney General may bring a civil action in the appropriate district court of the United States against any person who engages in conduct constituting an offense under this section, whether such offense is due to personal participation in any activity prohibited in subsection (a) or improper delegation to another person the authority to make exempt communications in violation of subsection (b)(3), and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not less than $5,000 and not more than $10,000 for each violation.

''(B) OTHER REMEDIES NOT PRECLUDED.—The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

''(2) INJUNCTIONS.—

''(A) IN GENERAL.—If the Attorney General has reason to believe that a person is engaging in conduct constituting an offense under this section, whether such offense is due to personal participation in any activity prohibited in subsection (a) or improper delegation to another person the authority to make exempt communications in violation of subsection (b)(3)—

''(i) the Attorney General may petition an appropriate district court of the United States for an order prohibiting that person from engaging in such conduct; and

''(ii) the court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense.

''(B) OTHER REMEDIES NOT PRECLUDED.—The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.

''(e) DEFINITION.—In this section, the term 'Federal agency' means—

''(1) any executive agency, within the meaning of section 105 of title 5; and

''(2) any private corporation created by a law of the United States for which the Congress appropriates funds.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1353 the following:

''1354. Prohibition on lobbying by the Department of Housing and Urban Development.''.

(c) APPLICABILITY.—The amendments made by this section shall apply to the use of funds after the effective date of this Act, including funds appropriated or received on or before that date.

SEC. 902. REGULATIONS.

Not later than 6 months after the date of enactment of this Act, the Secretary shall issue such regulations as may be necessary to carry out this Act and the amendments made by this Act.

By Mr. WYDEN:

S. 2970. A bill to provide for summer academic enrichment programs, and for the purposes; to the Committee on Health, Education, Labor, and Pensions.

THE STUDENT EDUCATION ENRICHMENT DEVELOPMENT ACT

Mr. WYDEN. Mr. President, approximately 3.4 million students entered kindergarten in U.S. public schools last

fall, and experts predict wildly different futures for them. Many children do well throughout elementary school, only to slip and fall between the cracks in middle school. This so-called ''achievement gap'' opens wide in middle school and grows throughout high school if nothing is done to stop it.

Raising test scores in K–12 education has brought the achievement-gap issue to the forefront of the national education debate and created a new opportunity to support those states that are making a real effort to improve student achievement. But trying to close the gap by simply bumping up test standards only pushes kids out of school rather than across the gap.

Few have really looked at the most logical place to begin to close the gap: summer school. Students take their achievement tests in April but have to return to school in the Fall. Summer school is one place to begin helping students close the gap, yet the Federal government does nothing to create and support successful summer academic programs.

The legislation I am introducing today, the Student Education Enrichment Development Act, or SEED Act, will leverage summer academic programs to boost student performance. SEED will support all struggling students by providing the first federal funds to backstop state and local efforts to develop, plan, implement, and operate high quality summer academic enrichment programs.

The disparity in school performance tied to race and ethnicity, known as the achievement gap, shows up in grades, test scores, course selection, and college completion. To a large extent, these factors predict a student's success in school, whether a student will go to college, and how much money the student will earn when he or she enters the working world. It happens in cities and in suburbs and in rural school districts. The gaps are so pronounced that in 1996, several national tests found African-American and Hispanic 12th graders scoring at roughly the same levels in reading and math as white 8th graders. By 2019, when they are 24 years old, current trends indicate that the white children who are now nearing the end of their first year in school will be twice as likely as their African-American classmates, and three times as likely as Hispanics, to have a college degree.

In Oregon last year, only 52 percent of the tenth graders met the state's standard for reading, while only 36 percent met the standard for math. But students in Oregon are actually doing better than the national average. More than two-thirds of American high-school seniors graduated last year without being able to read at a proficient level. Results like these are the reason we need SEED.

This week's Time Magazine reports that at least 25 percent of our U.S. school districts are mandating summer school for struggling students—twice that number in poor urban areas. While these programs are helping some students, the results should be better. Only 40 percent of New York students who failed state exams and completed summer school passed on the state exam on their second attempt. In the Pacific Northwest, Seattle canceled its summer program after students made only meager academic gains. I ask unanimous consent that the article from Time magazine be included in the record at the conclusion of my statement.

Schools should strive to meet higher standards, and we should have high expectations for every child. But our kids should not be punished because our education system has failed them. It's time to make sure every child learns and succeeds. According to a recent study, more than half of our teachers promoted unprepared students because the current system does not provide adequate options.

High-quality summer academic programs would give struggling students a chance to succeed in a system that has failed them and help reverse the trend of poor student performance by preparing students to succeed where they have previously failed. Over the past years, we've heard a lot of rhetoric about education, but empty promises won't help our kids learn. Our children deserve more.

I am pleased to be joined by Senators LANDRIEU, BREAUX and BAYH in introducing the bill today, and ask unanimous consent that my statement and a copy of the bill be printed in the RECORD.

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

S. 2970

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 ''Student Education Enrichment Demonstration Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) States are establishing new and higher academic standards for students in kindergarten through grade 12;

(2) no Federal funding streams are specifically designed to help States and school districts with the costs of providing students who are struggling academically, with the extended learning time and accelerated curricula that the students need to meet high academic standards;

(3) forty-eight States now require State accountability tests to determine student grade-level performance and progress;

(4) nineteen States currently rate the performance of all schools or identify low-performing schools through State accountability tests;

(5) sixteen States now have the power to close, take over, or overhaul chronically failing schools on the basis of those tests;

(6) fourteen States provide high-performing schools with monetary rewards on the basis of those tests;

(7) nineteen States currently require students to pass State accountability tests to graduate from high school;

(8) six States currently link student promotion to results on State accountability tests;

(9) excessive percentages of students are not meeting their State standards and are failing to perform at high levels on State accountability tests; and

(10) while the Chicago Public School District implemented the Summer Bridge Program to help remediate their students in 1997, no State has yet created and implemented a similar program to complement the education accountability programs of the State.

SEC. 3. PURPOSE.

The purpose of this Act is to provide Federal support through a new demonstration program to States and local educational agencies, to enable the States and agencies to develop models for high quality summer academic enrichment programs that are specifically designed to help public school students who are not meeting State-determined performance standards.

SEC. 4. DEFINITIONS.

In this Act:

(1) ELEMENTARY SCHOOL; SECONDARY SCHOOL; LOCAL EDUCATIONAL AGENCY; STATE EDUCATIONAL AGENCY.—The terms ''elementary school'', ''secondary school'', ''local educational agency'', and ''State educational agency'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(3) STUDENT.—The term ''student'' means an elementary school or secondary school student.

SEC. 5. GRANTS TO STATES.

(a) IN GENERAL.—The Secretary shall establish a demonstration program through which the Secretary shall make grants to State educational agencies, on a competitive basis, to enable the agencies to assist local educational agencies in carrying out high quality summer academic enrichment programs as part of statewide education accountability programs.

(b) ELIGIBILITY AND SELECTION.—

(1) ELIGIBILITY.—For a State educational agency to be eligible to receive a grant under subsection (a), the State served by the State educational agency shall—

(A) have in effect all standards and assessments required under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311); and

(B) compile and annually distribute to parents a public school report card that, at a minimum, includes information on student and school performance for each of the assessments required under section 1111 of the Elementary and Secondary Education Act of 1965.

(2) SELECTION.—In selecting States to receive grants under this section, the Secretary shall make the selections in a manner consistent with the purpose of this Act.

(c) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, a State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) CONTENTS.—Such application shall include—

(A) information describing specific measurable goals and objectives to be achieved in the State through the summer academic enrichment programs carried out under this Act, which may include specific measurable annual educational goals and objectives relating to—

(i) increased student academic achievement;

(ii) decreased student dropout rates; or

(iii) such other factors as the State educational agency may choose to measure; and

(B) information on criteria, established or adopted by the State, that—

(i) the State will use to select local educational agencies for participation in the summer academic enrichment programs carried out under this Act; and

(ii) at a minimum, will assure that grants provided under this Act are provided to—

(I) the local educational agencies in the State that have the highest percentage of students not meeting basic or minimum required standards for State assessments required under section 1111 of the Elementary and Secondary Education Act of 1965;

(II) local educational agencies that submit grant applications under section 6 describing programs that the State determines would be both highly successful and replicable; and

(III) an assortment of local educational agencies serving urban, suburban, and rural areas.

SEC. 6. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—

(1) FIRST YEAR.—

(A) IN GENERAL.—For the first year that a State educational agency receives a grant under this Act, the State educational agency shall use the funds made available through the grant to make grants to eligible local educational agencies in the State to pay for the Federal share of the cost of carrying out the summer academic enrichment programs, except as provided in subparagraph (B).

(B) TECHNICAL ASSISTANCE AND PLANNING ASSISTANCE.—The State educational agency may use not more than 5 percent of the funds—

(i) to provide to the local educational agencies technical assistance that is aligned with the curriculum of the agencies for the programs;

(ii) to enable the agencies to obtain such technical assistance from entities other than the State educational agency that have demonstrated success in using the curriculum; and

(iii) to assist the agencies in planning activities to be carried out under this Act.

(2) SUCCEEDING YEARS.—

(A) IN GENERAL.—For the second and third year that a State educational agency receives a grant under this Act, the State educational agency shall use the funds made available through the grant to make grants to eligible local educational agencies in the State to pay for the Federal share of the cost of carrying out the summer academic enrichment programs, except as provided in subparagraph (B).

(B) TECHNICAL ASSISTANCE AND PLANNING ASSISTANCE.—The State educational agency may use not more than 5 percent of the funds—

(i) to provide to the local educational agencies technical assistance that is aligned with the curriculum of the agencies for the programs;

(ii) to enable the agencies to obtain such technical assistance from entities other than the State educational agency that have demonstrated success in using the curriculum; and

(iii) to assist the agencies in evaluating activities carried out under this Act.

(b) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, a local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing by such information as the Secretary or the State may require.

(2) CONTENTS.—The State shall require that such an application shall include, to the greatest extent practicable—

(A) information that—

(i) demonstrates that the local educational agency will carry out a summer academic enrichment program funded under this section—

(I) that provides intensive high quality programs that are aligned with challenging State content and student performance standards and that are focused on reinforcing and boosting the core academic skills and knowledge of students who are struggling academically, as determined by the State;

(II) that focuses on accelerated learning, rather than remediation, so that students served through the program will master the high level skills and knowledge needed to meet the highest State standards or to perform at high levels on all State assessments required under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311);

(III) that is based on, and incorporates best practices developed from, research-based enrichment methods and practices;

(IV) that has a proposed curriculum that is directly aligned with State content and student performance standards;

(V) for which only teachers who are certified and licensed, and are otherwise fully qualified teachers, provide academic instruction to students enrolled in the program;

(VI) that offers to staff in the program professional development and technical assistance that are aligned with the approved curriculum for the program; and

(VII) that incorporates a parental involvement component that seeks to involve parents in the program's topics and students' daily activities; and

(ii) may include—

(I) the proposed curriculum for the summer academic enrichment program;

(II) the local educational agency's plan for recruiting highly qualified and highly effective teachers to participate in the program; and

(III) a schedule for the program that indicates that the program is of sufficient duration and intensity to achieve the State's goals and objectives described in section 5(c)(2)(A);

(B) an outline indicating how the local educational agency will utilize other applicable Federal, State, local, or other funds, other than funds made available through the grant, to support the program;

(C) an explanation of how the local educational agency will ensure that only highly qualified personnel who volunteer to work with the type of student targeted for the program will work with the program and that the instruction provided through the program will be provided by qualified teachers;

(D) an explanation of the types of intensive training or professional development, aligned with the curriculum of the program, that will be provided for staff of the program;

(E) an explanation of the facilities to be used for the program;

(F) an explanation regarding the duration of the periods of time that students and teachers in the program will have contact for instructional purposes (such as the hours per day and days per week of that contact, and the total length of the program);

(G) an explanation of the proposed student/teacher ratio for the program, analyzed by grade level;

(H) an explanation of the grade levels that will be served by the program;

(I) an explanation of the approximate cost per student for the program;

(J) an explanation of the salary costs for teachers in the program;

(K) a description of a method for evaluating the effectiveness of the program at the local level;

(L) information describing specific measurable goals and objectives, for each academic subject in which the program will provide instruction, that are consistent with, or more rigorous than, the adequate yearly progress goals established by the State under section 1111 of the Elementary and Secondary Education Act of 1965;

(M) a description of how the local educational agency will involve parents and the community in the program in order to raise academic achievement; and

(N) a description of how the local educational agency will acquire any needed technical assistance that is aligned with the curriculum of the agency for the program, from the State educational agency or other entities with demonstrated success in using the curriculum.

(c) PRIORITY.—In making grants under this section, the State educational agency shall give priority to applicants who demonstrate a high level of need for the summer academic enrichment programs.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost described in subsection (a) is 50 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

SEC. 7. SUPPLEMENT NOT SUPPLANT.

Funds appropriated pursuant to the authority of this Act shall be used to supplement and not supplant other Federal, State, and local public or private funds expended to provide academic enrichment programs.

SEC. 8. REPORTS.

(a) STATE REPORTS.—Each State educational agency that receives a grant under this Act shall annually prepare and submit to the Secretary a report. The report shall describe—

(1) the method the State educational agency used to make grants to eligible local educational agencies and to provide assistance to schools under this Act;

(2) the specific measurable goals and objectives described in section 5(c)(2)(A) for the State as a whole and the extent to which the State met each of the goals and objectives in the year preceding the submission of the report;

(3) the specific measurable goals and objectives described in section 6(b)(2)(L) for each of the local educational agencies receiving a grant under this Act in the State and the extent to which each of the agencies met each of the goals and objectives in that preceding year;

(4) the steps that the State will take to ensure that any such local educational agency who did not meet the goals and objectives in that year will meet the goals and objectives in the year following the submission of the report or the plan that the State has for revoking the grant of such an agency and redistributing the grant funds to existing or new programs;

(5) how eligible local educational agencies and schools used funds provided by the State educational agency under this Act; and

(6) the degree to which progress has been made toward meeting the goals and objectives described in section 5(c)(2)(A).

(b) REPORT TO CONGRESS.—The Secretary shall annually prepare and submit to Congress a report. The report shall describe—

(1) the methods the State educational agencies used to make grants to eligible local educational agencies and to provide assistance to schools under this Act;

(2) how eligible local educational agencies and schools used funds provided under this Act; and

(3) the degree to which progress has been made toward meeting the goals and objectives described in sections 5(c)(2)(A) and 6(b)(2)(L).

(c) GOVERNMENT ACCOUNTING OFFICE REPORT TO CONGRESS.—The Comptroller General of the United States shall conduct a study regarding the demonstration program carried out under this Act and the impact of the program on student achievement. The Comptroller General shall prepare and submit to Congress a report containing the results of the study.

SEC. 9. ADMINISTRATION.

The Secretary shall develop program guidelines for and oversee the demonstration program carried out under this Act.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $25,000,000 for each of fiscal years 2001 through 2004.

SEC. 11. TERMINATION.

The authority provided by this Act terminates 3 years after the date of enactment of this Act.

By Mr. HARKIN:

S. 2971. A bill to amend the Clean Air Act to phase out the use of methyl tertiary butyl ether in fuels or fuel additives, to promote the use of renewable fuels, and for other purposes; to the Committee on Environment and Public Works.

CLEAN AND RENEWABLE FUELS ACT OF 2000

Mr. HARKIN. Mr. President. I am introducing today legislation designed to address the extensive problems that have been caused by the gasoline additive methyl tertiary butyl ether (MTBE) and to make appropriate revisions to the reformulated gasoline (RFG) program in the Clean Air Act.

It has become absolutely clear that MTBE has to go. Even in Iowa, where we are not required to have oxygenated fuels or RFG, a recent survey found a surprising level of water contamination with MTBE. So my legislation requires a phased reduction in the use of MTBE in motor fuel and then a prohibition on MTBE in fuel of fuel additives beginning three years after enactment. Retail pumps dispensing gasoline with MTBE would be labeled so that consumers know what they are buying. And in order to facilitate an orderly phase-out of MTBE, EPA may establish a credit trading system for the dispensing and sale of MTBE.

My legislation recognizes the benefits that have been provided by the oxygen content requirement in the reformulated gasoline program. Oxygen added to gasoline reduces emissions of carbon monoxide, toxic compounds and fine particulate matter. So my legislation continues the oxygen content requirement, but it does allow for certain actions that would alleviate concerns about whether alternative oxygen additives will be available after MTBE is removed from gasoline. The bill allows for averaging of the oxygen content upon a proper showing and it also would allow for a temporary reduction or waiver of the minimum oxygen content requirement in very limited circumstances.

The legislation also ensures that all health benefits of the reformulated gasoline program are maintained and improved. The bill includes very strong provisions to ensure that there is no backsliding in air quality and health benefits from cleaner burning reformulated gasoline. The petroleum companies would also be prohibited from taking the pollutants from gasoline in some areas and putting them back into gasoline in other areas of the country that are not subject to the more stringent air quality standards. Those are referred to as the anti-dumping protections. My bill places tighter restrictions on highly polluting aromatic and olefin content of reformulated gasoline.

My legislation also recognizes the important role of renewable fuels in improving our environment, building energy security for our nation, and increasing farm income, economic growth and job creation, especially in rural areas. The legislation creates a renewable content requirement for gasoline and for diesel fuel.

Overall, this legislation will get MTBE out of gasoline, maintain and improve the air quality and health benefits of the reformulated gasoline program and the Clean Air Act, and put our nation on a solid path toward greater use of renewable fuels.

I ask unanimous consent that a section-by-section summary of my legislation be printed in the RECORD. I urge my colleagues to support this important legislation.

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

SECTION-BY-SECTION SUMMARY—CLEAN AND RENEWABLE FUELS ACT OF 2000

Section 1. Short title

The bill may be cited as the ''Clean and Renewable Fuels Act of 2000''

Section 2. Use and cleanup of methyl tertiary butyl ether

Prohibition Except in Specified Nonattainment Areas: Section 211(c) of the Clean Air Act is amended to provide that beginning January 1, 2001, a person shall not sell or dispense to ultimate consumers any fuel or fuel additive containing MTBE in any area that is not a specified nonattainment area in which reformulated gasoline is required to be used and in which MTBE was used to meet the oxygen content requirement prior to January 1, 2000.

Interim Period for Use of MTBE: The Administrator shall issue regulations requiring, during the one-year period beginning one year after enactment, a one-third reduction in the quantity of MTBE that may be sold or dispensed for use in a fuel or fuel additive, and during the one-year period beginning two years after enactment, a two-thirds reduction in the quantity of MTBE that may be sold or dispensed for use in a fuel or fuel additive. In no area may the quantity of MTBE sold or dispensed for use as a fuel or fuel additive increase.

Basis for Reductions; Equitable Treatment: The basis for reductions shall be the quantity of MTBE sold or dispensed for use as a fuel or fuel additive in the United States during the one-year period ending on the date of enactment. The regulations requiring such reductions shall to the maximum extent practicable provide for equitable treatment on a geographical basis and among manufacturers, refiners, distributors and retailers.

Trading of Authorizations to Sell or Dispense MTBE: To facilitate the most orderly and efficient reduction in the use of MTBE, the regulations may allow the sale and purchase of authorizations to sell or dispense MTBE for use in a fuel or fuel additive.

Labeling: The Administrator shall issue regulations requiring any person selling or dispensing gasoline that contains MTBE at retail prominently to label the gasoline dispensing system with a notice stating that the gasoline contains MTBE and providing such information concerning the human health and environmental risks of MTBE as the Administrator determines appropriate.

Prohibition on Use of MTBE or Other Ethers: Effective three years after enactment, a person shall not manufacture, introduce into commerce, offer for sale, sell, or dispense a fuel or fuel additive containing MTBE or any other ether compound. The Administrator may waive the prohibition on an ether compound other than MTBE upon a determination that it does not pose a significant risk to human health or the environment. The Administrator may require a more rapid reduction (including immediate termination) of the quantity of MTBE sold or dispensed in an area upon a determination of MTBE contamination or a substantial risk or contamination.

State Authority to Regulate MTBE: A State may impose such restrictions, including a prohibition, on the manufacture, sale or use of MTBE in a fuel or fuel additive as the State determines appropriate to protect human health and the environment.

Remedial Action Regarding MTBE Contamination: MTBE contamination would be prioritized in state source water assessment programs. EPA shall issue guidelines for MTBE cleanup and may enter into cooperative agreements for, and provide technical assistance to support, voluntary pilot programs for the cleanup of MTBE and the protection of private wells from MTBE contamination.

Section 3. Reformulated gasoline—in general; oxygen content

Opt-in Areas; General Provisions: Regulations issued for the reformulated gasoline program shall apply to specified nonattainment areas and opt-in areas. The regulations shall require the greatest possible reduction in emissions of ozone forming volatile organic and other compounds and emissions of toxic air pollutants and precursors of toxic air pollutants.

Waiver of Per-Gallon Oxygen Content Requirement: The Administrator shall issue regulations establishing a procedure providing for the submission of applications for a waiver of any per-gallon oxygen content requirement otherwise established and the averaging of oxygen content over an appropriate period of time, not exceeding a year. After consultation with the Secretary of Energy and the Secretary of Agriculture, the Administrator shall grant a petition for oxygen averaging where necessary to avoid a shortage or disruption in supply of reformulated gasoline, to avoid excessive prices for reformulated gasoline, or to facilitate attainment by the area of a national ambient air quality standard. The Administrator shall ensure that the human health and environmental benefits of the reformulated gasoline program are fully maintained during the period of any waiver.

Temporary Reduction of Oxygen Content Requirement: Upon application of a state, if the Secretary of Energy with the concurrence of the Secretary of Agriculture finds that there is an insufficient supply of oxygenates in an area the Administrator

may temporarily reduce or waive the oxygen content requirement for the area to the extent necessary to ensure an adequate supply of reformulated gasoline. A temporary waiver would be effective for 90 days, or a shorter period if a sufficient supply of oxygenates exists, and may be extended for an additional 90-day period. The regulations shall ensure that the human health and environmental benefits of the reformulated gasoline program are fully maintained during the period of any temporary waiver of the oxygen content requirement.

Section 4. Limitations on aromatics and olefins in reformulated gasoline

Aromatic Content: The aromatic hydrocarbon content of reformulated gasoline shall not exceed 22 percent by volume; the average aromatic hydrocarbon content shall not exceed the average aromatic hydrocarbon content of reformulated gasoline sold in either calendar year 1999 or calendar year 2000; and no gallon of reformulated gasoline shall have an aromatic hydrocarbon content in excess of 30 percent.

Olefin Content: The olefin content of reformulated gasoline shall not exceed 8 percent by volume; the average olefin content shall not exceed the average olefin content of reformulated gasoline sold in either calendar year 1999 or calendar year 2000; and no gallon of reformulated gasoline shall have an olefin content in excess of 10 percent.

Section 5. Reformulated gasoline performance standards

Emissions of Volatile Organic Compounds: Required reductions in VOC emissions shall be on a mass basis and, to the maximum extent practicable using available science, on the basis of ozone forming potential of VOCs and taking into account the effect on ozone formation of reducing carbon monoxide emissions.

Emissions of Toxic Air Pollutants and Precursors: The required reductions shall apply to toxic air pollutants or precursors of toxic air pollutants. The required emissions reductions shall be on a mass basis and, to the maximum extent practicable using available science, on the basis of relative toxicity or carcinogenic potency, whichever is more protective of human health and the environment.

Section 6. Anti-backsliding

Ozone Forming Potential: The Administrator shall revise performance standards to ensure that the ozone forming potential, taking into account all ozone precursors, of the aggregate emissions during the high ozone season from baseline vehicles using reformulated gasoline does not exceed the ozone forming potential of emissions when using reformulated gasoline that complies with the regulations in effect on January 1, 2000.

Specified Pollutants: The Administrator shall revise performance standards to ensure that the aggregate emissions of specified pollutants or their precursors when using reformulated gasoline do not exceed the aggregate emissions of such pollutants or precursors from baseline vehicles when using reformulated gasoline that complies with the regulations in effect on January 1, 2000. The specified air pollutants are toxic air pollutants, categorized by degree of toxicity and carcinogenic potency; particulate matter and fine particulate matter; pollutants regulated under section 108; and such other pollutants as the Administrator determines should be controlled to prevent deterioration of air quality and to achieve attainment of a national ambient air quality standard in one or more areas.

Adjustments for Carbon Monoxide Emissions: In carrying out the ozone anti-backsliding requirement, the Administrator shall adjust the performance standard to take into account carbon monoxide emissions that are greater or less than the carbon monoxide emissions achieved by reformulated gasoline containing 2 percent oxygen by weight and meeting other performance standards. An adjustment to the VOC emission reduction requirements under the provisions of this section shall be credited toward the requirement for VOC emissions reductions under section 182 of the Clean Air Act.

Updating of Baseline Vehicles: Not later than 3 years after enactment, the Administrator shall revise the performance standards to redefine the term ''baseline vehicles'' as used in the anti-backsliding provisions to mean vehicles representative of vehicles (including off-road vehicles) in use as of January 1, 2000.

Section 7. Certification of fuels

Combined Reductions of Ozone Forming VOCs and Carbon Monoxide: In certifying a fuel formulation or slate of fuel formulations as equivalent to reformulated gasoline, the Administrator shall determine whether the combined reductions in emissions of VOCs and carbon monoxide result in a reduction in ozone concentration equivalent to or greater than the reduction achieved by a reformulated gasoline meeting the statutory formula and performance requirements. A certified fuel formulation or slate of fuel formulations shall receive the same VOC reduction credit under section 182 as a reformulated gasoline meeting the statutory formula and performance requirements.

Carbon Monoxide Credit: In determining combined reductions in emissions of VOCs and carbon monoxide by a fuel formulation or slate of fuel formulations the Administrator shall consider the change in carbon monoxide emissions from baseline vehicles attributable to an oxygen content that exceeds any minimum oxygen content for reformulated gasoline applicable to the area and may consider the change in carbon monoxide emissions attributable to such oxygen content from vehicles other than baseline vehicles.

Toxic Air Pollutants and Precursors: To be certified as equivalent to reformulated gasoline, the fuel or slate of fuels must achieve equivalent or greater reduction in emissions of toxic air pollutants or precursors of toxic air pollutants than are achieved by a reformulated gasoline meeting the statutory formula and performance requirements.

Certification Subject to Anti-Backsliding Rules: The provisions on certification would clearly specify that a requirement for certification of a fuel formulation or slate of fuel formulations is compliance with the anti-backsliding provisions.

Section 8. Additional opt-in areas

Upon application of the Governor of a State, the Administrator shall apply the requirements relating to reformulated gasoline in any area of the State that is not a covered area or a classified area. The application shall be published in the Federal Register as soon as practicable after it is received.

Section 9. Anti-dumping protections

Updating Baseline Year; Additional Pollutants Covered: The Administrator shall issue regulations to ensure that gasoline sold or introduced into commerce by a refiner, blender or importer (other than gasoline covered by the reformulated gasoline rules) does not result in average per-gallon emissions of VOCs, oxides of nitrogen, carbon monoxide, toxic air pollutants, particulate matter, fine particulate matter, or any precursor of such pollutants, in excess of the emissions of each pollutants attributable to gasoline sold or introduced into commerce by the refiner, blender or importer in calendar year 1999 or calendar year 2000, in whichever year the lower emissions occurred. In the absence of adequate and reliable data for a refiner, blender or importer for calendar year 1999 or calendar year 2000, the Administrator shall substitute baseline gasoline for 1999 or 2000 gasoline.

Average Per-Gallon Emissions: In applying the anti-dumping provisions, average per-gallon emissions shall be measured on the basis of mass, and to the maximum extent practicable using available science, on the basis of ozone-forming potential, degree of toxicity and carcinogenic potency.

Aromatic Hydrocarbon and Olefin Content: Anti-dumping requirements also apply to ensure against increases in aromatic hydrocarbon or olefin content of gasoline relative to the levels in calendar year 1999 or calendar year 2000, in whichever year the content was lower.

Anti-Dumping Compliance: The Administrator shall issue regulations providing that an increase in oxides of nitrogen or volatile organic compounds caused by adding oxygenates may be offset by an equal or greater reduction in emissions of VOCs, carbon monoxide or toxic air pollutants. In making this determination, the Administrator shall measure emissions on the basis of mass, and to the maximum extent practicable using available science, on the basis of ozone-forming potential, degree of toxicity and carcinogenic potency.

Section 10. Renewable content of gasoline and diesel fuel

Renewable Content of Gasoline: Not later than September 1, 2000, the Administrator shall issue regulations requiring each refiner, blender or importer of gasoline to comply with renewable content requirements. On a quarterly basis, all gasoline sold or introduced into commerce shall contain the applicable percentage of fuel derived from a renewable source. The applicable percentages increase from 1.3 percent in 2000, to 2.4 percent in 2004 (coinciding with the expected prohibition of MTBE by late 2003) and to 4.2 percent in 2010 and thereafter.

Fuel Derived From A Renewable Source: The definition of fuel derived from a renewable source includes fuel produced from agricultural commodities, products and their residues; plant materials, including grasses, fibers, wood and wood residues; dedicated energy crops and trees; animal wastes, byproducts and other materials of animal origin; municipal wastes and refuse derived from plant or animal sources; and other biomass that is used to replace or reduce the quantity of fossil fuel in a fuel mixture used to operate a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine.

Credit Program: The Administrator shall establish a program for renewable fuel credit trading on a quarterly average basis. The Administrator, in consultation with the Secretary of Energy and the Secretary of Agriculture, may issue regulations governing the generation and trading of such credits in order to prevent excessive geographical concentration in the use of fuel derived from renewable sources that would tend unduly to affect the price, supply or distribution of such fuels; impede the development of the renewable fuels industry; or otherwise interfere with the purposes of the renewable fuel content requirement.

Waiver: A waiver from the renewable content requirement may be granted for an area in whole or in part after consultation with the Secretary of Agriculture and the Secretary of Energy. The waiver may only be granted for an area upon a determination that the renewable content requirement would severely harm the economy or environment of the area, or there is inadequate

domestic supply or distribution capacity with respect to fuels from renewable sources and only after a determination that use of the credit trading program would not alleviate the circumstances on which the petition is based. A waiver shall terminate after one year, or at such earlier time as is determined appropriate by the Administrator, but may be renewed after consultation with the Secretary of Agriculture and the Secretary of Energy.

Labeling: The Administrator shall issue guidance to the States for labeling at the point of retail sale of fuel derived from a renewable source and the major fuel additive components of the fuel.

Reports to Congress: Concerning the renewable content requirement, the Administrator shall report to Congress at least every 3 years (1) regarding reductions in emissions of air pollutants; (2) in consultation with the Secretary of Agriculture, regarding the impact on demand for farm commodities, biomass and other material used for producing fuel derived from renewable sources; the adequacy of food and feed supplies; and the effect upon farm income, employment and economic growth, particularly in rural areas; and (3) in consultation with the Secretary of Energy, describing greenhouse gas emission reductions and assessing the effect on U.S. energy security and reliance on imported petroleum.

Renewable Content of Diesel Fuel: Not later than September 1, 2000, the Administrator shall issue regulations applicable to each refiner, blender, or importer of diesel fuel to ensure that diesel fuel sold or introduced into commerce in the United States complies with renewable content requirements. The Administrator shall establish requirements for the content of diesel fuel that is derived from renewable sources similar to the requirements of the program for gasoline, using the same definition of fuel derived from a renewable source. The regulations shall establish applicable percentages by volume for renewable content for diesel fuel on a quarterly basis, require a gradual increase in the renewable content of diesel fuel, and require that for calendar year 2010 and thereafter the applicable percentage shall be 1.0 percent. The regulations shall provide for credit trading and waiver applications on similar terms to those of the program for gasoline.

Prevention of effects on Highway Apportionments: States would be protected from any adverse impacts as a consequence of the sale and use within a State of ethanol in determining the payments attributable to a State paid into the Highway Trust Fund and the minimum guarantee based on payments into the Highway Trust Fund.

By Mr. KERRY (for himself, Mr. GRASSLEY, Mr. SARBANES, Mr. LEVIN, and Mr. ROCKEFELLER):

S. 2972. A bill to combat international money laundering and protect the United States financial system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE INTERNATIONAL COUNTER-MONEY LAUNDERING AND FOREIGN ANTICORRUPTION ACT OF 2000

Mr. KERRY. Mr. President, I believe the United States must do more to stop international criminals from washing the blood off their profits from the sale of drugs, from terror or from organized crime by laundering money into the United States financial system.

That is why today, along with Senators GRASSLEY, SARBANES, LEVIN, and ROCKEFELLER, I am introducing the International Counter-Money Laundering and Foreign Anticorruption Act of 2000 which will give the Secretary of the Treasury the tools to crack down on international money laundering havens and protect the integrity of the U.S. financial system from the influx of tainted money from abroad.

I very much appreciate work of the Secretary of Treasury Lawrence Summers in the development of this legislation. Secretary Summers has been a leader in bringing the issue of money laundering to the attention of the American public and the Congress. Earlier this year, Secretary Summers said, ''The attack on money laundering is an essential front in the war on narcotics and the broader fight against organized crime worldwide. Money laundering may look like a polite form of white collar crime, but it is the companion of brutality, deceit and corruption.''

I am deeply saddened that I will not have the pleasure of working with Senator PAUL COVERDELL, who was to be the primary cosponsor of this legislation. His passing is a tremendous loss to the both to the American people and the U.S. Senate.

Money laundering is the financial side of international crime. It occurs when criminals seek to disguise money that was illegally obtained. It allows terrorists, drug cartels, organized crime groups, corrupt foreign government officials and others to preserve the profit from their illegal activities and to finance new crimes. It provides the fuel that allows criminal organizations to conduct their ongoing affairs. It has a corrosive effect on international markets and financial institutions. Money launderers rely upon the existence of jurisdictions outside the United States that offer bank secrecy and special tax or regulatory advantages to non-residents, and often complement those advantages with weak financial supervision and regulatory regimes.

Today, the global volume of laundered money is estimated to be 2–5 percent of global Gross Domestic Product, between $600 billion and $1.5 trillion. The effects of money laundering extend far beyond the parameters of law enforcement, creating international political issues while generating domestic political crises.

International criminals have taken advantage of the advances in technology and the weak financial supervision in some jurisdictions to place their illicit funds into the United States financial system. Globalization and advances in communications and technologies allow criminals to move their illicit gains faster and farther than ever before. The result has been a proliferation of international money laundering havens. The ability to launder money into the United States through these jurisdictions has allowed corrupt foreign officials to systemically divert public assets to their personal use, which in turn undermines U.S. efforts to promote democratic institutions and stable, vibrant economies abroad.

In February, State and Federal regulators formally sanctioned the Bank of New York for ''deficiencies'' in its antimoney laundering practices including lax auditing and risk management procedures involving their international banking business. The sanctions were based on the Bank of New York's involvement in an alleged money laundering scheme where more than $7 billion in funds were transmitted from Russia into the bank. Federal investigators are currently attempting to tie the $7 billion to criminal activities in Russia such as corporate theft, political graft or racketeering.

In November 1999, the minority staff of the Senate Governmental Affairs Subcommittee on Investigations released a report on private banking and money laundering. The report describes a number of incidences where high level government officials have used private banking accounts with U.S. financial institutions to launder millions of dollars from foreign governments. The report details how Raul Salinas, brother of former President of Mexico, Carlos Salinas, used private bank accounts to launder money out of Mexico. Representatives from Citigroup testified at a Subcommittee hearing that the bank had been slow to correct controls over their private banking accounts.

During the 1980's, as chairman of the Senate Permanent Subcommittee on Investigations, I began an investigation of the Bank of Credit and Commerce International (BCCI), and uncovered a complex money laundering scheme. Unlike any ordinary bank, BCCI was from its earliest days made up of multiplying layers of entities, related to one another through an impenetrable series of holding companies, affiliates, subsidiaries, banks-within-banks, insider dealings, and nominee relationships.

By fracturing corporate structure, record keeping, regulatory review, and audits, the complex BCCI family of entities was able to evade ordinary legal restrictions on the movement of capital and goods as a matter of daily practice and routine. In creating BCCI as a vehicle fundamentally free of government control, its creators developed an ideal mechanism for facilitating illicit activity by others.

BCCI's used this complex corporate structure to commit fraud involving billions of dollars; and launder money for their clients in Europe, Africa, Asia and the Americas. Fortunately, we were able to bring many of those involved in BCCI to justice. However, my investigation clearly showed that rogue financial institutions have the ability to circumvent the laws designed to stop financial crimes.

In recent years, the United States and other well-developed financial centers have been working together to improve their antimoney laundering regimes and to set international anti-

money laundering standards. Back in 1988, I included a provision in the State Department Reauthorization bill that requires major money laundering countries to adopt laws similar to our own on reporting currency, or face sanctions if they did not. Panama and Venezuela wound up negotiating what were called Kerry agreements with the United States and became less vulnerable to the placement of U.S. currency by drug traffickers in the process.

Unfortunately, other nations—some small, remote islands—have moved in the other direction. Many have passed laws that provide for excessive bank secrecy, anonymous company incorporation, economic citizenship, and other provisions that directly conflict with well-established international anti-money laundering standards. In doing so, they have become money laundering havens for international criminal networks. Some even blatantly advertise the fact that their laws protect anyone doing business from U.S. law enforcement.

Just last month, the Financial Action Task Force, an intergovernmental body developed to develop and promote policies to combat financial crime, released a report naming fifteen jurisdictions—including the Bahamas, The Cayman Islands, Russia, Israel, Panama, and the Philippines—that have failed to take adequate measures to combat international money laundering. This is a clear warning to financial institutions in the United States that they must begin to scrutinize many of their financial transactions with customers in these countries as possibly being linked to crime and money laundering. Soon, the Financial Action Task Force will develop bank advisories and criminal sanctions that will have the effect of driving legitimate financial business from these nations, depriving them of a lucrative source of tax revenue. This report has provided important information that governments and financial institutions around the world should learn from in developing their own anti-money laundering laws and policies.

The Financial Stability Forum has recently released a report that categorizes offshore financial centers according to their perceived quality of supervision and degree of regulatory cooperation. The Organization of Economic Cooperation and Development (OECD) has begun a new crackdown on harmful tax competition. Members of the European Union has reached an agreement in principle on sweeping changes to bank secrecy laws, intended to bring cross-border investment income within the net of tax authorities.

The actions by the Financial Action Task Force, the European Union and others show a renewed international focus and commitment to curbing financial abuse around the world. I believe the United States has a similar obligation to use this new information to update our anti-money laundering status.

The International Counter-Money Laundering and Anticorruption Act of 2000 which I am introducing today would provide the tools the U.S. needs to crack down on international money laundering havens and protect the integrity of the U.S. financial system from the influx of tainted money from abroad. The bill provides for actions that will be graduated, discretionary, and targeted, in order to focus actions on international transactions involving criminal proceeds, while allowing legitimate international commerce to continue to flow unimpeded. It will give the Secretary of the Treasury—acting in consultation with other senior government officials and the Congress—the authority to designate a specific foreign jurisdiction, foreign financial institution, or class of international transactions as being of ''primary money laundering concern.'' Then, on a case-by-case basis, the Secretary will have the option to use a series of new tools to combat the specific type of foreign money laundering threat we face. In some cases, the Secretary will have the option to require banks to pierce the veil of secrecy that foreign criminals hide behind. In other cases, the Secretary will have the option to require the identification of those using a foreign bank's correspondent or payable-through accounts. And if these transparency provisions were deemed to be inadequate to address the specific problem identified, the Secretary will have the option to restrict or prohibit U.S. banks from continuing correspondent or payable-through banking relationships with money laundering havens and rogue foreign banks. Through these steps, the Secretary will help prevent laundered money from slipping undetected into the U.S. financial system and, as a result, increase the pressure on foreign money laundering havens to bring their laws and practices into line with international anti-money laundering standards. The passage of this legislation will make it much more difficult for international criminal organizations to launder the proceeds of their crimes into the United States.

This bill fills in the current gap between bank advisories and International Emergency Economic Powers Act (IEEPA) sanctions by providing five new intermediate measures. Under current law, the only counter-money laundering tools available to the federal governments are advisories, an important but relatively limited measure instructing banks to pay close attention to transactions that involve a given country, and full-blown economic sanctions under the IEEPA. This legislation gives five additional measures to increase the government's ability to apply pressure against targeted jurisdictions or institutions.

This legislation will in no way jeopardize the privacy of the American public. The focus is on foreign jurisdictions, financial institutions and classes of transactions that present a threat to the United States, not on American citizens. The actions that the Secretary of the Treasury is authorized to take are designated solely to combat the abuse of our banks by specifically identified foreign money laundering threats. This legislation is in no way similar to the Know-Your-Customer regulations that were proposed by the regulators last year. Further, the intent of this legislation is not to add additional regulatory burdens on financial institutions, but, to give the Secretary of the Treasury the ability to take action against existing money laundering threats.

Let me repeat, this legislation only gives the discretion to use these tools to the Secretary of the Treasury. There is no automatic trigger which forces action whenever evidence of money laundering is uncovered. Before any action is taken, the Secretary of the Treasury, in consultation with other key government officials, must first determine whether a specific country, financial institution or type of transaction is of primary money laundering concern. Then, a calibrated response will be developed that will consider the effectiveness of the measure to address the threat, whether other countries are taking similar steps, and whether the response will cause harm to U.S. financial institutions and other firms.

This legislation will strengthen the ability of the Secretary to combat the international money laundering and help protect the integrity of the U.S. financial system. This bill is supported by the heads of all the major federal law enforcement agencies. The House Banking Committee recently reported out this legislation with a bipartisan 33–1 vote. I believe this legislation deserves consideration by the Senate during the 106th Congress.

Today, advances in technology are bringing the world closer together than ever before and opening up new opportunities for economic growth. However, with these new advantages come equally important obligations. We must do everything possible to insure that the changes in technology do not give comfort to international criminals by giving them new ways to hide the financial proceeds of their crimes. I believe that this legislation is a first step toward limiting the scourge of money laundering will help stop the development of international criminal organizations.

Mr. SARBANES. Mr. President, I am pleased to join Senators KERRY, GRASSLEY, LEVIN, and ROCKEFELLER in introducing the Clinton/Gore administration's International Counter-Money Laundering and Foreign Anti-Corruption Act of 2000 (''ICMLA''). Money laundering poses an ongoing threat to the financial stability of the United States. It is estimated by the Department of the Treasury that the global volume of laundered money accounts for between 2–5 percent of the global GDP.

The ICMLA is designed to bolster the United States ability to counter the

laundering of the proceeds of drug trafficking, organized crime, terrorism, and official corruption from abroad. The bill broadens the authority of the Secretary of the Treasury, ensures that banking transactions and financial relationships do not contravene the purposes of current antimoney laundering statutes, provides a clear mandate for subjecting foreign jurisdictions that facilitate money laundering to special scrutiny, and enhances reporting of suspicious activities. The bill similarly strengthens current measures to prevent the use of the U.S. financial system for personal gain by corrupt foreign officials and to facilitate the repatriation of any stolen assets to the citizens of countries to whom such assets belong.

First, section 101 of the ICMLA gives the Secretary of the Treasury, in consultation with other key government officials, discretionary authority to impose five new ''special measures'' against foreign jurisdictions and entities that are of ''primary money laundering concern'' to the United States. Under current law, the only countermoney laundering tools available to the federal government are advisories, an important but relatively limited measure instructing banks to pay close attention to transactions that involve a given country, and full-blown economic sanctions under the International Emergency Economic Powers Act (''IEEPA''). The five new intermediate measures will increase the government's ability to apply well-calibrated pressure against targeted jurisdictions or institutions. These new measures include: (1) requiring additional record keeping/reporting on particular transactions, (2) requiring the identification of the beneficial foreign owner of a U.S. bank account, (3) requiring the identification of those individuals using a U.S. bank account opened by a foreign bank to engage in banking transactions (a ''payable-through account''), (4) requiring the identification of those using a U.S. bank account established to receive deposits and make payments on behalf of a foreign financial institution (a ''correspondent account''), and (5) restricting or prohibiting the opening or maintaining of certain correspondent accounts.

Second, the bill seeks to enhance oversight into illegal activities by clarifying that the ''safe harbor'' from civil liability for filing a Suspicious Activity Report (''SAR'') applies in any litigation, including suit for breach of contract or in an arbitration proceeding. Under the Bank Secrecy Act (''BSA''), any financial institution or officer, director, employee, or agent of a financial institution is protected against private civil liability for filing a SAR. Section 201 of the bill amends the BSA to clarify the prohibition on disclosing that a SAR has been filed. These reports are the cornerstone of our nation's money-laundering efforts because they provide the information necessary to alter law enforcement to illegal activity.

Third, the bill enhances enforcement of Geographic Targeting Orders (''GTOs''). These orders lower the dollar thresholds for reporting transactions within a defined geographic area. Section 202 of the bill clarifies that civil and criminal penalties for violations of the Bank Secrecy Act and its regulations also apply to reports required by GTO's. In addition, the section clarifies that structuring a transaction to avoid a reporting requirement by a GTO is a criminal offense and extends the presumptive GTO period from 60 to 180 days.

Fourth, section 203 of the bill permits a bank, upon request of another bank, to include suspicious illegal activity in written employment references. Under this provision, banks would be permitted to share information concerning the possible involvement of a current or former officer or employee in potentially unlawful activity without fear of civil liability for sharing the information.

Finally, title III of the bill addresses corruption by foreign officials and ruling elites. Pursuant to a sense of Congress, the Secretary of the Treasury, in consultation with the Attorney General and the financial services regulators, is mandated to issue guidelines to financial institutions operating in the United States on appropriate practices and procedures to reduce the likelihood that such institutions could facilitate proceeds expropriated by or on behalf of foreign senior government officials.

The ICMLA addresses many of the shortcomings of current law. The Secretary of Treasury is granted additional authority to require greater transparency of transactions and accounts as well as to narrowly target penalties and sanctions. The reporting and collection of additional information on suspected illegal activity will greatly enhance the ability of bank regulators and law enforcement to combat the laundering of drug money, proceeds from corrupt regimes, and other illegal activities.

Mr. President, the House Banking Committee passed the identical antimoney laundering bill by a vote of 31 to 1 on June 8, 2000. I hope that we can move this legislation expeditiously in the Senate.

By Mr. KERRY (for himself and Mr. HOLLINGS):

S. 2973. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to improve fishery management and enforcement, and fisheries data collection, research, and assessment, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE MAGNUSON-STEVENS ACT AMENDMENTS OF 2000

Mr. KERRY. Mr. President, I rise today to introduce the Magnuson-Stevens Act Amendments of 2000. I would like to thank Mr. HOLLINGS for joining me as an original cosponsor of this legislation to reauthorize and update the Magnuson-Stevens Fishery Conservation and Management Act. As my colleagues and I well remember, we last substantially reauthorized the Act only four years ago with the Sustainable Fisheries Act—a three-year effort in itself. As in 1996, I look forward to working with members of the Commerce Committee as we update and improve this most important legislation.

Mr. President, the fishery resources found off U.S. shores are a valuable national heritage. In 1998, the last year for which we have figures, U.S. commercial fisheries produced $3.1 billion in dockside revenues, contributing a total of more than $25 billion to the Gross National Product. By weight of catch, the United States is the world's fifth largest fishing nation, harvesting over 4 million tons of fish annually. The United States is also a significant seafood exporter, with exports valued at over $8 billion in 1998. In addition to supporting the commercial seafood industry, U.S. fishery resources provide enjoyment for about 9 million saltwater anglers who take home roughly 200 million pounds of fish each year.

Over the past year, the Commerce Committee under Senator SNOWE's leadership has been holding a series of hearings around the country in preparation for this year's reauthorization. These hearings have pointed to one central theme—while there is certainly room for improving fisheries management under the Magnuson-Stevens Act, the sweeping changes we made in 1996 are still being implemented in each region. In fact, a number of regions are showing good progress, including New England where the yellowtail flounder and haddock stocks are rebounding. For this reason, I believe this year's reauthorization should leave in place the core conservation provisions of the Act, and focus on providing adequate resources, and any organizational or other changes necessary for NOAA Fisheries and Regional Fishery Management Councils to achieve the goals we set forth in the Sustainable Fisheries Act.

Mr. President, the bill I introduce today outlines a proposal for making this a reality. While we have added increasingly complex technical and scientific requirements to the fisheries management process, we have failed in many cases to provide the resources necessary to meet these requirements. Effective fisheries management for the future will rely on committing adequate resources and direction to the fisheries managers as well as the fishing participants. These include providing necessary funding increases to both the agency and the Councils, creation of a national observer program, establishing a nationwide cooperative research program with the fishing industry, and ensuring that we are collecting the socioeconomic data we need to design management measures that

make sense for fishermen. This legislation aims to remedy this by providing a significant increase in funding, and specifying amounts required to support both the new initiatives and existing programs.

Over the years, we have reauthorized the Magnuson-Stevens Act many times, and each time we have wrestled with the question of how to improve the ability of the Regional Fisheries Management Councils to effectively and fairly implement the requirements of the Act. This bill suggests ways in which to begin remedying these concerns. First, the bill would clarify that the Secretary of Commerce must ensure representation on the Council of all qualified persons who are concerned with fisheries conservation and management. While fishermen are the source of tremendous wisdom and expertise needed in managing these fisheries, there are others such as scientists and those with other relevant experience who may also provide valuable service to the Councils. To help the Secretary meet this requirement, the bill requires Governors to consult with members of recreational, commercial, and other fishing or conservation interests within a State before selecting a list of nominees to send to the Secretary. We would like to see all those who can provide constructive attention to our fishery management problems to work together to forge innovative and progressive solutions. In addition, we must increase independent scientific involvement in the Councils, and my legislation would provide that Councils must involve Science and Statistics Committee members in the development and amendment of fisheries management plans.

I do know of the grave concerns expressed by conservation groups, fishermen, scientists and managers about problems with the existing fishery management process. I believe we need to address these questions, both with respect to the Councils and the Agency. I would like to work on this further with my colleagues as we go forward, but in the meantime this bill asks the National Academy of Sciences to bring together international and regional experts to evaluate what works and what may be broken in the current system, and what additional changes may be necessary to modernize and make more effective our entire fishery management process.

In our series of hearings around the country, we have consistently heard a call from both industry and conservation groups for observer coverage in our fisheries. We have failed to adequately provide funding mechanisms for observer coverage; each year, federally funded observers are deployed in as few as five to seven fisheries, and observer coverage is rarely over 20 percent. Without observer coverage, there is little hope that we will have statistically significant data, particularly data on actual levels of bycatch. I have included provisions to ensure that each fishery management plan details observer coverage and monitoring needs for a fishery, and created a new National Observer Program. This national program would address technical and administrative responsibilities over regional observer programs. I have also included provisions to allow Councils or the Secretary to develop observer monitoring plans, and have established a fishery observer fund which would include funds appropriated for this purpose, collected as fines under a new bycatch incentive program, or deposited through fees established under this section.

In the 1996 reauthorization, we took a first step in dealing with the issue of bycatch by instructing NMFS to implement a standardized bycatch reporting methodology. Nonetheless, I believe we have a long way to go in dealing with the bycatch problem in many of our fisheries. In addition to establishing a national observer program, my bill would establish a task force to recommend measures to monitor, manage, and reduce bycatch and unobserved fishing mortality. The Secretary would then be charged with implementing these recommendations. In addition, I have provided for the development of bycatch reduction incentive programs that could include a system of fines, non-transferable bycatch quotas, or preferences for gear types with low-bycatch rates.

It is also time for us to move forward on ecosystem-based fishery management. We do not yet have the data to actually manage most of our fisheries on an ecosystem basis, but I still believe we must begin the preparation and consideration of fishery ecosystem plans. We must strive to understand the complex ecological and socioeconomic environments in which fish and fisheries exist, if we hope to anticipate the effects that fishery management will have on the ecosystem, and the effects that ecosystem change will have on fisheries. My legislation would require each Council to develop one fishery ecosystem plan for a marine ecosystem under its jurisdiction. Each ecosystem plan would have to include a listing of data and information needs identified during development of the plan, and the means of addressing any scientific uncertainties associated with the plan.

One of the most resounding comments we heard at all of our regional hearings was the need to continually improve scientific information, and to involve the fishing industry in the collection of this information. My bill would establish a national cooperative research program, patterned after the successful cooperative research program in the New England scallop fishery, for projects that are developed through partnerships among federal and state managers, fishing industry participants, and academic institutions. Priority would be given to projects to reduce bycatch, conservation engineering projects, projects to identify and protect essential fish habitat or habitat area of particular concern, projects to collect fishery ecosystem information and improve predictive capabilities, and projects to compile social and economic data on fisheries.

Over the years, I have heard much complaint that NMFS does not communicate effectively with the fishing industry or the general public. To remedy this, my bill calls for the establishment of a fisheries outreach program within NMFS to heighten public understanding of NMFS research and technology, train Council members on implementation of National Standards 1 and 8 requirements of NEPA and the Regulatory Flexibility Act, and identify means of improving quality and reporting of fishery-dependent data. New provisions would also require improvement of the transparency of the stock assessment process and methods, and increase access and compatibility of data relied upon in fishery management decisions. I have required the Secretary to periodically review fishery data collection and assessment methods, and to establish a Center for Independent Peer Review under which independent experts would be provided for special peer review functions.

Mr. President, I have also included provisions to address one of our biggest problems in fisheries today—too many fishermen chasing too few fish. It is true that many of our fisheries are overcapitalized. A buyout in New England several years ago attempted to deal with this problem, and according to Penny Dalton, Assistant Administrator for Fisheries, in a recent USA Today article, the buyout ''jump started recovery in the New England groundfish fishery.'' A section of my bill would require the Secretary to evaluate overcapacity in each fishery, and identify measures planned or taken to reduce any such overcapacity. My legislation would amend the existing Act to ensure that capacity reduction programs also consider and address latent fishing capacity, and would allow the use of Capital Construction Funds and funds from the Fisheries Finance Program for measures to benefit the conservation and management of fisheries such as capacity reduction, as well as for gear and safety improvements.

In 1996, we enacted a new concept in defining, and requiring protection and identification of, essential fish habitat (EFH). While there has been much outcry that essential fish habitat has been identified too broadly and that EFH consultation processes have resulted in regulatory delay, GAO reports very few real problems resulting from such designations. As a result, I do not feel it is necessary to significantly modify EFH provisions. Instead, I believe we can improve the current work of NMFS and the Councils to identify EFH, and areas within them called ''habitat areas of particular concern'' (HAPCs). I have added new provisions that would require Councils to protect and identify

HAPCs as part of existing requirements to identify and protect EFH. My bill would clarify that HAPCs are to be identified pursuant to the NMFS EFH guidelines, and that these areas should receive priority identification and protection, as they are oftentimes the areas most critical to fish spawning and recruitment. It is crucial that we improve our understanding of fisheries habitat, and my bill would establish pilot cooperative research projects on fishery and non-fishery impacts to HAPCs.

Finally, Mr. President, I would like to address the issue of individual fishing quotas, which have been the subject of much debate over the past few years. There is a moratorium on these programs in place until September 30, 2000, and we have been skirting consideration of this new management tool for too long. We must begin debate and consideration of the panoply of exclusive quota-based programs that have developed over the past several years, which must include adoption of legislative guidance for these programs. For this reason, the bill suggests a set of national criteria that would permit establishment of exclusive quota based programs—including community-based quotas, fishing cooperatives, and individual fishing quotas—but still protect the concerns of those who do not wish to employ these tools. I invite all those who are concerned about these issues to engage in a discussion with my colleagues and me on the appropriate way to address this national issue as we move forward this session.

I understand the many concerns of small fishermen in New England regarding the use of these tools. First, no region would have to implement an exclusive quota-based program without approval of a 3/5 majority of eligible permit holders through a referendum process. In addition, any exclusive quota-based program developed under my legislation would have to meet a set of national criteria. These national criteria would include provisions specifically aimed at protecting small fishermen such as the following: (1) ensuring that quota-based programs provide a fair and equitable initial allocation of quota (including the establishment of an appeals process for qualification and allocation decisions), (2) preserving the historical distribution of catch among vessel categories and gear sectors, (3) considering allocation of a portion of the annual harvest specifically to small fishermen and crew members; and (4) requiring programs to consider the effects of consolidation of quota shares and establish limits necessary to prevent inequitable concentration of quota share or significant impacts on other fisheries or fishing communities. To respond to the concern that we must ensure quota-based programs meet conservation objectives, my legislation would provide a 7-year review of the performance of quota holders, including fulfillment of conservation requirements of the Act. Finally any quota-based program would have to have a plan to rationalize the fishery—which in some cases would require a buyout of excess capacity under section 312(b) of the Act.

Mr. President, I believe this legislation provides the funding, tools, and programs to ensure the important changes made in the 1996 amendments are implemented effectively and improved where necessary. During the last reauthorization, our nation's fisheries were at a crossroads, and action was required to remedy our marine resource management problems, to preserve the way of life of our coastal communities, and to promote the sustainable use and conservation of our marine resources for future generations and for the economic good of the nation. We made changes in 1996 that were good for the environment, good for the fish, and good for the fishermen. We must stay the course, and this bill will help us do just that. In addition, the bill will provide us with innovative tools, such as exclusive quota-based programs and the new national observer program, to further advance fisheries management. Mr. President, I remain committed to the goal of establishing biologically and economically sustainable fisheries so that fishing will continue to be an important part of the culture of coastal communities as well as the economy of the Nation and Massachusetts.

By Mrs. FEINSTEIN:

S. 2975. A bill to limit the administrative expenses and profits of managed care entities to not more than 15 percent of premium revenues; to the Committee on Finance.

MANAGED CARE HEALTH BENEFITS INTEGRITY ACT OF 2000

Mrs. FEINSTEIN. Mr. President, today, I am introducing the Health Benefits Integrity Act to make sure that most health care dollars that people and employers pay into a managed care health insurance plan get spent on health care and not on overhead.

Under my bill, managed care plans would be limited to spending 15 percent of their premium revenues on administration. This means that if they spend 15 percent on administration, they would spend 85 percent of premium revenues on health care benefits or services.

This bill was prompted by study by the Inspector General (IG) for the U.S. Department of Health and Human Services reported under a USA Today headline in February, ''Medicare HMOs Hit for Lavish Spending.'' The IG reviewed 232 managed care plans that contract with Medicare and found that in 1999 the average amount allocated for administration ranged from a high of 32 percent to a low of three percent. The IG recommended that the Department establish a ceiling on the amount of administrative expenditures of plans, noting that if a 15 percent ceiling had been placed in 1998, an additional $1 billion could have been passed on to Medicare beneficiaries in the form of additional benefits or reduce deductibles and copayments.

The report said, ''This review, similar OIG reviews, and other studies have shown that MCOs' [managed care organizations'] exorbitant administrative costs have been problematic and can be the source for abusive behavior.'' Here are some examples cited by the Inspector General on page 7 of the January 18 report: $249,283 for food, gifts and alcoholic beverages for meetings by one plan; $190,417 for a sales award meeting in Puerto Rico for one plan; $157,688 for a party by one plan; $25,057 for a luxury box at a sports arena by one plan; $106,490 for sporting events and/or theater tickets at four plans; $69,700 for holiday parties at three plans; and $37,303 for wine gift baskets, flowers, gifts and gift certificates at one plan.

It is no wonder that people today are angry at HMOs. When our hard-earned premium dollars are frittered away on purchases like these, we have to ask whether HMOs are really providing the best care possible. Furthermore, in the case of Medicare, we are also talking about wasted taxpayer dollars since Part B of Medicare is funded in part by the general treasury. One dollar wasted in Medicare is one dollar too much. Medicare needs all the funds it can muster to stay solvent and to be there for beneficiaries when they need it.

I feel strongly that if HMOs are to be credible, they must be more prudent in how they spend enrollees' dollars. Administrative expenses must be limited to reasonable expenses.

An October 1999 report by Interstudy found that for private HMO plans, administrative expenses range from 11 percent to 21 percent and that for-profit HMOs spend proportionately more on administrative cost than not-for-profit HMOs. This study found the lowest rate to be 3.6 percent and the highest 38 percent in California! In some states the maximums were even higher.

The shift from fee-for-service to managed care as a form of health insurance has been rapid in recent years. Nationally, 86 percent of people who have employment-based health insurance (81.3 million Americans) are in some form of managed care. Around 16 percent of Medicare beneficiaries are in managed care nationally (40 percent in California), a figure that doubled between 1994 and 1997. By 2010, the Congressional Budget Office predicts that 31 percent of Medicare beneficiaries will be in managed care. Between 1987 and 1999, the number of health plans contracting with Medicare went from 161 to 299. As for Medicaid, in 1993, 4.8 million people (14 percent of Medicaid beneficiaries) were in managed care. Today, 16.6 million (54 percent) are in managed care.

In California, the State which pioneered managed care for the nation, an estimated 88 percent of the insured are in some form of managed care. Of the 3.7 million Californians who are in Medicare, 40 percent (1.4 million) are in

managed care, the highest rate in the U.S. As for Medicaid in California, 2.5 million people (50 percent) of beneficiaries are in managed care. And so managed care is growing and most people think it is here to stay.

I am pleased to say that in California we already have a regulation along the lines of the bill I am proposing. We have in place a regulatory limit of 15 percent on commercial HMO plans' administrative expenses. This was established in my State for commercial plans because of questionable expenses like those the HHS IG found in Medicare HMO plans and because prior to the regulation, some plans had administrative expense as high as 30 percent of premium revenues.

This bill would never begin to address all the problems patients experience with managed care in this country. That is why we also need a strong Patients Bill of Rights bill. I hope, however, this bill will discourage abuses like those the HHS Inspector General found and will help assure people that their health care dollars are spent on health care and are not wasted on outings, parties, and other activities totally unrelated to providing health care services.

I call on my colleagues to join me in enacting this bill.

By Mrs. FEINSTEIN (for herself, Mr. BYRD, and Mrs. BOXER):

S. 2976. A bill to amend title XXI of the Social Security Act to allow States to provide health benefits coverage for parents of children eligible for child health assistance under the State children's health insurance program; to the Committee on Finance.

FAMILY HEALTH INSURANCE PROGRAM ACT OF 2000

Mrs. FEINSTEIN. Mr. President, today, Senators BYRD, BOXER and I are introducing legislation to allow States, at their option, to enroll parents in the State-Children's Health Insurance Program, known as S–CHIP. This bill could provide insurance to 2.7 million parents nationwide and 356,000 parents in California by using unspent allocations States will otherwise lose on September 30, 2000. Congress has appropriated a total of $12.9 billion for S–CHIP for fiscal years 1998, 1999, and 2000, or about $4.3 billion for each fiscal year. California received $854.6 million in 1998, $850.6 million in 1999, and $765.5 million in 2000. Right now California stands to lose $588 million just in fiscal year 1998 funds because California has faced many hurdles in enrolling children. That is in part why we are introducing this bill, to enhance enrollment of more children and to help states use available S–CHIP funds.

S–CHIP is a low-cost health insurance program for low-income children up to age 19 that Congress created in the Balanced Budget Act of 1997. After three years, S–CHIP covers approximately two million children across the country, out of the three to four million children estimated to be eligible. Congress created it as a way to provide affordable health insurance for uninsured children in families that cannot afford to buy private insurance.

States can choose from three options when designing their S–CHIP program: (1) expansion of their current Medicaid program; (2) creation of a separate State insurance program; or (3) a combination of both approaches. In California, S–CHIP, known as Health Families, is set up as a public-private program rather than a Medicaid expansion. Healthy Families allows California families to use federal and State S–CHIP funds to purchase private managed care insurance for their children. Under the federal law, States generally cover children in families with incomes up to 200 percent of poverty, although States can go higher if their Medicaid eligibility was higher than that when S–CHIP was enacted in 1997. In California, eligibility was raised to 250 percent in November 1999, increasing the number of eligible children by 129,000.

Basic benefits in the California S–CHIP program include inpatient and outpatient hospital services, surgical and medical services, lab and x-ray services, and well-baby and well-child care, including immunizations. Additional services which States are encouraged to provide, and which California has elected to include, are prescription drugs and mental health, visions, hearing, dental, and preventive care services such as prenatal care and routine physical examinations. In California, enrollees pay a $5.00 co-payment per visit which generally applies to inpatient services, selected outpatient services, and various other health care services.

The United States faces a serious health care crisis that continues to grow as more and more people are becoming uninsured. Despite the robust health of the economy, the U.S. has seen an increase in the uninsured by nearly five million since 1994. Currently, 44 million people (or 18 percent) of the non-elderly population are uninsured. In California, 23.5 percent, or 7.3 million, are uninsured. One study cited in the May 2000 California Journal found that as many as 2,333 Californians lose health insurance every day. A May 29, 2000 San Jose Mercury article cited California's emergency room doctors who ''estimate that anywhere from 20 percent to 40 percent of their walk-in patients have no health coverage.'' This a problem that needs to be addressed now.

The bill we are introducing would allow States to expand S–CHIP coverage to parents whose children are eligible for the program. In my State, that would be families up to 250 percent of the federal poverty level. For the year 2000, the federal poverty level for a family of four is $17,050. In California, with the upper eligibility limit of 250 percent of poverty, families of four making up to $42,625 are eligible. This bill could reach approximately 2.7 million parents nationwide and more than 356,000 parents in California. The bill we are introducing retains the current funding formula, State allotments, benefits, eligibility rules, and cost-sharing requirements.

An S–CHIP expansion should be accomplished without substituting S–CHIP coverage for private insurance or other public health insurance that parents might already have. The current S–CHIP law requires that State plans include adequate provisions preventing substitution and my bill retains that. For example, many States require that an enrollee be uninsured before he or she is eligible for the program.

This bill is important for several reasons. Many State officials say that by covering parents of uninsured children we can actually cover more children. More than 75 percent of uninsured children live with parents who are uninsured. If an entire family is enrolled in a plan and seeing the same group of doctors—in other words, if the care is convenient for the whole family—all the members of the family are more likely to be insured and to stay healthy. This is a key reason for this legislation, bringing in more children by targeting the whole family.

Private health insurance in the commercial market can be very expensive. The average annual cost of family coverage in private health plans for 1999 was $5,742, according to the Kaiser Family Foundation. California has some of the lowest-priced health insurance, yet the State ranks fifth in uninsured for 1998–1996. In California, high housing costs, high gas prices, expensive commutes, and a high cost-of-living make it difficult for many California families to buy health insurance. According to the California Institute, the median price of single family home rose 17 percent, to $231,710, from February 1999 to February 2000. The California Housing Affordability Index, which measures the percentage of Californians that are able to purchase mid-priced homes, declined 11 percent from 1999 to 2000. With prices like these, many families are unable to afford health insurance even though they work full-time.

Many low-income people work for employers who do not offer health insurance. In fact, forty percent of California small businesses (those employing between three and 50 employers) do not offer health insurance, according to a Kaiser Family Foundation study in June.

We need to give hard-working, lower income American families affordable, comprehensive health insurance, and this bill does that.

The President has proposed to cover parents under the S–CHIP program. The California Medical Association and Alliance of Catholic Health Care support our bill.

Current law requires States to spend federal S–CHIP dollars within three years of the appropriation. Many States, including California, could lose millions of dollars of unspent federal

Fiscal Year 1998 funds on September 30, 2000. I am working to get an extension of that deadline. In the meantime, we could begin to cover parents while getting that extension and working to increase funds for the program. According to estimates from the Health Care Financing Administration, the following 39 States could lose the following amounts, totaling $1.9 billion. Arizona, California, Georgia, Illinois, Louisiana, Michigan, New Mexico, and Texas stand to lose the most money. These eight States alone would lose $1.4 billion.

States	*Millions*
Arizona	$77.2
Arkansas	45.4
California	588.8
Colorado	12.9
Connecticut	9.4
Delaware	6
District of Columbia	2.4
Florida	41.5
Georgia	78.1
Hawaii	8.9
Idaho	4.1
Illinois	84.2
Iowa	1.4
Kansas	1.5
Louisiana	73.3
Maryland	26.7
Michigan	51.4
Minnesota	28.3
Montana	1.8
Nevada	18.6
New Hampshire	7.5
New Jersey	2
New Mexico	57.9
North Dakota	2.9
Ohio	19.8
Oklahoma	37.6
Oregon	18.3
Pennsylvania	0.64
Rhode Island	4.6
South Dakota	4.4
Tennessee	26.4
Texas	443.6
Utah	1.7
Vermont	1.6
Virginia	38.4
Washington	45.1
West Virginia	11.3
Wisconsin	23
Wyoming	6.9

Our bill would offer another option for States like mine to use these unspent funds.

I urge my colleagues to join us in supporting and passing this bill. By giving States the option to cover parents—whole families—we can reduce the number of uninsured with existing funds and encourage the enrollment of more children and we can help keep people healthy by better using this valuable, but currently under-utilized program.

By Mrs. FEINSTEIN:

S. 2977. A bill to assist in the establishment of an interpretive center and museum in the vicinity of the Diamond Valley Lake in southern California to ensure the protection and interpretation of the paleontology discoveries made at the lake and to develop a trail system for the lake for use by pedestrians and nonmotorized vehicles; to the Committee on Energy and Natural Resources.

BILL TO ESTABLISH AN INTERPRETIVE CENTER AROUND DIAMOND VALLEY LAKE

Mrs. FEINSTEIN. Mr. President, I am pleased to introduce a bill today to benefit 17 million citizens of Southern California and visitors from around the country and world through the development of the Western Center for Archaeology and Paleontology. At this center, visitors will be able to marvel at the archaeological and paleontological past of inland southern California.

This bill would help create an interpretive center and museum around Diamond Valley Lake to highlight the animals and habitat of the Ice Age up to the European settlement period.

I understand that the paleontological resources are world class and include hundreds of thousands of historic and pre-historic artifacts. These include a mastodon skeleton, a mammoth skeleton, a seven-foot long tusk, and bones from extinct species previously not believed to have lived in the area, including the giant long-horned bison and North American lion.

Additionally, visitors will enjoy unprecedented recreational opportunities through a system of hiking, biking, and equestrian trails wandering through the grasslands, chaparral, and oak groves that surround the reservoir.

The total cost of the project is $58 million. The State has agreed to commit one quarter of the tab, the Metropolitan Water District has agreed to contribute one-quarter, and other local governments will also contribute one-quarter. This bill would authorize the federal government's share of one-quarter or $14 million.

I urge the Senate to adopt this legislation.

By Mr. DASCHLE (for himself, Mr. BINGAMAN, Mr. CONRAD, Mr. BAUCUS, Mr. KERREY, Mr. KOHL, Mr. AKAKA, Mr. JOHNSON, Mr. REID, Mr. KENNEDY, and Mr. DODD):

S. 2978. A bill to recruit and retain more qualified individuals to teach in Tribal Colleges or Universities; to the Committee on Indian Affairs.

THE TRIBAL COLLEGE OR UNIVERSITY LOAN FORGIVENESS ACT.

Mr. DASCHLE. Mr. President, our tribal colleges and universities have come to play a critically important role in educating Native Americans across the country. For more than 30 years, these institutions have proven instrumental in providing a quality education for those who had previously been failed by our mainstream educational system. Before the tribal college movement began, only six or seven out of 100 Native American students attended college. Of those few, only one or two would graduate with a degree. Since these institutions have curricula that is culturally relevant and is often focused on a tribe's particular philosophy, culture, language and economic needs, they have a high success rate in educating Native American people. As a result, I am happy to say that tribal college enrollment has increased 62 percent over the last six years.

The results of a tribal college education are impressive. Recent studies show that 91 percent of 1998 tribal college and university graduates are working or pursuing additional education one year after graduating. Over the last ten years, the unemployment rate of recently polled tribal college graduates was 15 percent, compared to 55 percent on many reservations overall.

While tribal colleges and universities have been highly successful in helping Native Americans obtain a higher education, many challenges remain to ensure the future success of these institutions. These schools rely heavily on federal resources to provide educational opportunities for all students. As a result, I strongly support efforts to provide additional funding to these colleges through the Interior, Agriculture and Labor, Health and Human Services, and Education Appropriations bills.

In addition to resource constraints, administrators have expressed a particular frustration over the difficulty they experience in attracting qualified individuals to teach at tribal colleges. Geographic isolation and low faculty salaries have made recruitment and retention particularly difficult for many of these schools. This problem is increasing as enrollment rises.

That is why I am introducing the Tribal College or University Loan Forgiveness Act. This legislation will provide loan forgiveness to individuals who commit to teach for up to five years in one of the 32 tribal colleges nationwide. Individuals who have Perkins, Direct, or Guaranteed loans may qualify to receive up to $15,000 in loan forgiveness. This program will provide these schools extra help in attracting qualified teachers, and thus help ensure that deserving students receive a high quality education.

This measure will benefit individual students and their communities. By providing greater opportunities for Native American students to develop skills and expertise, this bill will spur economic growth and help bring prosperity and self-sufficiency to communities that desperately need it. Native Americans and the tribal college system deserve nothing less. I believe our responsibility was probably best summed up by one of my state's greatest leaders, Sitting Bull. He once said, ''Let us put our minds together and see what life we can make for our children.''

I am pleased that Senators BINGAMAN, CONRAD, BAUCUS, KERREY, KOHL, AKAKA, JOHNSON, REID, KENNEDY, and DODD are original cosponsors of this bill, and I look forward to working with my colleagues to pass this important legislation.

I ask unanimous consent that the text of the Tribal Colleges or University Loan Forgiveness Act be printed in the RECORD following my remarks.

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

S. 2978

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

SECTION 1. LOAN REPAYMENT OR CANCELLATION FOR INDIVIDUALS WHO TEACH IN TRIBAL COLLEGES OR UNIVERSITIES.

(a) SHORT TITLE.—This Act may be cited as the ''Tribal College or University Teacher Loan Forgiveness Act''.

(b) PERKINS LOANS.—

(1) AMENDMENT.—Section 465(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)) is amended—

(A) in paragraph (2)—

(i) in subparagraph (H), by striking ''or'' after the semicolon;

(ii) in subparagraph (I), by striking the period and inserting ''; or''; and

(iii) by adding at the end the following:

''(J) as a full-time teacher at a tribal College or University as defined in section 316(b).''; and

(B) in paragraph (3)(A)(i), by striking ''or (I)'' and inserting ''(I), or (J)''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective for service performed during academic year 1998–1999 and succeeding academic years, notwithstanding any contrary provision of the promissory note under which a loan under part E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087aa et seq.) was made.

(c) FFEL AND DIRECT LOANS.—Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by adding at the end the following:

''SEC. 493C. LOAN REPAYMENT OR CANCELLATION FOR INDIVIDUALS WHO TEACH IN TRIBAL COLLEGES OR UNIVERSITIES.

''(a) PROGRAM AUTHORIZED.—The Secretary shall carry out a program, through the holder of a loan, of assuming or canceling the obligation to repay a qualified loan amount, in accordance with subsection (b), for any new borrower on or after the date of enactment of the Tribal College or University Teacher Loan Forgiveness Act, who—

''(1) has been employed as a full-time teacher at a Tribal College or University as defined in section 316(b); and

''(2) is not in default on a loan for which the borrower seeks repayment or cancellation.

''(b) QUALIFIED LOAN AMOUNTS.—

''(1) PERCENTAGES.—Subject to paragraph (2), the Secretary shall assume or cancel the obligation to repay under this section—

''(A) 15 percent of the amount of all loans made, insured, or guaranteed after the date of enactment of the Tribal College or University Teacher Loan Forgiveness Act to a student under part B or D, for the first or second year of employment described in subsection (a)(1);

''(B) 20 percent of such total amount, for the third or fourth year of such employment; and

''(C) 30 percent of such total amount, for the fifth year of such employment.

''(2) MAXIMUM.—The Secretary shall not repay or cancel under this section more than $15,000 in the aggregate of loans made, insured, or guaranteed under parts B and D for any student.

''(3) TREATMENT OF CONSOLIDATION LOANS.—A loan amount for a loan made under section 428C may be a qualified loan amount for the purposes of this subsection only to the extent that such loan amount was used to repay a loan made, insured, or guaranteed under part B or D for a borrower who meets the requirements of subsection (a), as determined in accordance with regulations prescribed by the Secretary.

''(c) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to authorize any refunding of any repayment of a loan.

''(e) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).

''(f) DEFINITION.—For purposes of this section, the term 'year', when applied to employment as a teacher, means an academic year as defined by the Secretary.''.

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

S. 2979. A bill to amend the Internal Revenue Code of 1986 to clarify the status of professional employer organizations and to promote and protect the interests of professional employer organizations, their customers, and workers; to the Committee on Finance.

PROFESSIONAL EMPLOYER ORGANIZATION WORKERS BENEFITS ACT OF 2000

Mr. GRAHAM. Mr. President, today along with my Finance Committee colleague, Senator MACK, I am introducing the Professional Employer Organization Workers Benefits Act of 2000. This legislation will expand retirement and health benefits for workers at small and medium-sized businesses in this country.

The bill makes it easier for certified professional employer organizations (PEO's) to assist small and medium-sized businesses in complying with the many responsibilities of being an employer. It permits PEO's to collect Federal employment taxes on behalf of the employer and provide benefits to the small business' workers. For many of these workers, the pension, health and other benefits that a PEO provides would not be available from the small business itself because they are too costly for the small business to provide on its own. The average client of a PEO is a small business with 18 workers and an average wage of $20,000. PEO's have the expertise and can take advantage of economies of scale to provide health and retirement benefits in an affordable and efficient manner.

A recent Dunn & Bradstreet survey of small businesses reveled that only 39 percent offered health care and just 19 percent offer retirement plans. We must take every opportunity to assist these small businesses in providing retirement and health benefits to their employees. PEO's offer one creative way to bridge the gap between what workers need and what small businesses can afford to provide. In fact, one analyst at Alex. Brown & Sons estimates that 40 percent of companies in a PEO coemployment relationship upgrade their total employee benefits package as a result of the partnership with the PEO. Twenty-five percent of those companies offer health and other benefits for the first time.

Over the past few years, small and medium-sized businesses have sought out the services offered by PEO's. In response, many states have created programs to recognize, license and regulate PEO's to ensure that a viable industry could grow. Unfortunately, federal law has not kept pace. Current rules for who can collect employment taxes and provide benefits do not fit with the PEO model. Under some interpretations, PEO's would be prohibited from performing the very services that small businesses are asking them to undertake.

This legislation clarifies the tax laws to make it clear that PEO's meeting certain standards will be able to assist small businesses in providing employee benefits and collecting Federal employment taxes. This bill is a narrower version of a provision that was included in the pension legislation I sponsored in the last Congress. This new bill incorporates comments we received from interested parties over the course of the past year, including those received from the Treasury and Labor Departments. As a result the bill we are introducing today is much improved from previous versions.

In addition, I would like to make clear what this bill does not do. Unlike earlier versions, this legislation applies only to PEO's, and not to temporary staffing agencies. Further, this bill applies only to the two specific areas of tax law—employment taxes and employee benefits. It does not affect any other law nor does it affect the determination of who is the employer for any other purpose. The bill specifically provides that it creates no inferences with respect to those issues.

I am hopeful that, with this narrower focus, this legislation can be considered on its own merits, without getting bogged down in larger disputes involving contingent workforces and independent contractors. Those issues are important ones that Congress may want to examine, but we should not allow them to delay resolution of the unrelated PEO issued addressed by this bill.

I look forward to working with Senator MACK, my other colleagues on the Finance Committee, and the administration to move this bill during the 106th Congress so that we can help small- and medium-sized businesses operate more efficiently while at the same time expanding the benefits available to their workers.

Mr. President, I ask unanimous consent that the following explanation of the bill be printed in the RECORD.

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

TECHNICAL EXPLANATION OF PROFESSIONAL EMPLOYER ORGANIZATION WORKERS BENEFITS ACT OF 2000

The bill would amend the Internal Revenue Code of 1986 to clarify the treatment of certain qualifying organizations—called Certified Professional Employer Organizations (CPEOs)—for employee benefit and employment tax purposes. Generally, the bill provides that an entity which meets certain requirements may be certified as a CPEO by the Internal Revenue Service (IRS) and will be allowed (1) to take responsibility for employment taxes with respect to worksite employees of an unrelated client and (2) to provide such workers with employee benefits

under a single employer plan maintained by the CPEO.

While the legislation will allow the CPEO to take responsibility for certain functions, the bill expressly states (1) that it does not override the common law determination of an individual's employer and (2) that it will not affect the determination of who is a common law employer under federal tax laws or who is an employer under other provisions of law (including the characterization of an arrangement as a MEWA under ERISA). Status as a CPEO (or failure to be a CPEO) will also not be a factor in determining employment status under current rules.

CERTIFICATION OF PROFESSIONAL EMPLOYER ORGANIZATIONS

In order to be certified as a CPEO, an entity must demonstrate to the IRS by written application that it meets (or, if applicable, will meet) certain requirements. Generally, the requirements for certification will be developed by the IRS using the ERO (electronic return originator) program and the requirements to practice before the IRS (as described in Circular 230) as a model. Standards will include review of the experience of the PEO and issuance of an opinion by a certified public accountant on the CPEOs financial statements. As part of the certification process, the applicant must disclose any criminal complaints against it, its principal owners and officers, or related entities, and any incidence of failure to timely file tax returns or pay taxes (either income or employment taxes) by it, its principal owners and officer, or related entities. The IRS would have the ability to do a background and tax check of the applicant, its principal owners and officers, or related entities, and may reject an application on the basis of information determined in that process. In addition, in order to be certified, a CPEO must represent that it (or the client) will maintain a qualified retirement plan for the benefit of 95% of worksite employees.

The CPEO must notify the IRS in writing of any change that affects the continuing accuracy of any representation made in the initial certification request. In addition, after initial certification, the CPEO must continue to file copies of its audited financial statements with the IRS by the last day of the sixth month following the end of the fiscal year. Procedures would be established for suspending or revoking CPEO status (similar to those under the ERO program). There would be a right to administrative appeal from an IRS denial, suspension, or revocation or certification.

CPEO RELATIONSHIP WITH PARTICULAR WORKERS

After certification, a CPEO will be allowed to take responsibility for employment taxes and to provide employee benefits to ''worksite employees.'' A worker who performs services at a client's worksite is a ''worksite employee'' if the worker (and at least 85% of the individuals working at the worksite) are subject to a written service contract that expressly provide that the CPEO will:

(1) Assume responsibility for payment of wages to the worker, without regard to the receipt or adequacy of payment from the client for such services;

(2) Assume responsibility for employment taxes with respect to the worker, without regard to the receipt or adequacy of payment from the client for such services;

(3) Assume responsibility for any worker benefits that may be required by the service contract, without regard to the receipt or adequacy of payment from the client for such services;

(4) Assume shared responsibility with the client for firing the worker and recruiting and hiring any new worker; and

(5) Maintain employee records.

(6) Agrees to be treated as a CPEO with respect to the worksite employees covered under the agreement.

For this purpose, a worksite is defined as a physical location at which a worker generally performs service or, if there is no such location, the location from which the worker receives job assignments. Contiguous locations would be treated as a single physical location. Noncontiguous locations would generally be treated as separate worksites, except that each worksite within a reasonably proximate area would be required to satisfy the 85% test for the workers at that worksite.

While the determination of whether noncontiguous locations are reasonably proximate is a facts and circumstances determination, certain situations will be deemed not to be reasonably proximate. If the worksite is separated from all other client worksites by at least 35 miles, it will not be considered reasonably proximate. Thus, a client (or any member of its controlled group) that maintains two worksites that are more than 35 miles apart could treat the worksites as separate for purposes of applying the 85% standard. Within a 35-mile radius, a worksite will not be considered reasonably proximate to another if the worksite operates in a different industry or industries from other worksites within the 35-mile radius pursuant to standards similar to those established in Revenue Procedure 91–64 (relating to industry classification codes). For example, a client that maintained a restaurant and a hardware store in the same town could treat them as separate worksites because they are in different industries. In addition, based on all the facts and circumstances, under rules prescribed by the IRS, a worksite would not be reasonably proximate if it operates independently for a bona fide business reason (that is unrelated to employment taxes and employee benefits). For example, a convenience store and a restaurant which have no supervisory personnel in common but which are under common ownership control could, under rules prescribed by the IRS, be treated as different worksites. Similarly, two noncontiguous wholesale and retail operations owned by the same individual but which are operated independently (including independent supervisory personnel) may, under rules prescribed by the IRS, be determined to be not reasonably proximate.

The 85% rule generally is intended to describe the typical, non-abusive PEO arrangement whereby a business contracts with a PEO to take over substantially all its workers at a particular worksite. The 85% rule is intended to ensure that the benefits of the bill are not available in any situation in which a business uses a PEO arrangement to artificially divide its workforce.

CPEO EMPLOYEE BENEFIT PLANS

To the extent consistent with the Internal Revenue Code and corresponding provisions of other federal laws, the CPEO may generally provide worksite employees with most types of retirement plans or other employee benefit plans that the client could provide. Worksite employees may not, however, be offered a plan that the client would be prohibited from offering on its own. For example, if the client is a state or local government, worksite employees performing services for that client may not be offered participation in a section 401(k) plan. Similarly, a CPEO may not maintain a plan that it would be prohibited from offering on its own (e.g., a section 403(b) plan). However, an eligible client could maintain such a plan.

Size Limitations.—In general, employee benefit provisions (in the Internal Revenue Code and in directly correlative provisions in other Federal laws) that reference the size of the employer or number of employees will generally be applied based on the size or number of employees and worksite employees of the CPEO. For example, worksite employees will be entitled to COBRA health care continuation coverage even if the client would have qualified for the small employer exception to those rules. Similarly, a CPEO welfare benefit plan will be treated as a single employer plan for purposes of Internal Revenue Code section 419A(f)(6). Plan reporting requirements are met at the CPEO level. However, a client which could meet the size requirements for eligibility for an MSA or a SIMPLE plan could contribute to such an arrangement maintained by the CPEO.

Nondiscriminaiton Testing.—The legislation intends that clients of a CPEO will not generally receive significantly better or worse treatment with respect to coverage, nondiscrimination or other Internal Revenue Code rules than they would get outside of the CPEO arrangement. Consequently, nondiscrimination and other rules of the Code relating to retirement plans (including sections 401(a)(4), 401(a)(17), 401(a)(26), 401(k), 401(m), 410(b) and 416 and similar rules applicable to welfare and fringe benefit plans such as section 125) will generally be applied on a client-by-client basis.

The portion of the CPEO plan covering worksite employees with respect to a client will be tested taking into account the worksite employees at a client location and all other nonexcludable employees of the client taking into account 414(b), (c), (m), (n) (with respect to workers not otherwise included as worksite employees) and (o), but one client's worksite employees would not be included in applying the coverage or other nondiscrimination rules (1) to portions of the CPEO plan covering worksite employees of other clients, (2) to the portion of the CPEO plan covering nonworksite employees, (3) to other plans maintained by the CPEO (except to the extent such plan covers worksite employees of the same client), or (4) to other plans maintained by members of the CPEO's controlled group.

The legislation also treats any worksite employees as ''per se'' leased employees of the client, thus requiring clients to include all worksite employees in plan testing. In accordance with current leased employee rules, the client would take into account CPEO plan contributions or benefits made on behalf of worksite employees of that client. Consistent with this treatment of worksite employees, the client would be permitted to cover worksite employees under any employee benefit plan maintained by the client and compensation paid by the CPEO to worksite employees would be treated as paid by the client for purposes of applying applicable qualification tests.

For example, assume a CPEO maintained a plan covering worksite employees performing services for Corporation X, worksite employees performing services for Corporation Y, and employees of the CPEO who are not worksite employees. In that case the nondiscrimination tests would be applied separately to the portions of the plan covering (1) worksite employees performing services for Corporation X; (2) worksite employees performing services for corporation Y, and (3) CPEO employees who are not worksite employees, as if each of (1), (2), and (3) were a separate plan. In addition, worksite employees performing services for Corporation X, for example, would be per se leased employees of Corporation X and thus would be included in testing any other plans maintained by Corporation X or any members of Corporation X's controlled group. Similarly, the CPEO workforce (other than worksite employees) will be treated as a separate employer for testing purposes (and will

be included in applying the nondiscrimination rules to any plans maintained by the CPEO or members of its controlled group).

In applying nondiscrimination rules to plans maintained by other entities within the CPEO's controlled group for workers who are not worksite employees, worksite employees will not be taken into account. Thus, in the example above, worksite employees performing services for Corporation X or Corporation Y would not be taken into account in testing plans maintained by other members of the CPEO's controlled group.

For purposes of testing a particular client's portion of the plan under the rules above, general rules applicable to that client would apply as if the client maintained that portion of the plan. Thus, if the terms of the benefits available to the client's worksite employees satisfied the requirements of the section 401(k) testing safe harbor, then that client could take advantage of the safe harbor. Similarly, a client that meets the eligibility criteria for a SIMPLE 401(k) plan would be allowed to utilize the SIMPLE rules to demonstrate compliance with the applicable nondiscrimination rules for that client.

Application of certain other qualified plan and welfare benefit plan rules will generally be determined as if the client and the CPOE are a single employer (consistent with the principle that the CPEO arrangement will not result in better or worse treatment). Thus, there would be a single annual limit under section 415. Section 415 will provide that any cutbacks required as a result of the single annual limit will be made in the client plan. Deduction limits and funding requirements would apply at the CPEO level. In addition, if the client portion of a plan is part of a top heavy group, any required top heavy minimum contribution or benefit will generally need to be made by the CPEO plan. There will be complete ''crediting'' of service for all benefit purposes. The ''break in service'' rules for plan vesting will be applied with respect to worksite employees using rules generally based on Code section 413.

The bill also provides the Secretary with the authority to promulgate rules and regulations that streamline, to the extent possible, the application of certain requirements, the exchange of information between the client and the CPEO, and the reporting and record keeping obligations of the CPEO with respect to its employee benefit plans.

Worksite employees will not generally be entitled to receive plan distributions of elective deferrals until the worker leaves the CPEO group. In cases where a client relationship terminates with a CPEO that maintains a plan, the CPEO will be able to ''spin off'' the former client's portion of the plan to a new or existing plan maintained by the client. Where the terminated client does not establish a plan or wish to maintain the client's portion of the CPEO plan, the CPEO plan may distribute elective deferrals of worksite employees associated with a terminated client only in a direct rollover to an IRA designated by the worker. In the event that no such IRA is designated before the second anniversary of the termination of the CPEO/client relationship the assets attributable to a client's worksite employees may be distributed under the general plan terms (and law) that applies to a distribution upon a separation from service or severance from employment after that time.

Similar to IRS practice in multiple employer plans, disqualification of the entire plan will occur if a nondiscrimination failure occurs with respect to worksite employees of a client and either that failure is not corrected under one of the IRS correction programs or that portion of the plan is not spun off and/or terminated. If that portion of the plan is corrected or spun off and/or terminated, then the failure of a CPEO retirement plan to satisfy applicable nondiscrimination requirements with respect to that client will not result in the disqualification of the plan as applied to other clients. Existing government programs for correcting violations would be available to the CPEO for the plan and, in the case of nondiscrimination failures tested at the client level, to the client portion of the plan with the fee to be based on the size of the affected client's portion of the plan. Moreover, the CPEO plan will be treated as one plan for purposes of obtaining a determination letter.

EMPLOYMENT TAX LIABILITY

An entity that has been certified as a CPEO must accept responsibility for employment taxes with respect to wages it pays to worksite employees performing services for clients. Such liability will be exclusive or primary, as provided below. It is expected that the CPEO would (as provided by the Secretary) be required, on an ongoing basis, to provide the IRS with a list of clients for which employment tax liability has been assumed and a list of clients for whom it no longer has employment tax liability. Reporting and other requirements that apply to an employer with respect to employment taxes would generally apply to the CPEO for remuneration remitted by the CPEO (as provided by the Secretary). In addition, the remittance frequency of employment taxes will be determined with reference to collections and the liability of the CPEO.

Wages paid by the client during the calendar year prior to the assumption of employment tax liability would be counted towards the applicable FICA or FUTA tax wage base for the year in determining the employment tax liability of the CPEO (and vice versa). Exceptions to payments as wages or activities as employment, and thus to the required payment of employment taxes, are determined by reference to the client. Also, for purposes of crediting state unemployment insurance (SUI) taxes against FUTA tax liability, payments by the CPEO (or transmitted by the CPEO for the client) with respect to worksite employees would be taken into account. Thus, in determining FUTA liability, CPEO's would be treated as the employer for crediting SUI collection purposes on essentially the same terms as they would be authorized to process wage withholding, FICA and FUTA. The bill is, however, limited to Federal law and does not address the issue of whether a CPEO (i) would be eligible for successor status for SUI tax collection or (ii) how the state experience rating formula would be applied to the CPEO. Determinations with respect to these issues will be made pursuant to state law.

A CPEO will have exclusive liability for employment taxes with respect to wage payments made by the CPEO to worksite employees (including owners of the client who are worksite employees) if the CPEO meets the net worth requirement and, at least quarterly, an examination level attestation by an independent Certified Public Accountant attesting to the adequate and timely payment of federal employment taxes has been filed with the IRS.

The net worth requirement is satisfied if the CPEO's net worth (less goodwill and other intangibles) is, on the last day of the fiscal quarter preceding the date on which payment is due and on the last day of the fiscal quarter in which the payment is due, at least:

$50,000 if the number of worksite employees is fewer than 500;

$100,000 if the number of worksite employees is 500 to 1,499;

$150,000 if the number of worksite employees is 1,500 to 2,499;

$200,000 if the number of worksite employees is 2,500 to 3,999; and

$250,000 if the number of worksite employees is more than 3,999;

In the alternative, the net worth requirement could be satisfied through a bond (for employment taxes up to the applicable net worth amount) similar to an appeal bond filed with the Tax Court by a taxpayer or by an insurance bond satisfying similar rules.

Within 60 days after the end of each fiscal quarter, the CPEO will provide the IRS with an examination level attestation from an independent certified public accountant that states that the accountant has found no material reason to question the CPEO's assertions with respect to the adequacy of federal employment tax payments for the fiscal quarter. In the event that such attestation is not provided on a timely basis, the CPEO will cease to have exclusive liability with respect to employment taxes (regardless of the net worth or bonding requirement) effective the due date for the attestation. Exclusive liability will not be restored until the first day of the quarter following two successive quarters for which an examination level attestations were timely filed. In addition, the Secretary will have the authority, under final regulations, to provide limits on a CPEO's exclusive liability for employment taxes with respect to a particular customer in cases where there is an undue and large risk with respect to the ultimate collection of those taxes.

For any tax period for which any of these criteria for exclusive liability for employment taxes are not satisfied, or to the extent the client has not made adequate payments to the CPEO for the payment of wages, taxes, and benefits, the CPEO will have primary liability and the client will have secondary liability for employment taxes. In that instance, the IRS will assess and attempt to collect unpaid employment taxes against the CPEO first and may not generally take any action against a client with respect to liability for employment taxes until at least 45 days following the date the IRS mails a notice and demand to the CPEO. For this purpose, the statute of limitations for assessment or collection against the client will not expire until one year after the date that is 45 days after mailing of notice and demand to the CPEO (in the same manner as transferee liability under section 6901(c)). With respect to employment taxes attributable to periods during which a CPEO has liability, the client will be liable to the IRS for taxes, penalties (applicable to client actions or to the time periods after assessment of the client for the taxes), and interest (with such liability to be reduced by amounts paid to the IRS by the CPEO that are allocable, under rules to be determined by the IRS, to the client).

EFFECTIVE DATE

These provisions will be effective on January 1, 2002. The IRS will be directed to establish the PEO certification program at least three months prior to the effective date. The bill directs the IRS to accommodate transfers of assets in existing plans maintained by a CPEO or CPEO clients into a new plan (or amended plan) meeting the requirements of the legislation (e.g., client-by-client nondiscrimination testing) without regard to whether or not such plans might fail the exclusive benefit rule because worksite employees might be considered common law employees of the client.

Mr. THOMAS. Mr. President, I rise today to join my colleagues in introducing the ''Rural Health Care in the 21st Century Act.'' I am pleased to have worked with my colleagues in crafting this bill that will address the

needs of rural providers and beneficiaries as we begin the new century.

This legislation establishes a grant and loan program to assist rural providers in acquiring the necessary technologies to improve patient safety and meet the continually changing records management requirements. Rural hospitals and other providers do not have the capital needed to purchase these expensive technologies nor the resources to train their staff. This new program will enable these providers to purchase such crucial equipment as patient tracking systems, bar code systems to avoid drug errors and software equipped with artificial intelligence.

Another reason this legislation is so important is because it will bring equity to the Medicare Disproportionate Share Hospital (DSH) program, which has been inherently biased against rural providers since it was implemented in 1986. The premise of this program is to give hospitals that provide a substantial amount of care to low-income patients additional funding to assist with the higher costs associated with caring for this population.

Mr. President, the current DSH program does almost nothing for rural hospitals because different eligibility requirements have been established for rural and urban providers. To qualify for the increased payments the DSH program provides, urban hospitals are required to demonstrate that 15 percent of their patient load consists of Medicaid patients and Medicare patients eligible for Supplemental Security Income. However, rural hospitals must meet a higher threshold of 45 percent. Mr. President, there is no justification for this inequity. Our bill will level the playing field by applying the same eligibility threshold currently enjoyed by urban hospitals to all rural hospitals as well. According to the Medicare Payment Advisory Commission this reform will open the door for 55 percent of all rural hospitals to benefit from the DSH program—a significant increase over the 15.6 percent of rural hospitals currently participating.

The ''Rural Health Care in the 21st Century Act'' also addresses other inequities faced by rural providers because federal regulators do not adequately reflect the unique circumstances of delivering health care in rural America. This bill provides rural home health agencies with a 10 percent bonus payment as they have average per episode costs that are 20 percent higher than urban agencies.

Rural Health Clinics and Critical Access Hospitals are a key component of maintaining access to primary and emergency services in rural communities. This legislation makes modifications to the Balanced Budget Act to ensure these providers will continue to be an integral part of the rural health care delivery system.

Mr. President, I believe this bill is an important step in ensuring rural providers are treated equally under federal programs. This equalization must be accomplished so we can guarantee that rural Medicare beneficiaries have the same choices and access to services as their urban counterparts.

By Mr. BROWNBACK (for himself, Mr. DASCHLE, Mr. DEWINE, Mr. KERREY, Mr. GRASSLEY, Mr. BYRD, and Mr. LUGAR):

S. 2982. A bill to enhance international conservation, to promote the role of carbon sequestration as a means of slowing the building of greenhouse gases in the atmosphere, and to reward and encourage voluntary, pro-active environmental efforts on the issue of global climate change; to the Committee on Finance.

INTERNATIONAL CARBON SEQUESTRATION INCENTIVE ACT

Mr. BROWNBACK. Mr. President, I rise today to introduce the International Carbon Sequestration Incentive Act. I am joined by Senators DASCHLE, DEWINE, BOB KERREY, GRASSLEY and BYRD.

Environmental issues have traditionally been filled with controversy—pitting beneficial environmental measures against hard-working small business and state interests. It is unfortunate that the atmosphere surrounding environmental debate is filled with accusations of blame rather than basic problem-solving.

From listening to the public discourse concerning environmental issues, one would thing there is no other choice but to handicap our booming economy in order to have a clean environment, despite the fact that pollution is often, unfortunately, an unavoidable consequence of meeting public needs.

Mr. President, I stand here today to illustrate that there is a better way to deal with important environmental concerns. There is a way to encourage the best rather than expecting the worst. There is a way to create environmental incentives and environmental markets, rather than only environmental regulations. There is a way to chip away at environmental challenges, rather than demagoging an ''all or nothing'' stance.

This bill—the International Carbon Sequestration Incentive Act, takes a pro-active, incentive-driven approach to one of the most difficult environmental issues of our time—global climate change.

Specifically, this bill provides investment tax credits for groups who invest in international carbon sequestration projects—including investments which prevent rainforest destruction and projects which reforest abandoned native forest areas. These projects will reduce the amount of carbon dioxide emitted into the air—helping to offset climate change since carbon dioxide is one of the main greenhouse gases.

This bill achieves these environmental benefits by promoting carbon sequestration—the process of converting carbon dioxide in the atmosphere into carbon which is stored in plants, trees and soils.

Under this bill, eligible projects can receive funding at a rate of $2.50 per verified ton of carbon stored or sequestered—up to 50% of the total project cost. The minimum length of these projects is 30 years and the Implementing Panel can only approve $200 million in tax credits each year.

Why do this? Carbon dioxide is a greenhouse gas believed to contribute to global warming. While there is debate over the role in which human activity plays in speeding up the warming process, there is broad consensus that there are increased carbon levels in the atmosphere today.

Until now, the only real approach seriously considered to address climate change was an international treaty which calls for emission limits on carbon dioxide—which would mean limiting the amount that comes from your car, your business and your farm. This treaty—the Kyoto treaty, also favored exempting developing nations from emission limits—putting the U.S. economy at a distinct disadvantage. Approaching the issue of climate change in this fashion would be very costly and would not respond to the global nature of this problem.

Instead, my approach encourages offsetting greenhouse gases through improved land management and conservation—and by engaging developing nations rather than cutting them out of the process.

In addition to reducing greenhouse gas emissions, sponsored projects under this bill will also help to preserve the irreplaceable biodiversity that flourishes in the Earth's tropical rain forests and other sensitive eco-systems. In addition to diverse plant life, these projects will be protecting countless endangered and rare species.

This bill requires investors to work closely with foreign governments, non-governmental organizations and indigenous peoples to find the capital necessary to set aside some of the last great resources of the planet. Rain forests have been called the lungs of the Earth—helping to filter out pollution and provide sanctuary for numerous pharmaceutical finds which may one day cure many of our human diseases.

This bill rewards the partnership and pro-active vision of companies that want to be part of the solution to climate change. We are lucky in the fact that private industry is already looking at this issue and working to find a way to contribute. An example of what this bill would promote can be seen by looking at the Noel Kempff Mercado National Park in Bolivia.

As you can see by looking at these photos [DISPLAY FOREST SCENES], Noel Kempff is a beautiful, biodiverse part of the world. This park spans nearly 4 million acres in Bolivia, hosts several hundred species of rare and endangered wildlife—including 130 species of mammals, 620 species of birds and 70 species of reptiles—not to mention 110 different species of orchids and grasses.

This park was in direct danger of deforestation. The land would have been cleared and eventually turned into large commercial farming operations. The loss of this park would have led to carbon dioxide emissions of between 25–36 million tons as well as increased commercial agricultural competition.

Instead, the Bolivian government came together with The Nature Conservancy, American Electric Power and other investors to preserve the park and conduct extensive verification of the carbon being stored in trees and soils of the now protected area.

Companies like American Electric Power, BP Amoco and PacifiCorp want to invest in projects like Noel Kempff because they want to promote the role of carbon sequestration as a means to combat climate change. These companies have taken a big step in contributing to the solution—think how much more good they, and other companies, could do if there were incentives to encourage this activity.

In the U.S., we are lucky enough to have programs like the Conservation Reserve Program and federal parks—which help preserve some of the natural resources of this great nation. Unfortunately, developing countries do not have access to the kind of capital it takes to make similar investments in their own countries. It is therefore, a worthy investment in the world environment—since climate change is a global problem, to chip away at this problem by doing what we know helps reduce pollution and greenhouse gases: planting and preserving trees.

This bill is designed to encourage more participation in projects like the Noel Kempff Park. By using limited and very targeted tax credits, we have an opportunity as a nation—to take a leadership role on climate change without crushing our own economy. This bill also furthers the goal of including developing countries in the climate change issue—since any agreement to reduce greenhouse gases must ultimately include these areas which will become the largest emitters.

Mr. President, I do not pretend that this bill will resolve the climate change issue. That is not my intent. Rather, this bill takes the view that where we do agree that good can be achieved—we should move forward. It is my hope that this bill will contribute to the solution on climate change and help to re-shape the way we view environmental problems.

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

S. 2983. A bill to provide for the return of land to the Government of Guam, and for other purposes; to the Committee on Energy and Natural Resources.

THE GUAM OMNIBUS OPPORTUNITIES ACT

Mr. AKAKA. Mr. President, I rise to introduce the Guam Omnibus Opportunities Act, which seeks to address important issues to the people of Guam dealing with land, economic development and social issues. On July 25, the House passed similar legislation, H.R. 2462, which was introduced by Congressman ROBERT UNDERWOOD, the Delegate from Guam. During the 105th Congress, the Senate passed similar provisions of H.R. 2462 as part of S. 210, an omnibus territories bill.

There are several provisions of the Guam Omnibus Opportunities Act. First, Section 2 of the bill provides a process for the Government of Guam to receive lands from the U.S. government for specified public purposes by giving Guam the right of first refusal for declared federal excess lands by the General Services Administration prior to it being made available to any other federal agency. It also provides for a process for the Government of Guam and the U.S. Fish and Wildlife Service to engage in negotiations on the future ownership and management of declared federal excess lands within the Guam National Wildlife Refuge.

Section 3 provides the Government of Guam with the authority to tax foreign investors at the same rates as states under U.S. tax treaties with foreign countries since Guam cannot change the withholding tax rate on its own under current law. Under the U.S. Internal Revenue Code, there is a 30 percent withholding tax rate for foreign investors in the United States. Since Guam's tax law ''mirrors'' the rate established under the U.S. Code, the standard rate of foreign investors in Guam is 30 percent. It is a common feature in U.S. tax treaties for countries to negotiate lower withholding rates on investment returns. Unfortunately, while there are different definitions for the term ''United States'' under these treaties, Guam is not included. This omission has adversely impacted Guam since 75 percent of Guam's commercial development is funded by foreign investors. As an example, with Japan, the U.S. rate for foreign investors is 10 percent. This means that while Japanese investors are taxed at a 10 percent withholding tax rate on their investments in the fifty states, those same investors are taxed at a 30 percent withholding rate on Guam.

While the long-term solution is for U.S. negotiators to include Guam in the definition of the term ''United States'' for all future tax treaties, the immediate solution is to amend the Organic Act of Guam and authorize the Government of Guam to tax foreign investors at the same rates as the fifty states. It is my understanding that all other U.S. territories have remedied this problem in one way or another. Therefore, Guam is the only U.S. jurisdiction in the country that is not extended tax equity for foreign investors.

With an unemployment rate of 15 percent, Guam continues to struggle economically due to the Asian financial crisis. That is why I believe it is vitally important for the federal government to assist Guam in stimulating its economy through sound federal policies and technical assistance. This section would greatly assist the Government of Guam in promoting economic development on the island and would provide long needed tax equity.

Section 4 considers Guam within the U.S. Customs zone in the treatment of betel nuts, which are part of Chamorro tradition and culture. While betel nuts are grown in the United States, the Food and Drug Administration (FDA) has an important alert for betel nuts from foreign countries in place due to the influx of betel nuts from Asian countries for commercial consumption and the FDA's contention that the betel nut is ''adulterated.'' This means an automatic detention of betel nuts by U.S. Customs agents when entering the United States. Although Guam is a U.S. territory, Guam is considered to be outside the U.S. Customs zone. Betel nuts grown in Guam, therefore, are subject to the FDA ban in the same manner as foreign countries. This section narrowly applies to Guam, limits use to personal consumption, and ensure that the FDA ban against foreign countries remains in place.

Section 5 empowers the governors of the territories and the State of Hawaii to report to the Secretary of the Interior on the financial and social impacts of the Compacts of Free Association on their respective jurisdictions and requires that the Secretary forward Administration comments and recommendations on the report to Congress. This is an important issue to the State of Hawaii as the numbers of migrants to Hawaii from the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau continue to grow. The State of Hawaii has spent well over $14 million in public funds in the past year alone, with most of the funds being spent on our educational and health care systems.

Under the compact agreements, the Federal government made clear that it would compensate jurisdictions affected, yet the State of Hawaii has not received federal funding since the implementation of these agreements. This section seeks to improve the reporting requirements for Compact Impact Aid to address this situation.

Section 6 establishes a five-member Guam War Claims Review Commission to be appointed by the Secretary of the Interior. The goal of the Commission is to review the facts and circumstances surrounding U.S. restitution to Guamanians who suffered compensable injury during the occupation of Guam by Japan during World War II. Compensable injury includes death, personal injury, or forced labor, forced march, or internment. The Commission would review the relevant historical facts and determine the eligible claimants, the eligibility requirements, and the total amount necessary for compensation, and report its findings and recommendations for action to Congress nine months after the Commission is established.

The 1951 Treaty of Peace between the U.S. and Japan effectively barred

claims by U.S. citizens against Japan. As a consequence, the U.S. inherited these claims, which was acknowledged by Secretary of State John Foster Dulles when the issue was raised during consideration of the treaty before the Committee on Foreign Relations in 1952.

Considerable historical information indicates that the United States intended to remedy the issue of war restitution for the people of Guam. In 1945, the Guam Meritorious Claims Act was enacted which authorized the Navy to adjudicate and settle war claims in Guam for property damage for a period of one year. Claims in access of $5,000 for personal injury or death were to be forwarded to Congress. Unfortunately, the Act never fulfilled its intended purposes due to the limited time frame for claims and the preoccupation of the local population with recovery from the war, resettlement of their homes, and rebuilding their lives.

On March 25, 1947, the Hopkins Commission, a civilian commission appointed by the Navy Secretary, issued a report which revealed the flaws of the 1945 Guam Meritorious Claims Act and recommended that the Act be amended to provide on the spot settlement and payment of all claims, both property and for the death and personal injury.

Despite the recommendations of the Hopkins Commission, the U.S. government failed to remedy the flaws of the Guam Meritorious Act when it enacted the War Claims Act of 1948, legislation which provided compensations for U.S. citizens who were victims of the Japanese war effort during World War II. Guamanians were U.S. nationals at the time of the enactment of the War Claims Act, thereby making them ineligible for compensation. In 1950, with the enactment of the Organic Act of Guam, Guamanians became U.S. citizens.

In 1962, Congress again attempted to address the remaining circumstances of U.S. citizens and nationals that had not received reparations from previous enacted laws. Once again, however, the Guamanians were inadvertently made ineligible because policymakers assumed that the War Claims Act of 1948 included them. Section 6 brings closure to this longstanding issue.

In summary, Mr. President, the Guam Omnibus Opportunities Act will go a long way toward resolving issues that the Federal Government has been working on with the Government of Guam on land, economic development and social issues. I look forward to working with my colleagues in the Senate to resolve these issues to assist Guam in achieving greater economic self-sufficiency.

By Mr. CONRAD:

S. 2984. A bill to amend the Internal Revenue Code of 1986 and to provide a refundable caregivers tax credit; to the Committee on Finance.

LONG-TERM CAREGIVERS ASSISTANCE ACT OF 2000

Mr. CONRAD. Mr. President, today I am introducing the Long-Term Caregivers Assistance Act of 2000, a proposal that would provide much needed assistance to individuals with long-term care needs and their caregivers.

Nationwide, more than 8 million individuals require some level of assistance with activities of daily living. Over the next 30 years, this number is expected to increase significantly as our nation experiences an unprecedented growth in its elderly population.

We know that for many people leaving their homes to obtain care is not their first choice—the cost of nursing home care can be prohibitive, and such care often takes individuals away from their communities. While federal support for long-term care is primarily spent on nursing home services, many people receive assistance with their long-term care needs in the home from their families, often without the help of public assistance or private insurance.

Nationwide, nearly 37 million individuals provide unpaid care to family members of all ages with functional or cognitive impairments. In my state, there are about 61,000 individuals providing informal caregiving services.

Unfortunately, the need for long-term care can cause substantial financial burdens on many individuals and their families. According to a recent study, almost two-thirds of those serving as caregivers suffer financial setbacks—setbacks that can total thousands of dollars in lost wages and other benefits over a caregiver's lifetime. This is a burden that caregivers and their families should not have to bear alone.

For this reason, I am introducing this proposal to provide a $2,000 tax credit that could be used by individuals with substantial care needs or by their caregivers.

Taxpayers who have long-term care needs, or who care for others with such needs, may not have the same ability to pay taxes as other taxpayers—a reasonable and legitimate concern in a tax system based on the principle of ability-to-pay. Providing a tax credit is an equitable and efficient way of helping caregivers and individuals with long-term care needs meet their formal and informal costs.

I recognize that this tax credit is only a piece of the long-term care puzzle—but I believe it is an important piece. This credit could be used to help pay for prescription drugs or other out-of-pocket expenses. It could be used to pay for some formal home care services. It could also be used to help family members offset some of the expenses they incur in caregiving.

We must act now to address the long-term care needs of our nation. I urge my colleagues to support this important legislation.

By Mr. DURBIN (for himself and Mr. KENNEDY):

S. 2985. A bill to amend the Agricultural Trade Act of 1978 to authorize the Commodity Credit Corporation to reallocate certain unobligated funds from the export enhancement program to other agricultural trade development and assistance programs; to the Committee on Finance.

PROVIDING SCHOOL LUNCHES TO HUNGRY CHILDREN—THE AGRICULTURAL FLEXIBILITY IN EXPORT DEVELOPMENT AND ASSISTANCE ACT OF 2000

Mr. DURBIN. Mr. President, if you had happened to be in the Senate Dining Room a few months ago, you might have seen a group of people having lunch and wondered what in the world would gather Ambassador George McGovern, Senators Bob Dole and TED KENNEDY, Agriculture Secretary Dan Glickman, Congressmen JIM MCGOVERN and TONY HALL and myself all at one table.

The answer to your question is that we were working together on a bipartisan initiative that could have a positive impact on children around the world and be of great benefit to America's farmers.

Former Senator and now Ambassador McGovern has advocated an idea to emulate one of the most beneficial programs ever launched on behalf of children in this country—the school lunch program.

He has worked with Senator Dole and others to establish an international school lunch program and President Clinton has jump-started this proposal with his announcement that the United States will provide $300 million in surplus commodities for the initiative.

Today, I am introducing legislation to provide a long-term funding source for international school feeding programs that will allow such programs to expand and reach more kids.

Today there are more than 300 million children throughout the world—more kids than the entire population of the United States—who go through the day and then to bed at night hungry. Some 130 million of these kids don't go to school right now, mainly because their parents need them to stay at home or work to pitch in any way that they can.

In January of this year, I traveled to sub-Saharan Africa, the epicenter of the AIDS crisis, with more than two-thirds of AIDS cases worldwide. There I saw first-hand the horrible impact AIDS is having on that continent. I met a woman in Uganda named Mary Nalongo Nassozzi, who is a 63-year-old widow.

All of her children died from AIDS and she has created an ''orphanage'' with 16 of her grandchildren now living in her home. People like Mary need our help to keep these kids in school.

Linking education and nutrition is not a new idea. Private voluntary organizations like CARE, Catholic Relief Services, ADRA, World Vision, Save the Children and Food for the Hungry are already helping kids with education, mother/child nutrition programs and school feeding programs.

These organizations and the World Food Program operate programs in more than 90 countries at this time, but typically can only target the poorest children in the poorest districts of the country.

Ambassador McGovern, Senator Dole, myself and others have called for an expanded effort, and as I noted earlier, President Clinton has responded. I applaud the President for the program he announced last Sunday in Okinawa. This $300 million initiative is expected to help serve a solid, nutritious meal to nine million children every day they go to school.

Think about it: for only 10 cents a day for each meal, we can feed a hungry child and help that child learn. With what you or I pay for a Big Mac, fries and a soft drink, we could afford to feed two classrooms of kids in Ghana or Nepal.

THE BENEFITS OF SCHOOL FEEDING PROGRAMS

While we need to consider the costs of an international school feeding program, I think we should also look at the benefits.

Malnourished children find it difficult to concentrate and make poor students. But these school feeding programs not only help concentration, they have many benefits, including increased attendance rates and more years of school attendance, improved girls' enrollment rates, improved academic performance, lower malnutrition rates, greater attention spans and later ages for marriage and childbirth.

These benefits ripple in many directions: higher education levels for girls and later marriage for women help slow population growth; greater education levels overall help spur economic development; and giving needy children a meal at school could also help blunt the terrible impact AIDS is having throughout Africa, where there are more than 10 million AIDS orphans who no longer have parents to feed and care for them.

DOMESTIC BENEFITS

Some will question our involvement in overseas feeding programs, so let me describe what we're doing at home and how we benefit from these efforts.

This year, we're spending more than $20 billion in our food stamp program. More than half of this amount goes to kids. We're also spending over $9 billion for school child nutrition programs, and more than $4 billion for the WIC program. While this sounds like a lot, we need to do more. Many people who are eligible for these programs are not aware of it and the Department of Agriculture must do a better job getting the word out. Still, these figures put the costs of an international school feeding effort in perspective: they will be a small fraction of what we're spending here at home.

Through our international efforts, we share some of what we have learned with less fortunate countries. But we also benefit.

An international school lunch program will provide a much-needed boost to our beleaguered farm economy, where surpluses and low prices have been hurting farmers for the third year in a row. Congress has provided more than $20 billion in emergency aid to farmers over the last three years. Buying farm products for this proposal would boost prices in the marketplace, helping U.S. farmers and needy kids in the process. It is a common-sense proposal for helping our farmers, and the right thing to do.

Second, the education of children leads to economic development, which in turn increases demand for U.S. products in the future. Some of the largest food aid recipients in the 1950s are now our largest commercial customers.

Finally, let's consider the positive foreign policy implications of this measure. It helps fulfill the commitments we made in Rome in 1996 to work to improve world food security and helps satisfy the commitment to net food importing developing countries we made in Marrakesh in 1995 at the conclusion of the Uruguay Round. It also supports the goals of ''Education for All'' made in April in Dakar to achieve universal access to primary education.

It goes beyond demonstrating our commitment to summit texts and documents and has a real impact on our national security. When people are getting enough to eat, internal instability is less likely. Most of the conflicts taking place right now around the world are related at least in part to food insecurity.

WE CAN'T AND SHOULDN'T DO THIS ALONE

The United States shouldn't go it alone. This needs to be an international effort. If the full costs for this program are shared fairly among developed countries, as we do now for United Nations peacekeeping efforts or humanitarian food aid relief efforts, then our resource commitments will be multiplied many times over. I encourage the Administration to continue its efforts to gain multilateral support for this initiative.

We should also seek the involvement and commitment of America's corporations and philanthropic organizations. Companies can contribute books and school supplies, computer equipment, kitchen equipment, construction supplies and management expertise.

PROPOSED LEGISLATION

The food aid laws we already have in place allow USDA and USAID to start up these kinds of programs, but resources are limited.

The President's initiative is a concrete first step in the effort to assure that every kid is going to school, and that every kid going to school has a meal.

However—and this is not to detract in any way from the important action he has taken—the President's initiative relies on surplus commodities. That is a sensible approach at this time. But we may not always have an overabundance. We all hope for and are working for an end to the farm crisis, which means the quantity of surplus commodities will decline. We need to look at how we will continue to pay for this program in the future as it helps more children and as surplus commodities dwindle.

The legislation I am introducing today, the Agricultural Flexibility in Export Development and Assistance Act of 2000, addresses the longer-term funding issue.

My legislation authorizes the Secretary of Agriculture to reallocate unspent Export Enhancement Program (EEP) money to school feeding and other food aid programs. When EEP was first authorized, one of its main purposes was to increase demand for U.S. agricultural commodities—to put money in the wallets of farmers by promoting overseas demand for our products. Because U.S. commodity prices have come down, it hasn't been used to any major extent since 1995. We are sitting on a pot of money, authorized but not being spent, while the EU spends over $5 billion annually on similar programs. My legislation would free up the Secretary of Agriculture to devote those funds to school feeding and other food aid programs.

Because I recognize some would like to see a portion of the surplus EEP funds to be spent on export development programs, my bill also permits a portion of the funds to be spent on export promotion.

To maintain flexibility while ensuring our food aid goals are addressed, the measure would require that a minimum of 75 percent of reallocated EEP funding be spent for either PL480 (Title I or Title II) or Food for Progress food aid, with at least half of this amount devoted to school feeding or child nutrition programs. It would allow up to 20 percent of the reallocated funds to be spent on the Market Access Program to promote agricultural exports, and a maximum of five percent to be spent on the Foreign Market Development (Cooperator) program.

To ensure new artificial restraints don't block our intention in this legislation, the measure also raises the caps currently in place regarding the quantity of food aid permitted under Food for Progress and the amount that may be used to pay for the administrative expenses associated with the program.

Both the Coalition for Food Aid and Friends of the World Food Program support this measure. Major commodity groups such as the American Soybean Association and the National Corn Growers Association also support it.

Mr. President, I urge my colleagues to join me as cosponsors of this legislation and in support of the broader effort to respond to the nutrition needs of 300 million children, 130 million of whom are not but could and should be in school. With our help, these statistics can change.

Mr. HUTCHINSON. Mr. President, I rise today to introduce the Just Opportunities in Bidding (JOB) Act which is

necessary to ensure that companies who seek to do business with our government are treated fairly. The JOB Act would prohibit the implementation of proposed regulations which would dramatically amend the Federal Acquisition Regulation.

I have many concerns about these proposed regulations, but I am deeply troubled by the discrimination which it will inevitably foster when implemented. The regulations will *de facto* amend many of our nation's laws and give government contracting officers, who are not trained in the interpretation of these laws, unfettered discretion to deny contracts to companies based on any alleged violation of any labor and employment, environmental, antitrust, tax, or consumer protection laws over the three years immediately preceding the contract. This is a dramatic change from the current requirements of the Federal Acquisition Regulation which requires that violations must be substantial to trigger denial of contract eligibility and does not extend to unrelated, past violations.

The proposed regulations would also allow for the denial of contracts on the basis of a mere complaint issued by a federal agency, which often are based solely upon information provided by outside, interested parties. Moreover, the proposal's terminology is vague and extremely subjective—placing tremendous and unprecedented discretion in the hands of federal contracting officers. That is discretion that they do not need nor qualified to exercise. Terms such as ''legal compliance'' by bidding parties are well-intentioned, I am sure, however, I view this as a trial lawyer's greatest wish come true. What does ''legal compliance'' mean? Does it mean that employers must ensure that they are 100 percent in compliance with all of the pertinent laws? Can even the most prudent employers guarantee that they and their worksites are 100 percent in compliance with all federal tax, labor, environmental, and antitrust statutes and regulations? That's certainly a question which many creative lawyers will undoubtedly rush to answer in courthouses across our nation.

This proposal is in direct contradiction to existing policy which is to fulfill governmental needs for goods and services at a fair and reasonable price from contractors who are technically qualified and able to perform the contract. Our current policy is based upon a good balance between our desire to get the best value for our constituents' taxdollars while being fair to all qualified companies who want to have the opportunity to provide their goods and services to the government. The proposed regulations will result in the unjustified exclusion of many of these companies from the bidding process and will result in less competition, reduced job opportunities for many employees—especially small businesses—and less value for our constituents' taxdollars.

As elected representatives of our constituents, we cannot condone this and as a legislative body we must refuse to allow a continuation of this Administration's legislation by regulation. The JOB Act would require the GAO to thoroughly examine this issue and report back to Congress with its findings. To me, this is a sound and reasonable approach rather than a political one. If you agree that the proposed regulations—and the millions of American workers, employers, and taxpayers that they will profoundly affect—deserve more thorough consideration, join me in my effort to enact the JOB Act.

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

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

S. 2986

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 ''Just Opportunities in Bidding Act of 2000''.

SEC. 2. REGULATIONS PROHIBITED PENDING GAO REVIEW.

(a) REGULATIONS NOT TO HAVE LEGAL EFFECT.—The proposed regulations referred to in subsection (c) shall not take effect and may not be enforced.

(b) LIMITATION ON ADDITIONAL PROPOSED REGULATIONS.—No proposed or final regulations on the same subject matter as the proposed regulations referred to in subsection (c) may be issued before the date on which the Comptroller General submits to Congress the report required by section 3.

(c) COVERED REGULATIONS.—Subsection (a) applies to the following:

(1) The proposed regulations that were published in the Federal Register, volume 64, number 131, beginning on page 37360, on July 9, 1999.

(2) The proposed regulations that were published in the Federal Register, volume 65, number 127, beginning on page 40830, on June 30, 2000.

SEC. 3. COMPTROLLER GENERAL REVIEW OF CONTRACTOR COMPLIANCE WITH FEDERAL LAW.

The Comptroller General shall—

(1) conduct a general review of the level of compliance by Federal contractors with the Federal laws that—

(A) are applicable to the contractors; and

(B) affect—

(i) the rights and responsibilities of contractors to participate in contracts of the United States; and

(ii) the administration of such contracts with respect to contractors; and

(2) submit to Congress a report on the findings resulting from the review.

By Mr. ROBERTS (for himself, Mr. GRASSLEY, Mr. JEFFORDS, and Mr. THOMAS):

S. 2987. A bill to amend title XVIII of the Social Security Act to promote access to health care services in rural areas, and for other purposes; to the Committee on Finance.

RURAL HEALTH CARE IN THE 21ST CENTURY ACT OF 2000

Mr. ROBERTS. Mr. President, I rise today to introduce the Rural Health Care in the 21st Century Act of 2000. This legislation will improve access to technology necessary to improve rural health care and expand access to quality health care in rural areas.

The future of health care in this country is being challenged by a variety of factors. The growing pains associated with managed care, an increasing elderly population and the drive to ensure the solvency of the federal Medicare Trust Fund are just a few of the factors placing pressure on health care facilities and health care providers across the country. Small, rural hospitals that provide services to a relatively low volume of patients are faced with even greater challenges in this environment.

The bill I am introducing today takes critical steps to improve access to high technology in rural areas and establishes a new high technology acquisition grant and loan program to improve patient safety and outcomes. At the same time hospitals need to update equipment, comply with new regulatory requirements and join the effort to reduce medical errors, many hospitals are finding it difficult to access the financial backing necessary to acquire the telecommunications equipment necessary to develop innovative solutions. This bill establishes a 5-year grant program through the Office of Rural Health Policy that allows hospitals, health care centers and related organizations to apply for matching grants or loans up to $100,000 to purchase the advanced technologies necessary to improve patient safety and keep pace with the changing records management requirements of the 21st Century.

This bill also increases Disproportionate Share Hospitals payments to rural hospitals. The Medicare DSH adjustment is based on a complex formula and the hospital's percentage of low-income patients. This percentage of low-income patients is different for each hospital, depending on where the hospital is located and the number of beds in the hospital. This bill establishes one formula to distribute payments to all hospitals covered by the inpatient PPS. This will give rural hospitals an equal opportunity to qualify for the DSH adjustment.

Twenty-five percent of our nation's senior citizens live in rural areas where access to modern health care services is often lacking. Telehealth technologies have evolved significantly and can serve to connect rural patients to the health care providers that they need. This bill includes provisions of S. 2505, a telehealth bill introduced by my colleague from Vermont, Senator JEFFORDS. These provisions address eight areas of Medicare reimbursement policy that need improvement. It eliminates requirements for fee-sharing between providers and provides a standard professional fee to the health care provider who delivers the care. The site where the patient is presented is made eligible for a standard facility fee. The requirement for a telepresenter is

eliminated and the codes that can be billed for are expanded to reflect current practice. All rural counties and urban HPSAs are covered by this legislation and demonstration projects are established to access reimbursement for store and forward activities. Also, the law is clarified to allow for home health agencies to incorporate telehomecare into their care plans where appropriate.

The Health Care Financing Administration is currently administering five telemedicine demonstration projects. This provision extends these projects an additional two years to give the projects adequate time to produce useful data.

The Medicare Rural Hospital Flexibility Program established by the Balanced Budget Act of 1997 allows rural hospitals to be reclassified as limited service facilities, known as Critical Access Hospitals. Critical Access Hospitals are important components of the rural health care infrastructure. They are working to provide quality health care services in sparsely populated areas of the country. However, they are restricted by burdensome regulations and inadequate Medicare payments. In addition to reduced staffing requirements, Congress intended to reimburse CAH inpatient and outpatient hospital services on the basis of reasonable costs. This legislation exempts Medicare swing beds in CAHs for the Skilled Nursing Facility (SNF) Prospective Payment System (PPS) and reimburses based on reasonable costs, and provides reasonable cost payment for ambulance services and home health services in CAHs.

In addition, this legislation directs the Secretary of HHS to establish a procedure to ensure that a single FI will provide services to all CAHs and allows CAHs to choose between two options for payment for outpatient services: (1) reasonable costs for facility services, or (2) an all-inclusive rate which combines facility and professional services.

This bill permanently guarantees pre-Balanced Budget Act payment levels for outpatient services provided by rural hospitals with under 100 beds, modifies the 50 bed exemption language and for Rural Health Clinics allows RHCs to qualify as long as their average daily patient census does not exceed 50, allows Physician Assistant-owned RHCs that lose their clinic status to maintain Medicare Part B payments, and clarifies that when services already excluded from the PPS system are delivered to Skilled Nursing Facility patients by practitioners employed by the RHCs, those visits are also excluded from the PPS payment system. In addition, this bill increases payments under the Medicare home health PPS for beneficiaries who reside in rural areas by increasing the standardized payment per 60-day episode by 10 percent.

Current law allows states the option to reimburse hospitals for Qualified Medicare Beneficiary (QMB) services attributable to deductibles and coinsurance amounts. However, many state Medicaid programs have chosen not to pay these costs, leaving rural hospitals with a significant portion of unpaid bad debt expenses. This is especially burdensome since federal law prohibits hospitals from seeking payment for the cost-sharing amounts from QMB patients. This legislation provides additional relief to rural hospitals by restoring 100% Medicare bad debt reimbursement for QMBs.

Although, as a general rule, scholarships are excluded from income, the Internal Revenue Service has taken the position that National Health Service Corp scholarships are included in income. Imposing taxes on the scholarships could have disastrous effects on a program that for over 20 years has helped funnel doctors, nurse-practitioners, physician assistants, and other health professionals into medically underserved communities. This provision excludes from gross income of certain scholarships any amounts received under the National Health Service Corps Scholarship Program.

Finally, this bill includes important technical corrections to the Balanced Budget Refinement Act of 1999. This bill extends the option to rebase target amounts to all Sole Community Hospitals and allows Critical Access Hospitals to receive reimbursement for lab services on a reasonable cost basis.

Exciting changes are taking place in rural America. This legislation will enable small rural hospitals to take advantage of the latest technology and improve health care for rural residents across the country. Mr. President, I invite my colleagues to join me in support of this endeavor. I am unanimous consent that a copy of the bill appear in the CONGRESSIONAL RECORD.

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

S. 2987

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 ''Rural Health Care in the 21st Century Act of 2000''.

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

Sec. 1. Short title; table of contents.

TITLE I—HIGH TECHNOLOGY

Sec. 101. High technology acquisition grant and loan program.
Sec. 102. Refinement of medicare reimbursement for telehealth services.
Sec. 103. Extension of telemedicine demonstration projects.

TITLE II—IMPROVEMENTS IN THE DISPROPORTIONATE SHARE HOSPITAL (DSH) PROGRAM

Sec. 201. Disproportionate share hospital adjustment for rural hospitals.

TITLE III—IMPROVEMENTS IN THE CRITICAL ACCESS HOSPITAL (CAH) PROGRAM

Sec. 301. Treatment of swing-bed services furnished by critical access hospitals.
Sec. 302. Treatment of ambulance services furnished by certain critical access hospitals.
Sec. 303. Treatment of home health services furnished by certain critical access hospitals.
Sec. 304. Designation of a single fiscal intermediary for all critical access hospitals.
Sec. 305. Establishment of an all-inclusive payment option for outpatient critical access hospital services.

TITLE IV—OUTPATIENT SERVICES FURNISHED BY RURAL PROVIDERS

Sec. 401. Permanent guarantee of pre-BBA payment levels for outpatient services furnished by rural hospitals.
Sec. 402. Provider-based rural health clinic cap exemption.
Sec. 403. Payment for certain physician assistant services.
Sec. 404. Exclusion of rural health clinic services from the PPS for skilled nursing facilities.
Sec. 405. Bonus payments for rural home health agencies.

TITLE V—BAD DEBT

Sec. 501. Restoration of full payment for bad debts of qualified medicare beneficiaries.

TITLE VI—NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

Sec. 601. Exclusion of certain amounts received under the National Health Service Corps scholarship program.

TITLE VII—TECHNICAL CORRECTIONS TO BALANCED BUDGET REFINEMENT ACT OF 1999

Sec. 701. Extension of option to use rebased target amounts to all sole community hospitals.
Sec. 702. Payments to critical access hospitals for clinical diagnostic laboratory tests.

TITLE I—HIGH TECHNOLOGY

SEC. 101. HIGH TECHNOLOGY ACQUISITION GRANT AND LOAN PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by inserting after section 330D the following:

''SEC. 330E. HIGH TECHNOLOGY ACQUISITION GRANT AND LOAN PROGRAM.

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary, acting through the Director of the Office of Rural Health Policy (of the Health Resources and Services Administration), shall establish a High Technology Acquisition Grant and Loan Program for the purpose of—

''(1) improving the quality of health care in rural areas through the acquisition of advanced medical technology;

''(2) fostering the development the networks described in section 330D(c);

''(3) promoting resource sharing between urban and rural facilities; and

''(4) improving patient safety and outcomes through the acquisition of high technology, including software, information services, and staff training.

''(b) GRANTS AND LOANS.—Under the program established under subsection (a), the Secretary, acting through the Director of the Office of Rural Health Policy, may award grants and make loans to any eligible entity (as defined in subsection (d)(1)) for any costs incurred by the eligible entity in acquiring eligible equipment and services (as defined in subsection (d)(2)).

''(c) LIMITATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), the total amount of grants and loans made

under this section to an eligible entity may not exceed $100,000.

''(2) FEDERAL SHARING.—

''(A) GRANTS.—The amount of any grant awarded under this section may not exceed 70 percent of the costs to the eligible entity in acquiring eligible equipment and services.

''(B) LOANS.—The amount of any loan made under this section may not exceed 90 percent of the costs to the eligible entity in acquiring eligible equipment and services.

''(d) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a hospital, health center, or any other entity that the Secretary determines is appropriate that is located in a rural area or region.

''(2) ELIGIBLE EQUIPMENT AND SERVICES.—The term 'eligible equipment and services' includes—

''(A) unit dose distribution systems;

''(B) software and information services and staff training;

''(C) wireless devices to transmit medical orders;

''(D) clinical health care informatics systems, including bar code systems designed to avoid medication errors and patient tracking systems; and

''(E) any other technology that improves the quality of health care provided in rural areas.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2001 through 2006.''.

SEC. 102. REFINEMENT OF MEDICARE REIMBURSEMENT FOR TELEHEALTH SERVICES.

(a) REVISION OF TELEHEALTH PAYMENT METHODOLOGY AND ELIMINATION OF FEE-SHARING REQUIREMENT.—Section 4206(b) of the Balanced Budget Act of 1997 (42 U.S.C. 1395l note) is amended to read as follows:

''(b) METHODOLOGY FOR DETERMINING AMOUNT OF PAYMENTS.—

''(1) IN GENERAL.—The Secretary shall pay to—

''(A) the physician or practitioner at a distant site that provides an item or service under subsection (a) an amount equal to the amount that such physician or provider would have been paid had the item or service been provided without the use of a telecommunications system; and

''(B) the originating site a facility fee for facility services furnished in connection with such item or service.

''(2) APPLICATION OF PART B COINSURANCE AND DEDUCTIBLE.—Any payment made under this section shall be subject to the coinsurance and deductible requirements under subsections (a)(1) and (b) of section 1833 of the Social Security Act (42 U.S.C. 1395l).

''(3) DEFINITIONS.—In this subsection:

''(A) DISTANT SITE.—The term 'distant site' means the site at which the physician or practitioner is located at the time the item or service is provided via a telecommunications system.

''(B) FACILITY FEE.—The term 'facility fee' means an amount equal to—

''(i) for 2000 and 2001, $20; and

''(ii) for a subsequent year, the facility fee under this subsection for the previous year increased by the percentage increase in the MEI (as defined in section 1842(i)(3)) for such subsequent year.

''(C) ORIGINATING SITE.—

''(i) IN GENERAL.—The term 'originating site' means the site described in clause (ii) at which the eligible telehealth beneficiary under the medicare program is located at the time the item or service is provided via a telecommunications system.

''(ii) SITES DESCRIBED.—The sites described in this paragraph are as follows:

''(I) On or before January 1, 2002, the office of a physician or a practitioner, a critical access hospital, a rural health clinic, and a Federally qualified health center.

''(II) On or before January 1, 2003, the sites described in subclause (I), a hospital, a skilled nursing facility, a comprehensive outpatient rehabilitation facility, a renal dialysis facility, an ambulatory surgical center, an Indian Health Service facility, and a community mental health center.''.

(b) ELIMINATION OF REQUIREMENT FOR TELEPRESENTER.—Section 4206 of the Balanced Budget Act of 1997 (42 U.S.C. 1395l note) is amended—

(1) in subsection (a), by striking '', notwithstanding that the individual physician'' and all that follows before the period at the end; and

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

''(e) TELEPRESENTER NOT REQUIRED.—Nothing in this section shall be construed as requiring an eligible telehealth beneficiary to be presented by a physician or practitioner for the provision of an item or service via a telecommunications system.''.

(c) REIMBURSEMENT FOR MEDICARE BENEFICIARIES WHO DO NOT RESIDE IN A HPSA.—Section 4206(a) of the Balanced Budget Act of 1997 (42 U.S.C. 1395l note), as amended by subsection (b), is amended—

(1) by striking ''IN GENERAL.—Not later than'' and inserting the following: ''TELEHEALTH SERVICES REIMBURSED.—

''(1) IN GENERAL.—Not later than'';

(2) by striking ''furnishing a service for which payment'' and all that follows before the period and inserting ''to an eligible telehealth beneficiary''; and

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

''(2) ELIGIBLE TELEHEALTH BENEFICIARY DEFINED.—In this section, the term 'eligible telehealth beneficiary' means a beneficiary under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) that resides in—

''(A) an area that is designated as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A));

''(B) a county that is not included in a Metropolitan Statistical Area;

''(C) an inner-city area that is medically underserved (as defined in section 330(b)(3) of the Public Health Service Act (42 U.S.C. 254b(b)(3))); or

''(D) an area in which there is a Federal telemedicine demonstration program.''.

(d) TELEHEALTH COVERAGE FOR DIRECT PATIENT CARE.—

(1) IN GENERAL.—Section 4206 of the Balanced Budget Act of 1997 (42 U.S.C. 1395l note), as amended by subsection (c), is amended—

(A) in subsection (a)(1), by striking ''professional consultation via telecommunications systems with a physician'' and inserting ''items and services for which payment may be made under such part that are furnished via a telecommunications system by a physician''; and

(B) by adding at the end the following new subsection:

''(f) COVERAGE OF ITEMS AND SERVICES.—Payment for items and services provided pursuant to subsection (a) shall include payment for professional consultations, office visits, office psychiatry services, including any service identified as of July 1, 2000, by HCPCS codes 99241–99275, 99201–99215, 90804–90815, and 90862, and any additional item or service specified by the Secretary.''.

(2) STUDY AND REPORT REGARDING ADDITIONAL ITEMS AND SERVICES.—

(A) STUDY.—The Secretary of Health and Human Services shall conduct a study to identify items and services in addition to those described in section 4206(f) of the Balanced Budget Act of 1997 (as added by paragraph (1)) that would be appropriate to provide payment under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(B) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under subparagraph (A) together with such recommendations for legislation that the Secretary determines are appropriate.

(e) ALL PHYSICIANS AND PRACTITIONERS ELIGIBLE FOR TELEHEALTH REIMBURSEMENT.—Section 4206(a) of the Balanced Budget Act of 1997 (42 U.S.C. 1395l note), as amended by subsection (d), is amended—

(1) in paragraph (1), by striking ''(described in section 1842(b)(18)(C) of such Act (42 U.S.C. 1395u(b)(18)(C))''; and

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

''(3) PRACTITIONER DEFINED.—For purposes of paragraph (1), the term 'practitioner' includes—

''(A) a practitioner described in section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)); and

''(B) a physical, occupational, or speech therapist.''.

(f) TELEHEALTH SERVICES PROVIDED USING STORE-AND-FORWARD TECHNOLOGIES.—Section 4206(a)(1) of the Balanced Budget Act of 1997 (42 U.S.C. 1395l note), as amended by subsection (e), is amended by adding at the end the following new paragraph:

''(4) USE OF STORE-AND-FORWARD TECHNOLOGIES.—For purposes of paragraph (1), in the case of any Federal telemedicine demonstration program in Alaska or Hawaii, the term 'telecommunications system' includes store-and-forward technologies that provide for the asynchronous transmission of health care information in single or multimedia formats.''.

(g) CONSTRUCTION RELATING TO HOME HEALTH SERVICES.—Section 4206(a) of the Balanced Budget Act of 1997 (42 U.S.C. 1395l note), as amended by subsection (f), is amended by adding at the end the following new paragraph:

''(5) CONSTRUCTION RELATING TO HOME HEALTH SERVICES.—

''(A) IN GENERAL.—Nothing in this section or in section 1895 of the Social Security Act (42 U.S.C. 1395fff) shall be construed as preventing a home health agency that is receiving payment under the prospective payment system described in such section from furnishing a home health service via a telecommunications system.

''(B) LIMITATION.—The Secretary shall not consider a home health service provided in the manner described in subparagraph (A) to be a home health visit for purposes of—

''(i) determining the amount of payment to be made under the prospective payment system established under section 1895 of the Social Security Act (42 U.S.C. 1395fff); or

''(ii) any requirement relating to the certification of a physician required under section 1814(a)(2)(C) of such Act (42 U.S.C. 1395f(a)(2)(C)).''.

(h) EFFECTIVE DATE.—The amendments made by this Act shall apply to items and services provided on or after the date of enactment of this Act.

SEC. 103. EXTENSION OF TELEMEDICINE DEMONSTRATION PROJECTS.

The Secretary of Health and Human Services shall maintain through September 30, 2003, the grant and operational phases of any telemedicine demonstration project conducted under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)—

(1) for which funds were expended before the date of enactment of the Balanced Budget Act of 1997 (Public Law 105–133; 111 Stat. 251); and

(2) that is ongoing as of the date of enactment of this Act.

TITLE II—IMPROVEMENTS IN THE DISPROPORTIONATE SHARE HOSPITAL (DSH) PROGRAM

SEC. 201. DISPROPORTIONATE SHARE HOSPITAL ADJUSTMENT FOR RURAL HOSPITALS.

(a) APPLICATION OF UNIFORM 15 PERCENT THRESHOLD.—Section 1886(d)(5)(F)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(v)) is amended by striking ''exceeds—'' and all that follows and inserting ''exceeds 15 percent.''.

(b) CHANGE IN PAYMENT PERCENTAGE FORMULAS.—Section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (iv), by striking ''and that—'' and all that follows and inserting ''is equal to the percentage determined in accordance with the applicable formula described in clause (vii).'';

(2) in clause (vii), by striking ''clause (iv)(I)'' and inserting ''clause (iv)''; and

(3) by striking clause (viii) and inserting the following new clause:

''(viii) No hospital described in clause (iv) may receive a payment amount under this section that is less than the payment amount that would have been made under this section if the amendments made by section 201 of the Rural Health Care in the 21st Century Act of 2000 had not been enacted.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to discharges occurring on or after October 1, 2000.

TITLE III—IMPROVEMENTS IN THE CRITICAL ACCESS HOSPITAL (CAH) PROGRAM

SEC. 301. TREATMENT OF SWING-BED SERVICES FURNISHED BY CRITICAL ACCESS HOSPITALS.

(a) EXEMPTION FROM SNF PPS.—Section 1888(e)(7) of the Social Security Act (42 U.S.C. 1395yy(e)(7)) is amended—

(1) in the heading, by striking ''TRANSITION FOR'' and inserting ''TREATMENT OF'';

(2) in subparagraph (A), by striking ''IN GENERAL.—The'' and inserting ''TRANSITION.—Except as provided in subparagraph (C), the'';

(3) in subparagraph (B), by striking '', for which'' and all that follows before the period at the end and inserting ''(other than critical access hospitals)''; and

(4) by adding at the end the following new subparagraph:

''(C) CRITICAL ACCESS HOSPITALS.—In the case of facilities described in subparagraph (B) that are critical access hospitals—

''(i) the prospective payment system established under this subsection shall not apply to services furnished pursuant to an agreement described in section 1883; and

''(ii) such services shall be paid on the basis specified in subsection (a)(3) of such section.''.

(b) PAYMENT BASIS FOR SWING-BED SERVICES FURNISHED BY CRITICAL ACCESS HOSPITALS.—Section 1883(a) of the Social Security Act (42 U.S.C. 1395tt(a)) is amended—

(1) in paragraph (2)(A), by inserting ''(other than a critical access hospital)'' after ''any hospital''; and

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

''(3) Notwithstanding any other provision of this title, a critical access hospital shall be paid for services furnished under an agreement entered into under this section on the basis of the reasonable costs of such services (as determined under section 1861(v)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1999.

SEC. 302. TREATMENT OF AMBULANCE SERVICES FURNISHED BY CERTAIN CRITICAL ACCESS HOSPITALS.

(a) EXEMPTION FROM AMBULANCE FEE SCHEDULE.—

(1) IN GENERAL.—Section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)) is amended by adding at the end the following new paragraph:

''(8) INAPPLICABILITY OF FEE SCHEDULE TO CERTAIN SERVICES.—In the case of ambulance services (described in section 1861(s)(7)) that are provided in a locality by a critical access hospital that is the only provider of ambulance services in the locality, or by an entity that is owned and operated by such a critical access hospital—

''(A) the fee schedule established under this subsection shall not apply; and

''(B) payment under this part shall be paid on the basis of the reasonable costs incurred in providing such services.''.

(2) CONFORMING AMENDMENTS.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) in subparagraph (R)—

(i) by inserting ''except as provided in subparagraph (T),'' before ''with respect''; and

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

(B) in subparagraph (S), by striking the semicolon at the end and inserting '', and (T) with respect to ambulance services described in section 1834(l)(8), the amount paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined under such section;''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to cost reporting periods beginning on or after October 1, 1999.

(b) EXEMPTION FROM REASONABLE COST REDUCTIONS.—

(1) EXEMPTION.—Section 1861(v)(1)(U) of the Social Security Act (42 U.S.C. 1395x(v)(1)(U)) is amended by inserting after the first sentence the following new sentence: ''The reductions required by the preceding sentence shall not apply in the case of ambulance services that are provided in a locality on or after October 1, 1999, by a critical access hospital that is the only provider of ambulance services in the locality, or by an entity that is owned and operated by such a critical access hospital.''.

(2) TECHNICAL AMENDMENT.—Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is amended by realigning subparagraph (U) so as to align the left margin of such subparagraph with the left margin of subparagraph (T).

SEC. 303. TREATMENT OF HOME HEALTH SERVICES FURNISHED BY CERTAIN CRITICAL ACCESS HOSPITALS.

(a) EXEMPTION FROM HOME HEALTH INTERIM PAYMENT SYSTEM.—Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

''(xi) The preceding provisions of this subparagraph shall not apply to home health services that are furnished on or after October 1, 2000, by a home health agency that is—

''(I) the only home health agency serving a locality; and

''(II) owned and operated by a critical access hospital.''.

(b) EXEMPTION FROM PPS.—

(1) IN GENERAL.—Section 1895 of the Social Security Act (42 U.S.C. 1395fff) is amended by adding at the end the following new subsection:

''(e) EXEMPTION.—The prospective payment system established under this section shall not apply in determining payments for home health services furnished by a home health agency that is—

''(1) the only home health agency serving a locality; and

''(2) owned and operated by a critical access hospital.''.

(2) CONFORMING AMENDMENT.—Section 1833(a)(2)(A) of the Social Security Act (42 U.S.C. 1395(a)(2)(A)) is amended by inserting ''home health services described in section 1895(e) and other than'' after ''other than''.

(3) TECHNICAL AMENDMENT.—Section 1833(a)(2)(A) of the Social Security Act (42 U.S.C. 1395(a)(2)(A)) is amended by striking ''drug) (as defined in section 1861(kk))'' and inserting ''drug (as defined in section 1861(kk)))''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to cost reporting periods beginning on or after October 1, 2000.

SEC. 304. DESIGNATION OF A SINGLE FISCAL INTERMEDIARY FOR ALL CRITICAL ACCESS HOSPITALS.

Section 1816 of the Social Security Act (42 U.S.C. 1395h) is amended by adding at the end the following:

''(m) Not later than October 1, 2000, the Secretary shall designate a national agency or organization with an agreement under this section to perform functions under the agreement with respect to each critical access hospital electing to have such functions performed by such agency or organization.''.

SEC. 305. ESTABLISHMENT OF AN ALL-INCLUSIVE PAYMENT OPTION FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.

(a) ALL-INCLUSIVE PAYMENT OPTION FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—Section 1834(g) of the Social Security Act (42 U.S.C. 1395m(g)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

''(1) ELECTION OF CAH.—At the election of a critical access hospital, the amount of payment for outpatient critical access hospital services under this part shall be determined under paragraph (2) or (3), such amount determined under either paragraph without regard to the amount of the customary or other charge.''; and

(2) by striking paragraph (3) and inserting the following new paragraph:

''(3) ALL-INCLUSIVE RATE.—If a critical access hospital elects this paragraph to apply, with respect to both facility services and professional services, there shall be paid amounts equal to the reasonable costs of the critical access hospital in providing such services (except that in the case of clinical diagnostic laboratory services furnished by a critical access hospital the amount of payment shall be equal to 100 percent of the reasonable costs of the critical access hospital in providing such services), less the amount that such hospital may charge as described in section 1866(a)(2)(A).''.

(b) EFFECTIVE DATE.—The amendments made by subparagraph (a) shall take effect as if included in the enactment of section 403(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A–371), as enacted into law by section 1000(a)(6) of Public Law 106–113.

TITLE IV—OUTPATIENT SERVICES FURNISHED BY RURAL PROVIDERS

SEC. 401. PERMANENT GUARANTEE OF PRE-BBA PAYMENT LEVELS FOR OUTPATIENT SERVICES FURNISHED BY RURAL HOSPITALS.

(a) IN GENERAL.—Section 1833(t)(7)(D) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)), as added by section 202 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A–342), as enacted into law by section 1000(a)(6) of Public Law 106–113, is amended to read as follows:

''(D) HOLD HARMLESS PROVISIONS FOR SMALL RURAL HOSPITALS AND CANCER HOSPITALS.—In the case of a hospital located in a rural area and that has not more than 100 beds or a hospital described in section 1886(d)(1)(B)(v), for covered OPD services for which the PPS amount is less than the pre-BBA amount, the amount of payment under this subsection shall be increased by the amount of such difference.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 202 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A–342), as enacted into law by section 1000(a)(6) of Public Law 106–113.

SEC. 402. PROVIDER-BASED RURAL HEALTH CLINIC CAP EXEMPTION.

(a) IN GENERAL.—The matter in section 1833(f) of the Social Security Act (42 U.S.C. 1395l(f)) preceding paragraph (1) is amended by striking ''with less than 50 beds'' and inserting ''with an average daily patient census that does not exceed 50''.

(b) EFFECTIVE DATE.—The amendment made by subparagraph (A) applies to services furnished on or after January 1, 2001.

SEC. 403. PAYMENT FOR CERTAIN PHYSICIAN ASSISTANT SERVICES.

(a) PAYMENT FOR CERTAIN PHYSICIAN ASSISTANT SERVICES.—Section 1842(b)(6)(C) of the Social Security Act (42 U.S.C. 1395u(b)(6)(C)) is amended by striking ''for such services provided before January 1, 2003,''.

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

SEC. 404. EXCLUSION OF RURAL HEALTH CLINIC SERVICES FROM THE PPS FOR SKILLED NURSING FACILITIES.

(a) IN GENERAL.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting after the first sentence the following: ''Services described in this clause also include services that are provided by a physician, a physician assistant, a nurse practitioner, a certified nurse midwife, or a qualified psychologist who is employed, or otherwise under contract, with a rural health clinic.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 2001.

SEC. 405. BONUS PAYMENTS FOR RURAL HOME HEALTH AGENCIES.

(a) INCREASE IN PAYMENT RATES FOR RURAL AGENCIES.—

(1) IN GENERAL.—Section 1895(b) of the Social Security Act (42 U.S.C. 1395fff(b)) is amended by adding at the end the following new paragraph:

''(7) ADDITIONAL PAYMENT AMOUNT FOR SERVICES FURNISHED IN RURAL AREAS.—In the case of home health services furnished in a rural area (as defined in section 1886(d)(2)(D)), the Secretary shall provide for an addition or adjustment to the payment amount otherwise made under this section for services furnished in a rural area in an amount equal to 10 percent of the amount otherwise determined under this subsection.''.

(2) WAIVING BUDGET NEUTRALITY.—Section 1895(b)(3) of such Act (42 U.S.C. 1395fff(b)(3)) is amended by adding at the end the following new subparagraph:

''(D) NO ADJUSTMENT FOR ADDITIONAL PAYMENTS FOR RURAL SERVICES.—The Secretary shall not reduce the standard prospective payment amount (or amounts) under this paragraph applicable to home health services furnished during a period to offset the increase in payments resulting from the application of paragraph (7) (relating to services furnished in rural areas).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to episodes of care beginning on or after April 1, 2001.

TITLE V—BAD DEBT

SEC. 501. RESTORATION OF FULL PAYMENT FOR BAD DEBTS OF QUALIFIED MEDICARE BENEFICIARIES.

(a) MEDICARE COST-SHARING UNCOLLECTIBLE AND NOT COVERED BY MEDICAID STATE PLANS.—Section 1902(n)(3)(B) of the Social Security Act (42 U.S.C. 1396a(n)(3)(B)) is amended—

(1) by inserting ''(i)'' after ''(B)''; and

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

''(ii) the amount of medicare cost-sharing that is uncollectible from the beneficiary because of clause (i) and that is not paid by any other individual or entity shall be deemed to be bad debt for purposes of title XVIII; and''.

(b) RECOGNITION OF 100 PERCENT OF BAD DEBT.—

(1) NONAPPLICATION OF REDUCTION.—Section 1861(v)(1)(T) of the Social Security Act (42 U.S.C. 1395x(v)(1)(T)) is amended by inserting ''(other than any amount deemed to be bad debt under section 1902(n)(3)(B)(ii))'' after ''amounts under this title''.

(2) RECOGNITION WITH RESPECT TO CERTIFIED NURSE ANESTHETISTS, NURSE PRACTITIONERS, AND CLINICAL NURSE SPECIALISTS.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(A) in subsection (l)(5)(B), by striking ''No hospital'' and inserting ''Except as provided in section 1902(n)(3)(B)(ii), no hospital''; and

(B) in subsection (r)(2), by striking ''No hospital'' and inserting ''Except as provided in section 1902(n)(3)(B)(ii), no hospital''.

(c) TECHNICAL AMENDMENT.—Section 1861(v)(1)(T) of the Social Security Act (42 U.S.C. 1395x(v)(1)(T)) is amended by striking ''1833(t)(5)(B)'' and inserting ''1833(t)(8)(B)'' in the matter preceding clause (i).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bad debt incurred on or after the date of enactment of this Act.

TITLE VI—NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

SEC. 601. EXCLUSION OF CERTAIN AMOUNTS RECEIVED UNDER THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM.

(a) IN GENERAL.—Section 117(c) of the Internal Revenue Code of 1986 (relating to the exclusion from gross income amounts received as a qualified scholarship) is amended—

(1) by striking ''Subsections (a)'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a)''; and

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

''(2) EXCEPTION.—Paragraph (1) shall not apply to any amount received by an individual under the National Health Service Corps Scholarship Program under section 338A(g)(1)(A) of the Public Health Service Act.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to amounts received in taxable years beginning after December 31, 1994.

TITLE VII—TECHNICAL CORRECTIONS TO BALANCED BUDGET REFINEMENT ACT OF 1999

SEC. 701. EXTENSION OF OPTION TO USE REBASED TARGET AMOUNTS TO ALL SOLE COMMUNITY HOSPITALS.

(a) IN GENERAL.—Section 1886(b)(3)(I)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(I)(i)) (as added by section 405 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A–372), as enacted into law by section 1000(a)(6) of Public Law 106–113) is amended—

(1) in the matter preceding subclause (I)—

(A) by striking ''for its cost reporting period beginning during 1999 is paid on the basis of the target amount applicable to the hospital under subparagraph (C) and that''; and

(B) by striking ''such target amount'' and inserting ''the amount otherwise determined under subsection (d)(5)(D)(i)'';

(2) in subclause (I), by striking ''target amount otherwise applicable'' and all that follows through ''target amount')'' and inserting ''the amount otherwise applicable to the hospital under subsection (d)(5)(D)(i) (referred to in this clause as the 'subsection (d)(5)(D)(i) amount')''; and

(3) in each of subclauses (II) and (III), by striking ''subparagraph (C) target amount'' and inserting ''subsection (d)(5)(D)(i) amount''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999, as enacted into law by section 1000(a)(6) of Public Law 106–113.

SEC. 702. PAYMENTS TO CRITICAL ACCESS HOSPITALS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) PAYMENT ON COST BASIS WITHOUT BENEFICIARY COST-SHARING.—

(1) IN GENERAL.—Section 1833(a)(6) of the Social Security Act (42 U.S.C. 1395l(a)(6)) is amended by inserting ''(including clinical diagnostic laboratory services furnished by a critical access hospital)'' after ''outpatient critical access hospital services''.

(2) NO BENEFICIARY COST-SHARING.—

(A) IN GENERAL.—Section 1834(g) of the Social Security Act (42 U.S.C. 1395m(g)) is amended by inserting ''(except that in the case of clinical diagnostic laboratory services furnished by a critical access hospital the amount of payment shall be equal to 100 percent of the reasonable costs of the critical access hospital in providing such services)'' before the period at the end.

(B) BBRA AMENDMENT.—Section 1834(g) of the Social Security Act (42 U.S.C. 1395m(g)) is amended—

(i) in paragraph (1), by inserting ''(except that in the case of clinical diagnostic laboratory services furnished by a critical access hospital the amount of payment shall be equal to 100 percent of the reasonable costs of the critical access hospital in providing such services)'' after ''such services,''; and

(ii) in paragraph (2)(A), by inserting ''(except that in the case of clinical diagnostic laboratory services furnished by a critical access hospital the amount of payment shall be equal to 100 percent of the reasonable costs of the critical access hospital in providing such services)'' before the period at the end.

(b) CONFORMING AMENDMENTS.—Paragraphs (1)(D)(i) and (2)(D)(i) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)(1)(D)(i); 1395l(a)(2)(D)(i)) are each amended by striking ''or which are furnished on an outpatient basis by a critical access hospital''.

(c) TECHNICAL AMENDMENT.—Section 403(d)(2) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A–371), as enacted into law by section 1000(a)(6) of Public Law 106–113, is amended by striking ''subsection (a)'' and inserting ''paragraph (1)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to services furnished on or after November 29, 1999.

(2) BBRA AND TECHNICAL AMENDMENTS.—The amendments made by subsections

(a)(2)(B) and (c) shall take effect as if included in the enactment of section 403(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A–371), as enacted into law by section 1000(a)(6) of Public Law 106–113.

By Mr. FRIST (for himself, Mr. BREAUX, Mr. BOND, and Mr. HOLLINGS):

S. 2988. A bill to establish a National Commission on Space; to the Committee on Commerce, Science, and Transportation.

MILLENNIUM NATIONAL COMMISSION ON SPACE ACT

Mr. FRIST. Mr. President, I rise to introduce the Millennium National Commission on Space Act.

The year 1999 proved to be very difficult for NASA. The Commerce Committee reviewed reports on such incidents as:

Workers searching for misplaced Space Station tanks in a landfill;

Loose pins in the Shuttle's main engine;

Failure to make English-metric conversions causing the failure of a $125 million mission to Mars;

Two-time use of ''rejected'' seals on Shuttle's turbopumps;

$1 billion of cost overruns on the prime contract for the Space Station with calls from the Inspector General at NASA for improvement in the agency's oversight;

Workers damaging the main antennae on the Shuttle for communication between mission control and the orbiting Shuttle;

Urgent repair mission to the Hubble telescope;

Approximately $1 billion invested in an experimental vehicle and currently no firm plans for its first flight, if it flies at all; and

The lack of long-term planning for the Space Station, an issue on which the Science, Technology, and Space Subcommittee of the Commerce Committee has repeatedly questioned NASA.

It is the last of these items, the lack of long-term planning for the Space Station and the lack of long-term planning of NASA and the civilian space program, that is of a concern to me. I feel that the civilian space program is in need of some guidance. Just as the space policy of the 1980's had changed since the creation of NASA in 1958, the space policy of the New Millennium needs to change from the 1980's.

Space has become more commercialized. Today, the private sector conducts more space launches than the government. There are many more companies developing plans to implement other new and innovative commercial ventures.

I feel that the long term civilian space goals and objectives of the nation are in need of some major revisions. As I mentioned earlier, today's environment has changed drastically since the last commission of this type was assembled.

This bill proposes a Presidential Commission to address these points. The commission will do the ''homework'' that will form the basis for a revised civilian space program. The civilian space industry has proven to be a valuable national asset over the years. The goal of this bill will be to ensure that the U.S. maintains its preeminence in space.

This commission will consist of 15 Members appointed by the President based upon the recommendations of Congressional leadership. My hope is that today's new environment will be reflected in the make-up of the commission's members. For that reason, the bill sets limits on how many members shall be from the government and how many should serve on their first federal commission. Ex-officio members of the commission are also specified in the bill. Advisory members from the Senate and the House of Representatives are to be appointed to the commission by the President of the Senate and the Speaker of the House of Representatives.

The final report of the commission is to identify the long range goals, opportunities, and policy options for the U.S. civilian space activity for the next 20 years.

As Chairman of the Science, Technology and Space Subcommittee of the Commerce Committee, I will continue our oversight responsibilities at NASA. I look forward to working with other Members of this body to further perfect this bill.

Mr. President, I thank you for this opportunity to introduce this legislation which addresses these very important issues for the space community.

Mr. BREAUX. Mr. President, as the Ranking Democratic Member of the Commerce Committee's Science, Technology, and Space Supcommittee, I am joining my Chairman, Senator FRIST, in introducing legislation to establish a National Space Commission.

If past experience holds true, NASA will be a catalyst for scientific discovery in this new century. In the past year, NASA has worked on a variety of valuable projects from finding a value for the Hubble Constant which measures how fast the universe is expanding to docking with the International Space Station for the very first time. Earlier this week, NASA and the Russian Space Agency completed the docking of the Service Module to the International Space Station, setting the stage for the first permanent crew to occupy the station.

Now, our space exploration agency is poised at a crossroads. After several failures, management has made some changes and reinvested in the work force and in project oversight. During the next year, NASA will try to meet a very aggressive schedule for the assembly of the Space Station, and we will finally have our orbiting laboratory in space. At the same time, a new Administration will be entering the White House. It seems to be an appropriate moment to stand back and ask where our space program is going in the next twenty years.

Now is the time to look to the future. The Millennium National Space Commission will build on the work of the 1985 National Space Commission and help us formulate an agenda for the civilian space program. In doing so, it will help keep this nation in the forefront of scientific exploration of ''the final frontier.''

By Mr. MCCAIN (for himself and Mr. KERREY):

S. 2989. A bill to provide for the technical integrity of the FM radio band, and for other purposes; to the Committee on Commerce, Science, and Transportation.

LOW POWER RADIO ACT OF 2000

Mr. MCCAIN. Mr. President, I rise today to introduce a bill with my friend and colleague Senator KERREY to resolve the controversy that has erupted over the Federal Communications Commission's creation of a new, noncommercial low-power FM radio service.

As you undoubtedly know, the FCC's low-power FM rules will allow the creation of thousands of new noncommercial FM radio stations with coverage of about a mile or so. Although these new stations will give churches and community groups new outlets for expression of their views, commercial FM broadcasters as well as National Public Radio oppose the new service. They argue that the FCC ignored studies showing that the new low-power stations would cause harmful interference to the reception of existing full-power FM stations.

Mr. President, legislation before the House of Representatives would call a halt to the institution of low-power FM service by requiring further independent study of its potential for causing harmful interference to full-power stations, and Senator GREGG has introduced the same legislation in the Senate. While this would undoubtedly please existing FM radio broadcasters, it understandably angers the many parties who are anxious to apply for the new low-power licenses. Most importantly, it would delay the availability of whatever new programming these new low-power licensees might provide, even where the station would have caused no actual interference at all had it been allowed to operate.

With all due respect to Senator GREGG and to the supporters of the House bill, Senator KERREY and I think we can reach a fairer result, and the bill we are introducing, the Low Power Radio Act of 2000, is intended to do just that.

Unlike Senator GREGG's bill, the Low Power Radio Act would allow the FCC to license low-power FM radio stations. The only low-power FM stations that would be affected would be those whose transmissions are actually causing harmful interference to a full-power radio station. The Commission would determine which stations are causing such interference and what the low-power station must do to alleviate it,

as the expert agency with the experience and engineering resources required to make such determinations.

The Act gives full-power broadcasters the right to file a complaint with the Commission against any low-power FM licensee for causing harmful interference, and stipulates that the costs of the proceeding shall be borne by the losing party. Finally, to make sure that the FCC does not relegate the interests of full-power radio broadcasters to secondary importance in its eagerness to launch the new low-power FM service, the bill requires the FCC to complete all rulemakings necessary to implement full-power stations' transition to digital broadcasting no later than June 1, 2001.

Mr. President, this legislation strikes a fair balance by allowing non-interfering low-power FM stations to operate without further delay, while affecting only those low-power stations that the FCC finds to be causing harmful interference in their actual, everyday operations. This is totally consistent with the fact that low-power FM is a secondary service which, by law, must cure any interference caused to any primary, full-power service. This legislation will provide an efficient and effective means to detect and resolve harmful interference. By providing a procedural remedy with costs assigned to the losing party, the bill will discourage the creation of low-power stations most likely to cause harmful interference even as it discourages full-power broadcasters from making unwarranted interference claims. And for these reasons it will provide a more definitive resolution of opposing interference claims than any number of further studies ever could.

Mr. President, in the interests of would-be new broadcasters, existing broadcasters, but, most of all, the listening public, I urge the enactment of the Low Power Radio Act of 2000.

Mr. KERREY. Mr. President, I am pleased to introduce today the Low Power Radio Act of 2000 with Senator MCCAIN. Low power FM radio is an effort to bring more diversity to the airwaves. Though radio airwaves belong to the public, only a handful of people currently control what we hear on-air. Low power FM will expand that number by thousands, giving a voice to local governments, community groups, churches, and schools.

I understand that there is some concern that these new low-power signals will interfere with existing full-power stations. I believe these fears are greatly exaggerated. The Federal Communications Commission (FCC) has decades-long experience dealing with FM-spectrum issues, and they have conducted extensive testing to ensure that these new stations will not cause interference.

Should interference occur, however, I believe that full-power stations must have a process for alleviating the problem. The Low Power Radio Act allows any broadcaster or listener to file a formal complaint with the FCC. If the FCC determines that a low-power station is causing harmful interference, the low power station will be removed from the airwaves while a technical remedy is found. To discourage frivolous complaints, however, the FCC is authorized to assess reimbursement of costs associated with the proceeding as well as punitive damages onto any full-power station who files a complaint without any purpose other than to impede a low-power radio transmission.

This initiative has undergone a considerable period of testing and public comment. Delaying implementation will only result in more conflicting engineering studies without guaranteeing that interference will not occur. I believe that it is time to let low power FM go forward. The Low Power Radio Act gives the FCC the authority to resolve harmful interference complaints on a case-by-case, common sense basis. It is a compromise that can work to the benefit of existing broadcasters, potential low power licensees, and all radio listeners.

By Mr. KERRY (for himself and Mr. FEINGOLD):

S. 2990. A bill to amend chapter 42 of title 28, United States Code, to establish the Judicial Education Fund for the payment of reasonable expenses of judges participating in seminars, to prohibit the acceptance of seminar gifts, and for other purposes; to the Committee on the Judiciary.

THE JUDICIAL EDUCATION REFORM ACT OF 2000

Mr. KERRY. Mr. President, I send to the desk a bill for introduction. The bill is entitled the Judicial Education Reform Act of 2000. Mr. FEINGOLD is cosponsoring the legislation.

Mr. President, as the arbiters of justice in our democracy, judges must be honest and fair in their duties. As importantly, if the rule of law is to have force in our society, citizens must have faith that judges approach their duties honestly and fairly, and that their decisions are based solely on the law and the facts of each case. Even if every judge were uncorrupt and incorruptible, their honesty would mean nothing if the public loses confidence in them. Court rulings are effectively only if the public believes that they have been arrived at through impartial decision-making. The judiciary must avoid the appearance of conflict as fastidiously as it avoids conflict.

Recent press coverage and an investigation by the public interest law firm Community Rights Counsel have revealed that more than 230 federal judges have taken more than 500 trips to resort locations for legal seminars paid for by corporations, foundations, and individuals between 1192 and 1998. Many of these sponsors have one-sided legal agendas in the courts designed to advance their own interests at the expense of the public interest. In many cases, judges accepted seminar trips while relevant cases were pending before their court. In some cases, judges ruled in favor of a litigant bankrolled by a seminar sponsor. And in one case a judge ruled one way, attended a seminar and returned to switch his vote to agree with the legal views expressed by the sponsor of the trip.

The notion that federal judges are accepting all-expense-paid trips that combine highly political legal theory with stays at resort locations from persons with interests before their courts creates an appearance of conflict that is unacceptable and unnecessary. At a minimum, it creates a perception of improper influence that erodes the trust the American people must have in our judicial system.

Fortunately, the problems posed by improper judicial junkets can be remedied and the appearance of judicial impartiality restored. The Judicial Education Reform Act will seek to amend the Ethics Reform Act of 1989 to close the loophole that allows for privately-funded seminars by requiring federal judges to live by the same rules that now govern federal prosecutors. The proposal is modeled after the successful Federal Judicial Center. It will ensure that legal educational seminars for judges serve to educate, not improperly influence. It will ensure that these seminars improve our judiciary through better-trained and better-informed judges, not undermine it by eroding public confidence in judicial neutrality.

Specifically, the legislation bans privately-funded seminars by prohibiting judges from accepting private seminars as gifts, providing appropriate exceptions, such as where a judge is a speaker, presenter or panel participant in such a seminar. The proposal establishes a Judicial Education Fund of $2 million within the U.S. Treasury for the payment of expenses incurred by judges attending seminars approved by the Board of the Federal Judicial Center. It requires the Judicial Conference to promulgate guidelines to ensure that the Board approves only those seminars that are conducted in a manner that will maintain the public's confidence the judiciary. Finally, the proposal requires that the Board approve a seminar only after information on its content, presenters, funding and litigation activities of sponsors and presenters are provided. If approved, information on the seminar must be posted on the Internet.

Mr. President, in introducing this legislation, I am not charging the federal judiciary or any single judge with improper behavior. I do not question the integrity of judges, rather I question a system that creates the clear appearance of conflict. I understand the need for education. Our economy has mainstreamed once exotic technologies in communication, medicine and other fields, and it is important that judges have access to experts to keep current on technological advances. And I recognize the need for judges to be exposed to diverse legal views and to test current legal views. The Judicial Education Reform Act legislation provides

$2 million for precisely that purpose. No judge will be without access to continuing education. But, that education will not be funded by private entities with broad legal agendas before the federal courts, or, as has happened in some of the most unfortunate cases, private entities with cases pending before participating judges.

Finally, Mr. President, I ask unanimous consent to place in the record a statement from the Honorable Abner J. Mikva on this subject. Mr. Mikva is a former Chief Judge on the United States Court of Appeals for the D.C. Circuit and a current Visiting Professor of Law at the University of Chicago. His statement captures this the essence this issue and need for reform.

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

STATEMENT OF ABNER J. MIKVA

The notion that judges must be honest for the system to work is hardly a profound statement. As early as the Declaration of Independence, our founders complained about judges who were obsequious to King George, rather than the cause of justice. But a pure heart is not all that judges must bring to the judicial equation. For the system to work as it should, the judges must be perceived to be honest, to be without bias, to have no tilt in the cause that is being heard.

That perception of integrity is much more difficult to obtain. After spending 15 years as a judge and a lifetime as a lawyer and lawmaker, I can safely say that the number of judges who were guilty of outright dishonesty—malum in se—were happily very few. Even taking into account that I started practicing law in Chicago in the bad old days, the number of crooked judges was small. But that is not what people believe—then or now.

The framers and attenders to our judicial system have taken many steps to help foster the notion of the integrity of its judges. Some relate to smoke and mirrors—the high bench, the black robe, the ''all rise'' custom when the judge enters the room. Some, like life tenure for federal judges, the codes of conduct promulgated for all judges, are intended to create the climate for integrity and good behavior. (The Constitution limits the life tenure of federal judges to their ''good behavior''.)

All of those steps become meaningless when private interests are allowed to wine and dine judges at fancy resorts under the pretext of ''educating'' them about complicated issues. If an actual party to a case took the judge to a resort, all expenses paid, shortly before the case was heard, it would not matter what they talked about. Even if all they discussed were their prostate problems, the judge and the party would be perceived to be acting improperly. The conduct is no less reprehensible when an interest group substitutes for the party to the case, and the format for discussion is seminars on environmental policy, or law and economics, or the ''takings clause'' of the Constitution.

That's what this report is about. It is about the perception of dishonesty that arises when judges attend seminars and study sessions sponsored by corporations and foundations that have a special interest in the interpretation given to environmental laws. It may be a coincidence that the judges who attend these meetings usually come down on the same side of important policy questions as the funders who finance these meetings. It may even be a coincidence that very few environmentalists are invited to address the judges in the bucolic surroundings where the seminars are held. But I doubt it. More importantly, any citizen who reads about judges attending such fancy meetings under such questionable sponsorship, will doubt it even more.

The federal judiciary has a very effective Federal Judicial Center. It already provides many of the educational services that these special interest groups seek to provide to judges. Admittedly, since the Center is using taxpayer funds and must answer to Congress, the locals of their programs are not as exotic. (The last ones I attended were in South Bend, Indiana in October, and Washington, D.C. in December.) The purpose of Center sponsored programs is as vanilla as it claims: there is no agenda to get the judges to perform in any particular way in handling environmental cases. As a result, the programs are not only balanced as to presentation, but they provide no tilt to the judges' subsequent performance.

Unfortunately, the U.S. Judicial Conference, the governing body for all federal judges, has punted on the propriety of judges attending seminars funded by special interest groups. It advised judges to consider the propriety of such seminars on a ''case by case'' process. That delicacy has not begun to stem the erosion of public confidence in the fairness of the judicial process when it comes to environmental causes. One of the special interest sponsoring groups publishes a ''Desk Reference for Federal Judges'' which it distributes to all its judge attendees. That must be a real confidence builder for an environmental group that sees it on the desk of a judge sitting on its case. One of the judges on the court on which I sat has attended some 12 trips sponsored by the three most prominent special interest seminar groups. I remember at least two occasions where co-panelist judges took positions that they had heard advocated at seminars sponsored by groups with more than a passing interest in the litigation under consideration.

When I was in the executive branch, all senior officials operated under a very prophylactic rule. Whenever we were invited to attend or speak at a private gathering, the government paid our way. Whether it was the U.S. Chamber of Commerce or the A.F.L.–C.I.O., nobody could even imply that the official was being wined and dined and brainwashed to further some special interest. Experience showed that such a policy was not sufficient in itself to restore people's confidence in the Executive Branch; at least we didn't make the problem worse.

If the Federal Judicial Center can't provide sufficient judicial education to the task, maybe the federal judges could use such a prophylaxis. If the judges want to go traveling, let the government pay for the trip. It may or may not change the places they go or the things they learn, but it will at least change the transactional analysis.

Mr. FEINGOLD. Mr. President, at the very foundation of our system of justice is the notion that judges will be fair and impartial. Strict ethical guidelines have been in effect for years to remove even the hint of impropriety from the conduct of those we entrust with the responsibility of adjudicating disputes and applying the law.

In recent years, there have been disturbing reports of judges participating in legal education seminars sponsored and paid for by organizations that simultaneously fund federal court litigation on the same topics that are covered by the seminars. Some of these seminars have a clearly biased agenda in favor a certain legal philosophy. A recent report released by Community Rights Counsel found that at least 1,030 federal judges took over 5,800 privately funded trips between 1992 and 1998. The appearance created by these seminars is not consistent with the image of an impartial judiciary.

Some of these seminars are conducted at posh vacation resorts in locations such as Amelia Island, Florida and Hilton Head, South Carolina, and include ample time for expense-paid recreation. These kinds of education/vacation trips, which have been valued at over $7,000 in some cases, create an appearance that the judges who attend are profiting from their positions. Again, this is an appearance that is at odds with the traditions of our judiciary.

One-sided seminars given in wealthy resorts funded by wealthy corporate interests to ''educate'' our judges in a particular view of the law cannot help but undermine public confidence in the decisions that judges who attend the seminars ultimately make. I am pleased, therefore, to join with my colleague from Massachusetts, Senator KERRY, to introduce the Judicial Education Reform Act of 2000. Our bill instructs the judicial conference to issue guidelines prohibiting judges from attending privately funded education seminars. The bill also authorizes $2 million per year over five years so that the Federal Judicial Center, FJC, can reimburse judges for seminars they wish to attend, as long as those seminars are approved by the FJC under guidelines that will ensure that the seminars are balanced and will maintain public confidence in the judiciary. And the bill makes clear that the FJC cannot reimburse judges for the expense of recreational activities at the seminars.

Mr. President, I have expressed concern throughout my time in the Congress about the improper influence of campaign contributions and gifts on members of Congress and the executive branch. Community Rights Counsel's report has turned the spotlight on the judicial branch and what it reveals is not at all comforting. The influence of powerful interests on judicial decision-making through these education seminars should concern everyone who believes in the rule of law in this country. If judges are seen to be under the influence of the wealthy and powerful in our society, ''equal justice under law'' will become an empty platitude rather than a powerful aspiration for the greatest judicial system on earth. I believe this bill will help us fulfill the promise of that great aspiration, and I hope my colleagues will join Senator KERRY and me in supporting it.

I yield the floor.

By Mr. LEAHY (for himself and Mr. KOHL):

S. 2993. A bill to enhance competition for prescription drugs by increasing the

ability of the Department of Justice and Federal Trade Commission to enforce existing antitrust laws regarding brand name drugs and generic drugs; to the Committee on the Judiciary.

DRUG COMPETITION ACT

Mr. LEAHY. Mr. President, I have heard a lot of outrageous examples of greed in my life but one of the worst is where pharmaceutical giants pay generic drug companies to keep low-cost drugs from senior citizens and from families.

If Dante were still alive today I am certain he would find a special resting place for those who engage in these conspiracies.

The Federal Trade Commission and the New York Times deserve credit for exposing this problem. Simply stated: some manufacturers of patented drugs—often brand-name drugs—are paying millions each month to generic drug companies to keep lower-cost products off the market.

This hurts senior citizens, it hurts families, it cheats healthcare providers and it is a disgrace.

These pharmaceutical giants and their generic partners then share the profits gained from cheating American families.

The companies have been able to get away with this by signing secret deals with each other not to compete. My bill, which I am introducing today, will expose these deals and subject them to immediate investigation and action by the Federal Trade Commission, or the Justice Department. This solves the most difficult problem faced by federal investigators—finding out about the improper deals. This bill does not change the so-called Hatch-Waxman Act, it does not amend FDA law, and it does not slow down the drug approval process. It allows existing antitrust laws to be enforced because the enforcement agencies have information about deals not to compete.

Fortunately, the FTC was able to get copies of a couple of these secret contracts and instantly lowered the boom on the companies

Mr. President, I ask unanimous consent that an editorial in the July 26, New York Times, called ''Driving Up Drug Prices'' be printed in the RECORD.

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

DRIVING UP DRUG PRICES

Two recent antitrust actions by the Federal Trade Commission and a related federal court decision have exposed the way some pharmaceutical companies conspire to keep low-priced drugs out of reach of consumers. Manufacturers of patented drugs are paying tens of millions of dollars to manufacturers of generic drugs if they agree to keep products off the market. The drug companies split the profits from maintaining a monopoly at the consumer's expense. The commission is taking aggressive action to curb the practice. It needs help from Congress to close loopholes in federal law.

Dissatisfied with the supply of generic drugs, Congress passed the Hatch-Waxman act in 1984 to encourage manufacturers to challenge weak or invalid patents on brand-name drugs. The act grants temporary protection from competition to the first manufacturer that receives permission from federal authorities to sell a generic drug before the patent on a brand-name drug expires. For 180 days, the federal government promises to approve no other generic drug.

But as reported Sunday by Sheryl Gay Stolberg and Jeff Gerth of The Times, drug companies are undermining Congress's intent. Hoechst Marion Roussel, the maker of drugs to treat hypertension and angina, agreed in 1997 to pay Andrx Pharmaceuticals to delay bringing its generic alternative to market. The commission brought charges against the companies last March and a federal judge declared last month in a private lawsuit that the agreement violated antitrust laws.

In a second case, Abbott Laboratories paid Geneva pharmaceuticals to delay selling a generic alternative to an Abbott drug that treats hypertension and enlarged prostates. Geneva's drug could have cost Abbott over 30 million a month in sales. In both cases, the manufacturer of the generic drug used its claim to the 180-day grace period to block other generic drugs from entering the market.

The drug companies deny that their agreements violate the antitrust laws, presenting them as private preliminary settlements between companies engaged in patent disputes. That is untenable. The agreements are overly broad, temporarily stopping all sales of generic drugs. Typically in settlement of a patent dispute, the company infringing on the patent would pay the patent holder. In these cases it is reversed, stunting competition. The agreements are also private, going into effect before a court reviews the public interest.

Not all private settlements are anti-consumer. That is why the commission has taken a careful case-by-case approach. It could use a little help from congress. The 180-day grace period was designed to encourage generics to enter the market. Since it is being manipulated to impede competition, the grace period needs to be fixed so that the production of generic drugs cannot be blocked by a single company that decides not to compete.

Mr. LEAHY. This editorial neatly summarizes the problem and concludes that the FTC ''is taking aggressive action to curb the practice. It needs help from Congress to close loopholes in federal law.''

My bill slams the door shut on would-be violators by exposing the deals to our competition enforcement agencies.

Under current law, manufacturers of generic drugs are encouraged to challenge weak or invalid patents on brand-name drugs so that consumers can enjoy lower generic drug prices.

Current law grants these generic companies a temporary protection from competition to the first manufacturer that gets permission to sell a generic drug before the patent on the brand-name drug expires.

This approach then gives the generic company a 180-day headstart on other generic companies.

That was a good idea—the unfortunate loophole exploited by a few is that secret deals can be made that allow the manufacturer of the generic drug to claim the 180-day grace period—to block other generic drugs from entering the market—while, at the same time, getting paid by the brand-name manufacturer to not sell the generic drug.

The bill I am introducing today will shut this loophole down for companies who want to cheat the public, but keeps the system the same for companies engaged in true competition with each other. This bill would give the FTC or the Justice Department the information it needs to take quick and decisive action against companies driven more by greed than by good sense.

I think it is important for Congress not to overreact in this case and throw out the good with the bad. Most generic companies want to take advantage of this 180-day provision and deliver quality generic drugs at much lower costs for consumers. We should not eliminate the incentive for them.

Instead, we should let the FTC and Justice look at every single deal that could lead to abuse so that only the deals that are consistent with the intent of that law will be allowed to stand.

This bill was quickly drafted because I wanted my colleagues to be able to look at it over the recess so that we can be ready to act when we get back in session.

I look forward to suggestions from other Members on this matter and from brand-name and generic companies who will work with me to make sure this loophole is closed. I am not interested in comments from companies who want to continue to cheat consumers.

I ask unanimous consent to print the bill in the RECORD.

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

S. 2993

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 ''Drug Competition Act of 2000.''

SEC. 2. FINDINGS.

Congress finds that—

(1) prescription drug costs are increasing at an alarming rate and are a major worry of senior citizens and American families;

(2) there is a potential for drug companies owning patents on brand-name drugs to enter to private financial deals with generic drug companies in a manner that could tend to restrain trade and greatly reduce competition and increase prescription drug costs for American citizens; and

(3) enhancing competition between generic drug manufacturers and brand name manufacturers can significantly reduce prescription drug costs to American families.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to provide timely notice to the Department of Justice and the Federal Trade Commission regarding agreements between companies owning patents on branded drugs and companies who could manufacture generic or bioequivalent versions of such branded drugs; and

(2) by providing timely notice, to—