The Senate met at 10:00 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER
The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:
O God of new beginnings, give us minds open to Your fresh vision and hearts ready to be warmed by the glow of Your presence. Open our ears to hear Your admonition, Not by might nor by power, but by My Spirit—Zechariah 4:6.
Remind us all that it is not by human strategies or clever power-brokering that Your work is done but by the grace, guidance, and gifts of Your Spirit. Help the Senators to humbly ask for and to willingly receive the supernatural endowments of Your wisdom, discernment, insight, and courage. You alone can make good leaders great leaders. May You grant the Senators such lodestar magnetism that there can be no other explanation for their dynamic words and lives than that they have been with You and have decided to live in the flow of Your Spirit.
Free them from the limits of self-reliance. Surprise them with what You can do with leaders who are totally reliant on Your spiritual reinforcement and resilience. Fill this Chamber with Your glory and the Senators with Your grace. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE
The Honorable JUDD GREGG, a Senator from the State of New Hampshire, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER
The PRESIDENT pro tempore. The able majority leader is recognized.

BEGINNING OF THE 107TH CONGRESS
Mr. LOTT. Mr. President, as always, it is good to see you present and ready for a new beginning. I think we have a new opportunity in this 107th Congress. Again, I extend appreciation to our Chaplain for the spiritual leadership he provides to the Senate, all Senators and our Senate family.
I see the distinguished Democratic whip, Senator REID from Nevada, is on the floor also ready to go to work. I appreciate the work he did in the last Congress and look forward to working with him this year. We are now at a stage in our country's history where we will be able to take a new look at what we want to do for the benefit of all of our people. We have completed the election, we have completed the inauguration, and now we begin to get down to business.
I am pleased today that we will have an opportunity to go down with leaders of both parties from both the House and the Senate to meet with the new President to begin to discuss the agenda and how he would like to proceed and how we would like to proceed in our own way.

This is the first day for bills to be introduced. The Senate will then have a period of morning business until 3 p.m. for the purpose of general statements, most of them, of course, with respect to the bills introduced.

As previously announced, there will be no rollcall votes today. Votes, if necessary can be expected during this week’s session regarding the confirmation of the President’s Cabinet nominees. Senators will be notified as votes are scheduled. I expect there could be a vote or two scheduled on Tuesday, perhaps also on Wednesday, but we will give Members specifics on that once we have had an opportunity to consult with leaders on the Democratic side of the aisle.

I also thank all the Senators for their willingness to allow us to move seven of the President’s nominees through confirmation on Saturday. There had been some indication that perhaps recorded votes would be necessary, but after a great deal of working back and forth and the fact that Senator Daschle was willing to be supportive of moving the nominees through quickly, we were able to get that done. I think that was a wise decision on behalf of myself and I know the new President is glad six members of his team have already been sworn in and the seventh will probably be sworn in today, especially those dealing with national security issues, economic issues, and even the new Energy Secretary who will have to immediately begin to address some of the energy needs in this country. I think we are off to a good start.

This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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We will have the first 30 minutes I believe on this side of the aisle, and then the second 30 minutes goes to the Democratic side. Traditionally, we introduce the first five, the majority party introduces the first five, and then the rest of the nominees. It’s back and forth on both sides of the Capitol in the majority party, but also have input from the President. This week, the President will go forward with his commitment to make education his highest priority, and he, as I understand it, will come to different aspects of his proposal each day, or two or three times during this week. We would like to make sure we have a bill that has been worked through and we will have an opportunity to work with our new chairman of the Senate Republican Conference, the distinguished Senator from Pennsylvania, Senator Santorum. So, within a couple of weeks we will have the specifics of this legislation.

Again, without saying these are the order of priorities, I do think I should at least touch on the issues we are going to be focusing on in these early bills. Education, as the President has indicated—I think everybody in America is in the middle of a regional or party or financial background—has to be addressed. We have lost some ground in comparison to previous generations, compared to other countries. We can do a better job in education. No child should be left behind in America. We are going to focus on accountability and reading. I feel very strongly about this whole issue.

I am the son of a schoolteacher who taught school for 19 years. I went to public schools all my life, as did my wife and both of our children. It really pains me to see what is happening in some of our schools. The quality has deteriorated. The accountability has left. The schools are dangerous. The schools are unsafe from drugs. So we have work to do there.

Also, clearly, we need to continue to try to address the Tax Code. The Tax Code is unfair. It is too complicated; it is too long—it is endless. But even beyond that, now, we see there is some softening in the economy. Without trying to predict what might happen in some of our schools. The quality has deteriorated. The accountability has left. The schools are dangerous. The schools are unsafe from drugs. So we have work to do there.

Also, clearly, we need to continue to try to address the Tax Code. The Tax Code is unfair. It is too complicated; it is too long—it is endless. But even beyond that, now, we see there is some softening in the economy. Without trying to predict what might happen in that area—we always look for a way, in America, to have more. But when you look at the surplus we have and look at the Tax Code, we need to make it more fair and also to encourage economic growth. I think that should be one of our high priorities.

I believe it will be. The President has said he is going to seek that, and I believe there are Members of Congress, again, on both sides of the aisle in both Chambers, who are going to try their best to achieve that goal. Will there be arguments over some of the details? Surely. This is a legislative body and different Senators and different House Members will have different approaches. But we should get this done and do it as quickly as possible because we need to start having some impact.

That is why I do support the ideas that have been suggested, that it be across-the-board rate cuts and that we look at retroactivity and other ways to really affect the economy.

Over the past week, in various settings, I did also have the opportunity to talk to some of our leaders in defense. I spent some time with the new Secretary of Defense, Don Rumsfeld. I had the opportunity to talk to a number of Members of the Joint Chiefs of Staff but, more important, to individual military men and women. I believe there are more gentlemen in our military and greater needs there than we have acknowledged or that people are prepared to recognize at this point. It does go to morale, the quality of the facilities for our military personnel—readiness and modernization. So defense has to be at the very top of any agenda we discuss.

Then you start looking to your grandparents and your parents, to your own future and that of your children and grandchildren. We have to go and address these issues that are difficult politically but essential for the future security of all of us; that is, Social Security and Medicare, and how do you provide prescription drugs to our needy elderly. It will not be easy, but as the President said in his Inaugural Address at his swearing in on Saturday: We cannot just pass these issues on to the next generation because it is tough for us to deal with them.

That is not exactly what he said, but that was the gist of it. That is what he meant. So I think we have to find a way to do these things, and we can do them. There are a lot of different ways to approach this. Again, the substance will be hotly debated. I really think the Social Security and Medicare, with just a few changes that would protect it for 90 or more years. Medicare has more moving parts, and I think it has more difficulty right now, but we should start early to try to find a way to work on those.

On Medicare, I think a good place to begin would be where the Medicare Commission left off. We had a bipartisan Medicare Commission with some of the most thoughtful Members of the Congress serving on that Commission, chaired by Senator John Breaux. They never had a good airing by the Senate Committee or the House Ways and Means Committee.

In the case of Social Security, I think a good idea would be to consider a commission somewhat similar to the commission we had in the 1980s, sort of a base closure-type commission, where we had a distinguished blue ribbon commission that would look at this area and make recommendations. Then Congress would have to review it and then vote it up or down. But these are
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just some ideas, ideas I am not advocating on behalf of any group of Senators and not the new President, but just some thoughts that we can work on.

Another area and this goes beyond five or six bills, something we have to look at very quickly—is energy. We have ignored this energy problem. We don’t have a national energy policy. How many times are we going to have to be shaken to wake up and realize that we do not have a national energy policy? We are not properly regulating the right incentives for conservation; we are dependent on foreign oil? This makes no sense.

Then we have the situation in California where they say they have deregulation but it is not deregulation, or it is half deregulation which is worse than no deregulation. They deregulated at one end and not at the other, and there are real problems. But we should not protest and damn the darkness. We should prepare for the light. We should find a way to have a broad policy in this area.

On Sunday, I spoke to the distinguished members of the Senate Natural Resources Committee, Senator Murkowski. I thought that issue was so important that I took some time to give him a ring and talk about what he has in mind and the preparation he is doing to ensure that we will have a bill ready within the next few days. It can be introduced in our first grouping of bills.

We have a lot of work to do, but I am excited about the possibilities. This is by no means a complete list. There will be issues we will be working on beyond the first five or first six bills, things that are left over from last year that I know we are going to need to address.

We will have to address them. It will be in a variety of areas all the way from transportation to housing to health care, obviously, that is still pending. So we will have plenty of other things that will be moving.

But as Winston Churchill would say, I think, and as he said, you do need to give the people a few really big ideas.

You do need to step up to the difficult issues. You need to stretch people to reach beyond their own comfort and try to think about the next generation. So the issues I have addressed here are issues that we need to speak to quickly. With the leadership of our new President, one who is going to be very aggressive in promoting ideas but also very willing to listen, to reach out to Members of both parties and Americans of all stages in life, I think he is set up now in such a way, with his own efforts and also some things that have happened here in the Senate, that give us an opportunity to achieve some really wonderful things for the American people.

So I look forward to this opportunity, working with Senators on both sides of the aisle. I thank the distinguished Senator from Pennsylvania for being willing to be here this morning and go over this list, perhaps in some more specificity. I yield the floor at this time, Mr. President.

Mr. SANTORUM. Mr. President, I thank the leader for his opening remarks. I am encouraged for what we all hope to be a very productive session of Congress. It is like the first day of a football season or baseball season. Everybody is even right now. Nobody has lost a game yet. Everybody has high expectations and high hopes and high expectations and high confidence.

I believe we have a good team here. We have a good team here in the U.S. Senate. We have a good team in the House, a good team in the White House. I am very optimistic that we can work together and really produce for the American public, because that is really what it is all about. It is about delivering and meeting the concerns that the American public have with how we here in Washington, D.C. interact with the rest of the world.

There are certain issues that are very important to average Americans—I always use the term kitchen table. What are people talking about at their kitchen table, and what is relevant in their life, and what do that have to do that they can work together and intersect with that here in Washington, D.C.? I think it is vitally important for us to approach what we do here in part based on that.

Obviously, there are great issues of national defense and foreign diplomacy that may not be kitchen-table conversations on a daily basis to which we obviously have to pay attention. Making sure Government runs efficiently and effectively may not be on the front burner of the American people but certainly is the responsibility of Congress. But when it comes to the agenda of changing to improve our system to reflect the concerns of the American public, I think that is what we really need to do.

Senator Lott did a good job of running through those items that he believes and I believe are on the minds of millions of Americans, where they see problems and they see ways in which the Federal Government can, by some level of involvement, make a positive difference in making their lives better and America better. I want to walk through those.

We, as a Republican Conference, a few weeks ago met across the street in the Library of Congress. We had a discussion about what we thought were the issues of importance to the people of America where Congress could make a difference, where Congress could improve the quality of life in America and improve the prospects for future generations of Americans to live free and to have opportunities.

The six we came up with are these: Improving our national defense. Obviously, a big concern. This new administration and I think with the entire Congress on both sides of the aisle is the low level of morale in many areas of our military and the fact that we have not faced up to the challenges we have in national security. I will go through those.

First, morale. Let’s make no mistake about it; we have the best fighting force ever seen on the face of the Earth, and yet we have young men and women who are serving this country and serving it well, but we have not provided leadership in two ways: No. 1, providing basic care for them as people, whether it is the military health care system which has an inordinate amount of problems or whether it is simply pay, salary. We gave a pay increase, but it is still lagging far behind the private sector. We ask our people to serve and put their lives on the line, and yet the compensation is such that most of our people in the military live hand to mouth, paycheck to paycheck.

We need to do something to improve quality of life in housing. We need to improve quality of life in another area, and that is deployment. Our front-line troops in particular are stretched out, even several members of a family and friends who are in the Reserves and Guard and are being asked to do much more and many more deployments. That is stretching them at home and at their work, all because of our inability to focus our resources in America appropriately.

I am hopeful with this new President that we will reduce the number of deployments, and not just because we need to be involved in all the areas in which we have been involved, but certainly because of the strain it takes on our military in morale and readiness. That is another area in which I am looking forward to doing some work.

The final area in defense I want to talk about today is we have not prepared our military for the next generation, the new threats that are out there, whether it is missile defense and the threat of terroristic attacks on this country and our allies or cyberwarfare. There are 20 countries around the world developing offensive capability to attack not just our military installations and our military computers, but our commercial computer systems through cyberwarfare. We have to do a better job of responding to that and chemical and biological weaponry and other types of terroristic attacks—homeland defense.

We have to do a better job in this new millennium to respond to the threats of the new millennium. Frankly, we just have not put forth the resources we need and have not given it thought. I am hoping to work on that on a bipartisan basis in the Congress.

We all recognize—many on the other side of the aisle have worked in these areas—we need to work in these areas and move this country forward.

I am doing these items in alphabetical order:

Education: I do not know of anything President Bush has focused on more than providing a quality education for every child. We heard over and over
that no child should be left behind. I am excited to see he already has a growing volume of information, suggestions, and ideas for the Congress to improve the quality of education by insisting on accountability through testing and setting goals, but ensuring and in a sense, restoring local control where, yes, there are goals and, yes, there is testing, but there has to be local control and flexibility for the schools to be able to accomplish that. We have to do something to improve education overall. One way to do that is by improving safety in our schools. I know President Bush is very sincere about that, as we all are. One way is to ensure that people who are going to a school where they do not feel safe is to give them a choice to go to another school that is safe.

There are schools in this country—I have been to a few. I remember going to a school that worked with a group of kids, of whom a very small percentage are going on to college, what is the No. 1 concern they have at school. Was it not enough computers? Quality of teachers? Classroom size? No. One of the first concerns was getting to school alive every day. That was the consensus in the room. If one’s first concern is getting to school alive every day, how well can one learn, how well will they get there? We have to do something to provide the opportunity, for people who want to learn, to go to school where they feel safe. Obviously, we need to improve safety in every school, but we need to give those who do not feel safe in their school.

One of the things President Bush did when he was Governor of Texas was close the gap between those schools that were “advantaged” and those schools that were not. A poor neighbor hood, focusing on getting more resources into our disadvantaged schools to help kids. Yes, parental choice and giving parents the choice to send their kids to another school is one aspect, but getting up the standards in those schools is another way to do that. That has to be a big focus of our education agenda.

Third is energy. Senator LOTT spoke very eloquently to the fact we simply have not had a national energy strategy. We have been able to get away with it. OPEC and the rest of the world were allowing oil to flow very freely, and we had relatively cheap oil for some time. The result of that is we have seen our dependence on foreign oil go up to 56 percent.

One of the objectives of this Congress and this administration should be to get back to the level of dependency on foreign oil and the 8 years in which we had 50 percent. We are talking about a 10-percent reduction in our dependence on foreign oil. It is vitally important we do that, and we can do that through a variety of ways. Developing alternative sources of energy is one. It is vitally important we use renewables but also use the fossil fuels we have in our country.

I come from coal country. I can tell you, the poorest counties in my State are counties in which coal used to be king. We need to do something—and we can—to use our coal resources—and we have literally hundreds and hundreds of years that is clean, and we can do it by investing in technology to burn coal cleanly. It can be done.

We have to have a comprehensive strategy; we have to come together as a nation and say what our agenda is going to be for energy and do it in a bipartisan way, and we need leadership from the White House. We did not have that leadership. We did not have any real effort made. I am excited our former colleague, Secretary Spence Abraham, will be leading that charge, and I am very excited that the opportunities we will have in the area of energy strategy.

Third is Medicare. Medicare is probably one of the most popular programs in the United States. It is popular because it is a program that provides care to those who are the most vulnerable to illness, and they are our seniors. But the problem with Medicare is that it simply doesn’t do the job of providing enough benefits, enough services, and I am very excited that we will have in the area of energy strategy.

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So is it vitally important for the Congress to do something to improve the quality of Medicare and to improve the expansion of Medicare. In other words, we need to expand it.

I think everybody in this Chamber would agree, we have to have a prescription drug component for Medicare. I think everyone would also agree that the only reason we don’t have a prescription drug component of Medicare—I am talking about the out patient prescription drug benefit—is because Medicare is a Government-run health care system. For many years, while every private plan in America had a prescription drug program to it, Medicare didn’t for probably 10 to 15 years. The reason it didn’t is because the Government had to change it. We were running big deficits at the time and we simply didn’t have the money. We simply didn’t have a benefit on it or an existing system as other programs did, to change their insurance policies—to change theirs from less utilized care to more utilized care, to respond to what the public wanted and the changes in Medicare, just as Congress changes because Congress doesn’t move as quickly as medicine does. So we need to do something to make sure Medicare is responsive to the changes in medicine, and to the changes people who are on Medicare want, the kind of medicine they want to have provided to them.

So it is vitally important for us to change Medicare to be patient friendly, to respond to the needs of the American public. That includes a prescription drug program, but it also includes choices for people. It includes changing the system to allow it to evolve as the medical world wants in this country, and change as and medicine changes.

So that is what we are going to be focusing on with the Medicare Program. It is vital for us to do so right now because we have too many people who are not getting the kind of services they need under Medicare. We need to give them those choices. We need to give them the chance to get quality health care the way they want it delivered, on a timely basis.

Second is Social Security. I can’t think of any Member of either the House or the Senate who has done more work on Social Security than the Presiding Officer, the Senator from New Hampshire, Mr. GREGG. But he and I, and others here, are working very hard to try to communicate to the American public: If you think there are problems in Medicare—and there are, as shown in the reasons as I laid them out before—the same problems really exist in Social Security. More people are probably people listening whose sole income comes from their Social Security check. They are living hand to mouth. They are probably not even surviving simply with their Social Security. They are probably having to get supportive services like Meals on Wheels or other food support from charitable organizations. They are probably getting help from relatives or friends because the Social Security check alone isn’t enough anymore.

The fact is, the Social Security system is not enough. It is not going to be adequate for future generations. We have to do a better job to improve it because as much as we encourage people to save and invest, there will always be those who either don’t or can’t—and in most cases can’t—so we have to make sure that basic level of security is there, and we have to improve that system.

We have to improve the system. No. 2, we have to make sure it is not a system that is going to have to be dramatically cut in the future because of demographic changes, such as the mass retirement of the baby boom generation. If we do not improve Social Security, now and in the appropriate manner, we will have tremendous tax increases as a result of this demographic shift that I mentioned.

I love the people who say, well, just leave Social Security alone and it will be fine. If we do nothing, we will either have to cut benefits by 30 percent, or increase taxes by 50 percent within 20 years for this system to survive. Let
me repeat that. We will either have to cut benefits by 30 percent or increase taxes by 50 percent, or some combination thereof, if we keep the system the old way, which is a completely Government-operated system, where all the money just goes straight back out in the form of benefits.

The only way we can change the system and improve it is to add a third component. Instead of cutting benefits or raise taxes—someone can add investment. Every other retirement system in America is funded through investment. It is good enough for those who have the choice as to how they want to create a retirement system, and I don’t know of anybody out there who would trade their retirement system at work, whether it is a 401(k) or whether it is a defined benefit plan, whether they would take that contribution they make, that is invested—that money they give is invested—that they would trade that for the current Social Security system. Instead of investing their money, we just take it, we just use it, and then we promise, 20 years from now, when they retire, we will pay them.

How many people would trade the ability to see that investment—see it grow, manage that investment or have someone help them manage that investment, and then get that return when the time is right—how many would trade that for a promise of the company, 20 years from now, to pay them a benefit? I don’t know of one person who would do that. But that is what Social Security is. Instead of taking the money and using it to help pay their benefits, or raising taxes, we can add investment-operated system, where all the money we now put in as 12.4 percent of every dollar most people earn, instead of taking some of that money and putting it in an investment and managing it and seeing it grow, to use that to provide for retirement, we say: Just trust us. Trust us.

The problem is, it won’t be there. It won’t be there in the sense that we are going to have to make dramatic changes to either the benefit structure or the tax structure.

If we make changes to the tax structure—that is, increasing taxes to 18 percent or 19 percent instead of the now 12.4 percent—

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. SANTORUM. Seeing no one else on the floor, I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. So we really do have a real choice here. And the choice is between preparing for what we know is to come, preparing for the demographic cliff we are going to fall off, which is the baby boom generation. How many would trade that for a promise of the company, 20 years from now, to pay them a benefit? I don’t know of anybody out there who would do that. That is what Social Security is. Instead of taking the money and using it to help pay their benefits, or raising taxes, we can add investment-operated system, where all the money we now put in as 12.4 percent of every dollar most people earn, instead of taking some of that money and putting it in an investment and managing it and seeing it grow, to use that to provide for retirement, we say: Just trust us. Trust us.

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If we make changes to the tax structure—that is, increasing taxes to 18 percent or 19 percent instead of the now 12.4 percent——
Let me outline quickly some of the things we as a Republican Congress and as a Republican Senate have been focusing on, which I presume and expect to be part of the essence of what the President also wants. Last year, we passed out of the Senate Committee on Health, Education, Labor, and Pensions of the Health Committee, a bill which was different than it had been passed out in prior years. We took the basic act which is directed at low-achieving, low-income children and tried to rewrite it in a way that would assist those children and keep them from being left behind.

We discovered after 20 years of spending literally billions of dollars on elementary and secondary education for low-income children—in fact, I think it is approximately $137 billion or $127 billion over that period—that those children were still being left behind; that low-income children in grade 4, for example, were reading at a level two grades behind their peers who were not from those backgrounds; that especially in a minority community children were simply not obtaining the academic levels to be competitive in society; that the children were not only coming to school not ready to read but once in school were not able to learn to read because the educational system was leaving them behind; the funding allowance allowed to continue to be failed schools year in and year out; that children were being put through a system where failure had been identified but nothing was done to change the fact that failure was occurring.

So we decided to change and adjust the approach. Rather than being a system that was based on institutions which funded the institution, the educational building or the educational area, what we attempted to do was to move around to a procedure where we actually funded the child. We decided to take a child-centered approach to education. That is what one presumes is the logical approach under any scenario, but it has been in the last 20 years the approach of the use of Federal dollars. Instead, we have thrown them at the education bureaucracy. We have thrown them into school buildings, but we have not said let’s have the dollars fund the child. The child was being left behind, especially the low-income children.

So the first element of our bill was to have it be child centered. The second element of our bill was to give flexibility to local schools because they understand how to educate the child, to say to the local school districts, the local teachers and principals, local school boards, and especially to the parents of the children: You shall have the opportunity to use Federal dollars in any way that you can think of, to use your judgment as to what is best for that child, and not requiring that they be held accountable, but rather requiring that they be able to choose whatever they want to do. We are saying if the school wishes to use Federal dollars, we are saying that it is an option to the school to use those dollars, but at the same time we are making it, again, an option to the local district that if they feel that those children are being left behind, especially the low-income children, to give the dollars to them or to a tutorial program so that the child has the opportunity to get out of those schools.

This idea of portability of funds, of attaching the dollars to the child, attaching the dollars to the school, has been controversial, but it is an idea which has worked and is working in places such as Arizona.

We are not saying the school district has to pursue this activity, but rather we are saying a school district will have the option of pursuing this activity. We are not saying the school district must undertake portability. We are saying if the school wishes to use Federal dollars in a portable way, they can. So we are making it, again, an option to the local school district as to whether or not they pursue this.
manages that school district—be it a public school board or be it a public education authority that decides that you want to use portability, you can. So it is not a federally-mandated program. It is a Federal option given to the local school districts.

We said to school districts what we need are teachers who can teach their students best. You— the local school districts—understood, and, fortunately, have been told that what you need are more teachers. The Federal program as it presently exists says you must hire teachers even if you do not need more teachers. Forty-two of the States already meet the teacher-student ratio which is required under federal law. But to get Federal dollars, you have to hire more teachers. We said that doesn’t make much sense. We said let’s let the local community decide whether they need more teachers or better trained teachers.

So we passed something called the Teacher Empowerment Act which said to local school districts here are the Federal dollars for teaching. So we will put them in a bundle and give them to you. You can use them for any of a variety of things. You can use them to hire teachers in your classroom. You don’t have to use it for that but you can. You can use them to educate your teachers so they teach better, or you can use them to give technical support to your teachers so they have better tools to teach. It is the local school districts that have the flexibility to do that. But if you get that flexibility, you also have to have accountability and you have to show us the teaching of the students has improved over a 5-year period; that the students are actually learning more; that they are doing better. So, once again, we gave local flexibility to the community and we did it in the context of an accountability system.

This was opposed and is opposed aggressively by the Federal lobby here in Washington because it gives the local community the decision power over how to use the Federal dollars, and the community here in Washington doesn’t like it. They want to be able to manage those dollars from Washington so it is a Washington-driven event versus a local event. This, in essence, is where the battle will once again join if there is a battle in this Congress as we move forward with educational reform.

There are many people on the other side of the aisle who see the need for flexibility and for accountability proposals that came from the Senator from Colorado last year and the Senator from Indiana. Democratic Senators had ideas and initiatives in many ways similar to the initiatives we had on our side of the aisle that represent a positive step toward a bipartisan compromise in these areas. I am hopeful after this joint effort on educational reform we can come together in this Congress and especially in this Senate on a whole series of initiatives which will accomplish this fundamental goal that we aren’t leaving children behind or allowing falling schools to continue to function, that we are expecting that our educational system will deliver to our children the opportunity to participate in the American dream.

There is great room for compromise, there is great room for bipartisan initiative. I congratulate the President on making this his first order of business. This is the essence of how we as a nation continue to remain strong and vibrant.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I said on January 3 that I intended to savor every moment. And I am happy to report that I did.

It was a great honor to serve as Majority Leader of the United States Senate—however briefly.

At noon on Saturday, I handed that title back to my friend, Senator LOTT. Today, in the spirit of bipartisanship, I want to tell Senator LOTT that, if ever he needs to take a day off—for whatever reason—I’ll be happy to pinch hit for him.

I learned a few things about the Senate these past two and a half weeks that I had not known before.

One of my favorite bits of new knowledge has to do with a former member of this Senate, David Rice Atchison, of Missouri.

Senator Atchison was president pro tempore of the Senate in 1849. Back then, new Presidents were sworn in on March 4, not January 20.

But, in 1849, March 4 fell on a Sunday. And the new President-elect, Zachary Taylor, didn’t think it was appropriate to conduct official business on the Sabbath. So he chose to wait until the next day to take oath of office.

Back then, the President pro temp was third in the line of presidential succession, not fourth.

So, from noon on Sunday, March 4, when President Polk’s term ended—until noon on Monday, March 5—when President Taylor was sworn in—Senator Atchison was President. Or so he and his friends claimed.

Today, we know that President Taylor automatically became President as soon as President Polk stepped down.

But for the rest of his life, Senator Atchison loved to say that he had been “President for a day”—and that his presidency was the “honestest administration this country had.”

I do not know that Senate Democrats’ brief time in the majority will make as interesting an historical footnote as the Atchison presidency. But I do believe the Senate accomplished some things during these last 17 days that bode well for this Congress.

I particularly want to thank Senator LOTT for the fairness he showed in agreeing to a distribution of responsibility that accurately reflects the composition of this first-ever 50-50 Senate. I also thank my fellow Democrats—particularly those who chaired committees.

On Saturday, after a week of fair and thorough hearings, we confirmed the first seven of President Bush’s cabinet officers.

On Sunday, too, we saw once again, one of the great miracles of American democracy: the peaceful transfer of power from one President to the next.

I was moved by much of what President Bush said in his inaugural address, especially his conviction that there is no such thing as an “insignificant” person. I also believe there is no such thing as an insoluble problem. My colleagues and I are ready and willing to work with President Bush and Vice President Cheney, and with our Republican colleagues in Congress, to move America forward.

Tomorrow, we understand the President will send us his ideas on education. We are anxious to see them. We will give them, and all of the President’s proposals, careful and respectful consideration. We want to make this 50-50 Senate something to be proud of. Today, we are introducing our first proposals—our first priorities—for this Congress.

Many of them will sound familiar. That is because we have been working on them for a good long while. They are things like: a real, enforceable Patients’ Bill of Rights; a reliable, affordable Medicare prescription drug benefit; middle-class tax cuts, and help for our children’s schools.

They all lead our list of priorities—for two reasons.

First, and most important, because the American people have made it clear, these are their top priorities. Second: Because bipartisan majorities in Congress support them.

The challenges we address affect all Americans, but they effect rural Americans in ways that are often different and more pressing. That is why I am developing a separate package of bills called “South Dakota First.”

But it won’t help just my State. Instead, it will help people in small towns and rural communities throughout America.

As we move ahead, we cannot leave rural America behind.

Over the past several years, relations between our parties have become increasingly strained. By starting with the issues on which most of us do agree, we can strengthen our bonds of trust. And that will make it easier for us to solve the next challenges.

Under President Clinton, we experienced the longest, most sustained economic expansion in our Nation’s history. We went from the biggest deficits ever, to the biggest surpluses ever.

The question now is: What should we do with this surplus?

One of our top priorities this year will be to deliver tax relief to hard-working families across the country.
The debate over how we structure that tax cut is likely to be the most consequential debate we have all year.

Our ability to achieve a strong, bipartisan compromise on taxes will be the biggest test of our 99–50 Senate.

I am sure that test will pass. We are willing to negotiate. At the same time, we are committed to two fundamental principles:

First: The bulk of the tax relief must go to middle-class working families because they are the people who need tax relief most.

Second, any tax cut must be affordable and fiscally responsible.

The efforts we have made to restore fiscal discipline these last 8 years have resulted in lower interest rates, record-high job creation, and record-low unemployment. We must protect those gains. We cannot squander them by going back to the old days of deficit spending.

President Bush has indicated that he will be sending us his recommendations for cutting taxes in late February. We look forward to working with him, and with our Republican friends, to pass a fair, fiscally responsible tax cut this year.

Today, we are taking our first step. We are introducing a package of targeted tax cuts to help working families at the key junctures in their lives.

Our tax cuts will help families pay for college; save for retirement; care for disabled and elderly family members; and pay for long-term care.

We want to eliminate the marriage-penalty tax and eliminate the estate tax on more than 99 percent of estates—to help keep small businesses and family farms in families.

We also want to expand the earned income tax credit for low-income working parents so they do not have to raise their children in poverty.

And, we want to significantly expand child care tax credits for middle-class families; and extend them, for the first time, to stay-at-home parents of infants.

Next, we must pass a real, enforceable Patients' Bill of Rights this year.

The Norwood-Dingell Patients' Bill of Rights passed the House more than a year ago with strong bipartisan support.

In the Senate, it was supported by every Democrat, and four Republicans.

The bill we offer today mirrors it.

It guarantees that you can go to an emergency room when you need to.

It gives women direct access to OB-GYNs.

It guarantees parents the right to choose a pediatrician for their children, and a pediatric specialist if they need one.

And it strengthens that right.

It guarantees the people the right to see qualified specialists when necessary, and to continue with the same doctor if they are pregnant or being treated for a serious illness.

It guarantees that you will get the medicines your doctor says you need.

It prohibits HMOs and insurance companies from gagging doctors to prevent them from telling patients all of their treatment options.

It also prohibits them from providing doctors and hospitals with financial incentives for denying needed care.

Finally, our bill holds insurers accountable, gives patients the right to appeal denials of care to an independent board.

If an insurer ignores the board, and its denial or delay of care results in serious injury or death, our bill allows victims to seek justice in a State court.

Employers that provide health coverage cannot be sued under our plan unless they make the actual medical decisions that result in injury or death.

Every week we delay, 350,000 Americans are denied needed health care—health care for which they have already paid. It is time for those delays to end. It is time to pass a real Patients' Bill of Rights.

Next, we propose an affordable, voluntary Medicare prescription drug benefit.

We all know the terrible financial—and emotional—strain paying for prescription drugs places on many older Americans and their families. Prescription drugs are an essential part of modern medicine. They ought to be part of Medicare, too.

Our plan is universal. Every Medicare beneficiary is eligible, whether they are in traditional Medicare or Medicare+Choice.

Our plan is voluntary. If you already have private prescription coverage you like, you can keep it. It is up to you.

Our plan is affordable, and comprehensive. There is a $250 deductible, no caps on benefits and no gaps in coverage. The most anyone would pay out-of-pocket is $4,000 a year.

It is absolutely wrong that seniors pay, on average, twice as much as HMOs and big insurance companies for the exact same medications.

By combining the purchasing power of 40 million Medicare recipients, our plan gives seniors real bargaining power—so they will not have to pay the highest prices at the drugstore anymore.

We are not talking about Government-run medicine. Medicare will contract with private companies to offer the prescription benefit. Seniors will be able to choose the company they like best and be guaranteed convenient access to local pharmacies, whether they live in big cities or small rural communities.

Next: Someone once said that education is the soul of a generation as it passes from one generation to the next.

We need to work together to ensure the next generation of Americans learns the skills and knowledge necessary to be good parents, good workers, and good citizens.

The quality of our future will be determined by the quality of our schools. It is as simple as that.

We agree with President Bush: No child should be left behind. Every child deserves the chance to go to a good public school.

The education bill we are introducing today gives more to local schools and asks more of schools.

It includes incentives for States to set higher standards for everyone—students, teachers, and administrators—because the stakes are higher. But it lets local communities decide the best way to meet those standards.

Our plan gives parents more information about how their children's schools are performing—and more of a say in how those schools are run.

It also gives parents more choices about the public schools their children attend.

Our bill targets special attention and help to struggling schools. At the same time, if a school cannot or will not fix its chronic problems, our plan contains real consequences. We will not allow technology and all teachers know how to use technology so all of our children are ready for the new economy.

In addition, we propose to expand Head Start, so more children can start school ready to learn; and provide more after-school child care and before- and after-school programs, so children have a safe place to go when parents are at work.

Our plan expands the Reading Excellence Act, to make sure every child can read by the end of the third grade.

And it puts us on track to fund the Federal Government's full share for IDEA, the Individuals with Disabilities Education Act, to help students with disabilities develop to their fullest potential.

In addition, our plan makes college more affordable for more families by increasing Pell grants and extending college tuition tax credits.

And it strengthens training and other lifelong learning programs so workers can learn new skills and move into better-paying jobs.

In the long run, investing in education is the surest way to increase a family's financial security. But, as someone once pointed out, people don't eat in the long run. They eat every day.
It has been more than four years since the last time we raised the minimum wage. Inflation has since wiped out that entire increase. Too many low-income parents who work full time don’t earn enough to feed their families and pay for other basic necessities.

Two years ago, we introduced a bill to raise the minimum wage $1 an hour. This year, we are proposing a $1.50 an hour over 25 months—to make up for Congress’s inaction. We need to raise the minimum wage. This year—no more delays.

We also need to close the wage gap between men and women. It has been 38 years since President KENNEDY signed the Equal Pay Act. And American women still earn only 77 cents for every dollar men earn for doing the same work. This wage gap costs America’s families $200 billion a year, more than $4,000 for each working woman’s family. It is time to close it once and for all by better enforcing the law, and giving workers and wage discrimination new options for fighting it.

We are also proposing new ways to help parents balance family and work without sacrificing part of their income.

For instance, our bill expands the Family and Medical Leave Act to cover more work places, to fund workplace demonstration projects to provide paid family leave, and allow parents to use the leave to attend parent-teacher conferences and other important school functions.

We also give States and communities more resources to develop more and better child care opportunities for working families.

One necessity that too many low-income working families try to get by without is health insurance. Two years ago, we created the Children’s Health Insurance Program to help low-income parents obtain health insurance for their children.

Today, we are proposing to expand the CHIP program to include parents of eligible children, and to give States the option of expanding coverage to 19- and 20-year olds, and to legal immigrant women and children.

These are important first steps. But we will be offering additional ideas in coming months to make sure more Americans have access to good, affordable health care.

We also propose to offer ideas for strengthening our Nation’s unemployment insurance system. We expect those proposals to look much like the reforms suggested last year by a blue ribbon commission made up of business, workers and Government representatives.

It is not just low-income families; nearly every American family relies on Social Security and Medicare for economic security.

We have a responsibility to make sure Social Security and Medicare are always there not just for the current generation of retirees, but for every generation.

When Bill Clinton was first elected President, Medicare was expected to run out of money in 1999. But we didn’t let that happen. Instead, we extended the life of the Medicare trust fund to 2025. And we improved Medicare coverage by adding important new preventive benefits. We also extended the solvency of the Social Security trust fund to 2034. This year, we are proposing to further protect both programs by talking both Medicare and Social Security off budget; putting the surpluses from both programs in a real lockbox, and making it harder to use the money in the lockbox for anything other than Social Security or Medicare.

This administration, and this Congress, must work together to modernize Social Security and Medicare so they will be there for the baby boomers and beyond. Locking away the surpluses now must be the first step.

People ought to be able to feel secure in their retirement. They also ought to be able to raise real wages in their own homes and communities. In the last several years, we have seen major crime go down in almost all categories. We need to keep those trends moving in the right direction.

We know paying police works. We are proposing to help communities hire more community police and prosecutors as a result of that knowledge.

We also know that kids and convicted criminals have no business possessing guns. We also extended Project Exile and other successful efforts to reduce gun violence.

We are also proposing to pass the Juvenile Brady bill to make sure that juveniles who commit serious drug or violent crimes are not allowed to possess guns ever, and close the gun show loophole—one and for all.

We want to strengthen the Violence Against Women Act, including increased support for shelters. We want to toughen the laws who prey on seniors. We want to expand drug courts and drug treatment. We want to expand delinquency prevention programs, so kids who are at risk, or who have already had scrapes with the law, can turn their lives around.

In addition—and this is very important—we want to ensure that crime victims are treated with fairness and respect. We are proposing that crime victims be notified about court proceedings, and have an opportunity to have their opinions heard on these matters. These things are just basic decency. They ought to be basic rights as well.

There is another right every American deserves—the right to vote, and to have his or her vote count—that is a right that should never be compromised. And we believe that there are times when it is compromised. Then our entire system of Government is jeopardized.

We have just come through the most difficult Presidential elections in our lifetimes. We are seeing the peaceful transition of power to a new administration. Now, we need to make sure we never see another election like this last one.

We are proposing that Congress create a blue ribbon commission on election reforms. Do all Americans have equal access to voting? If not, what will we ask the Federal Government do to help? We need to hear from experts on these and other matters.

We are also proposing a grant program to help states and communities update antiquated voting equipment. America should be forced to overcome unreasonable obstacles to vote. In my mind, that is doubly true for members of our armed services.

So, as part of our election reform package, we want to make it absolutely clear that military personnel retain their rights to vote at home—even when they are stationed abroad. This is not a change. This is the law now. We need to make sure everybody knows it.

Also, before the next election, we must remove real cases of voter fraud.

This administration, and this Congress, must work together to modernize Social Security and Medicare so they will be there for the baby boomers and beyond. Locking away the surpluses now must be the first step.

We are also proposing to pass the bipartisan Shays-Meehan plan that passed the House last year and won 52 votes in the Senate. Our plan is fair. It does not place one party or another at an advantage. It treats incumbents and challengers in both parties fairly.

Most importantly, our plan is comprehensive. It bans unregulated “soft money” to political parties—the big loophole in the law. It also prevents soft money from being rechanneled to outside groups for phony “issue ads.”

We know Senators MCCAIN and FEINGOLD are also committed to passing campaign finance reform. We look forward to working with them to pass a workable, comprehensive plan this year.

For many Americans, these past 8 years have been a time of unprecedented prosperity. But that is not true for most rural Americans.

There is a quiet depression in many rural communities in South Dakota and throughout our Nation. Many small producers are being forced to sell farms and ranches that have been in their families for generations. Others are barely holding on.

As small farms disappear, so do the small towns and businesses that depend on them. Sixty-five percent of the counties in my State lost population last year.

Since 1996, farm income has dropped more than 20 percent. If you take away Government payments, it is down more
than 40 percent. It is expected to drop another 10 percent this year.

We don’t need another year to know that the Freedom to Farm has not worked, and will not work. We must enact a new farm bill this year to restore a balance, and to protect the farms and ranchers.

In addition, we must ensure fair competition for family farmers and ranchers at home and abroad, by prohibiting agribusiness giants from participating in anti-competitive practices that harm family farmers and rural communities reasoning making agriculture a top trading priority.

We must also continue to invest in ethanol. And we must strengthen America’s commitment to food safety.

Family farms don’t just produce commodities. They produce communities. We can’t afford to lose them.

Finally, we must take new steps to protect the basic civil rights of all Americans, because we agree with President Bush that civil rights enforcement is critical to assuring that Americans, because we agree with the President, is a matter of national security.

Our bill also prohibits employers from discriminating on the basis of gender, ethnic, or gender profiling, we want to know what should be done about it.

Beyond that, we propose to expand Federal hate crime laws to include gender, sexual orientation and disability and provide greater protections against crimes motivated by racial or religious bias.

Our bill also prohibits employers from discriminating on the basis of sexual orientation.

Last year, 57 Senators, including 13 Republicans, voted for our hate crimes bill. We tried very hard to get rid of all 64 provisions of the marriage penalty. We badly need another year to know that something can be done this year.

We need to make sure that the new knowledge scientists are learning through the Human Genome Project—research funded largely by American taxpayers—is used to help America’s families, not hurt them.

In closing, Mr. President, 169 years ago this month the French political and social observer, Alexis De Toqueville, visited the Senate in session.

Afterward, he wrote that the 1832 Senate was “composed of eloquent advocates, distinguished generals, wise magistrates, and statesmen of note, whose arguments would do honor to the most remarkable parliamentary debates of Europe.”

Honorable debate and compromise has been in rather short supply in the Senate these last few years. Its absence has prevented us from doing many things we ought to do.

The power has been transferred now to a new Congress, and a new Administration.

We want to know that power to move America forward, together.

Like “President-for-a-day” David Rice Atchison we are already assured a footnote in the history books simply by being members of the first 50/50 Senate.

As we begin the work of this Congress, let us resolve that we will be more than a footnote. Let us agree that we will work together to write a new chapter of progress for the American people.

I thank my fellow Democratic Senators—as well as some of our Republican friends—for helping to shape our first leadership bills of the 107th Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I applaud and commend our leader for his brilliant statement. I acknowledge that the things that we do on a national level have direct impact on our States. I appreciate very much the Senator from South Dakota talking about the need to take care of the rural America.

Ninety percent of the people in Nevada live in the Las Vegas and Reno metropolitan areas, but rural Nevada is in real need of help. I appreciate his directing our attention to the needs of rural Nevada.

His comments about taxes also are so important. I remind all of my friends in the Chamber and those within the sound of my voice, these are not election conversion statements. We badly need to do tax measures last year. We tried very hard to get rid of all 64 provisions of the marriage penalty. We were unable to vote on that. We hope that something can be done this year to take care of penalties that married couples have in America. Also we were willing to deal with the inheritances taxes. Again, we were unable to vote on our version, which I think clearly would have passed.

On health care issues our leader talked about a prescription drug benefit, a Patients’ Bill of Rights—these matters we also could have taken care of last year.

Today there is a new spirit of bipartisanship in this body. I am confident, with the leadership of the Senator from Iowa on the Finance Committee, that we will be able to do a lot of the things we were unable to do last year. I have worked with the Senator from Iowa on a number of issues over the years. He is a reasonable man.

We now have the Senate divided 50/50, and it is time that we join together and did something regarding taxes. It is time we did something on health care other than just talk about it.

In addition, the issues the Senator from South Dakota spoke about on education are important for the people of South Dakota, the people of Nevada and everyone in the country. When we pass some of these bills that appear to be so small, our individual States benefit greatly.

With regards to school construction, the State of Nevada needs it badly. In Las Vegas, we have the sixth largest school district in America. We have to keep up with the school growth to keep up with the growth there. We need help. This legislation which our leader spoke of would give us that help.

On issues dealing with individual worker rights, the minimum wage issue is really important. It is important for all kinds of reasons, not the least of which is 60 percent of the people who work for minimum wage are women; for 40 percent of those women, that is the only money they get for them and their families. It is important to us that we bring this up today. Equal pay is also important. We have women who are working very hard. They work just as hard as men. They are entitled to 100 percent of what men make for doing the same kind of work. This legislation is way past due.

What we have done these last 8 years dealing with crime has been effective. Violent crime in America is down? Why? I believe one of the principal reasons is because of what we have done with providing more police officers. The 100,000 new police officers in Nevada and the rest of the country has made a tremendous impact.

We now have the Senate divided 50/50, and it is time that we join together and did something about gun safety. We do that with every thought in mind that our legislation has no impact upon the sportsmen of America, no impact upon law enforcement officers of America, and no impact upon those people who shoot for recreation purposes. We believe the loopholes need to be closed—that is, dealing with pawnshops, dealing with gun shows—we need to close these. That is what we are talking about.

Finally, what the Democratic leader said regarding campaign finance is so important. I am reminded that 2 years ago, in the race for the Senate, Senator ...
ENSIGN and Senator REID spent $20 million in the State of Nevada. I am not making a misstatement. The State of Nevada has about a million and a half people. We spent $20 million. That is really too much money. That doesn’t take into consideration the independent expenditures involved.

So with JOHN MCCAIN on the floor of the Senate now, I throw bouquets to JOHN MCCAIN for the leadership he has shown. He has not backed down, and I appreciate that.

I also want to express my friend, the Senator from Wisconsin, Russ FEINGOLD. He has been a leader. I have admired the work he has done with Senator MCCAIN. I have said it privately, but I say it publicly how much I appreciate the work he has done. He has truly been a leader of this country with his partner Senator MCCAIN. I am glad my friend, the Democratic leader, talked about campaign finance.

We want to work together. The Senate in 1990 said $50 million. There is no reason in the world we can’t pass legislation. When we pass legislation, there is credit to go to Republicans and credit to go to the Democrats. There is credit to go to the President. We can all walk out of here recognizing we have done something for the common good. I hope we can do that.

The last 2 years have not been constructive or good. I hope we can reflect in the future on the good work we have done for our States and our country.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Arizona is recognized.

CAMPAIGN FINANCE REFORM

Mr. MCCAIN. I thank my colleagues, the Democrat leader and Senator HARRY REID, for their comments and their willingness to work together on all issues, including campaign finance reform. I am grateful for their continued cooperation and constructive comments.

I send a bill to the desk on behalf of myself, Senator FEINGOLD, Senator COCHRAN, and others.

(The remarks of Mr. MCCAIN, Mr. FEINGOLD, and Mr. COCHRAN pertaining to the introduction of S. 27 are located in today’s RECORD under “Statements on Introduced Bills and Joint Resolutions.”)

The PRESIDING OFFICER. The Senator from Iowa, Mr. GRASSLEY, is recognized.

FAREWELL TO A TRUE PUBLIC SERVANT

Mr. GRASSLEY. Mr. President, I address the Senate because of a very trusted and longtime staffer of mine, Kris Kolesnik, who is leaving my staff to work in the private sector and to continue some very good work. He served the taxpayers effectively for 18 years and has moved to the private sector, where I think he will not only do the work of the association with which he works, but he is also going to be working to save the taxpayers money, which is something he did very well for me during that 18-year period of time.

Kris started in January of 1982. He began as a budget analyst for me, on the Budget Committee. That year, I proposed what would become the first of several yearly across-the-board budget freezes of the Federal budget. Kris worked on those proposals for me.

Among my Republican colleagues, the freeze proved popular because it would make a big impact on slowing down the Federal deficits which, at that time, were about $100 billion as far as the eye could see.

The only problem was, Republicans wanted to exempt defense spending from that freeze. All other programs were appropriate to freeze, they said, and at that time the defense budget under President Reagan was increasing by double digits even after inflation was calculated. My reaction was that even if one program—even the defense program—were exempt, that would defeat the purpose of an across-the-board freeze which had the purpose of fairness and sharing.

Today, after 4 years of paying down the national debt, we might forget that maybe a freeze was not something that did much in particular. But if you looked at that particular time, we were in the middle of going to be 28 years of unbalanced Federal budgets before we finally got our house in order. An across-the-board freeze might not have seemed like much, but it was really revolutionary for that particular time. So that year I didn’t receive much support among my Republican colleagues on this freeze. They all said the defense budget could not be frozen and that even one penny would cause our defense plan to fall apart.

At the end of the year, I asked Kris Kolesnik to spend the winter determining whether a case could be made for freezing the defense budget while not harming national security. If it could not, then I needed to know because I would have to abandon my attempts to freeze across the board.

When I returned to the Senate in January of 1983, I asked Kris what progress had been made during that 3-week interim. He said he had discussions with numerous other Senators of diverse issue and he determined that those in favor of a defense freeze were more persuasive.

Those against a freeze seemed to rely on an argument of “just trust us.” As a first step in unraveling the truth of the defense budget, Kris suggested that I call up then-Secretary of Defense Cap Weinberger and ask to speak to a relatively obscure Pentagon budget analyst by the name of Franklin Chuck Spinney. The rumor was that Chuck Spinney was a Trilateralist; that it might be good in some instances—but it didn’t satisfy me—that Chuck Spinney was a civil servant; that he was somebody to whom I should listen.

When I got back to my office, I got a phone call from Cap Weinberger. It is hard to remember 18 years later just exactly what that conversation was, but it was something to the effect that if we Republicans could not trust the civil servants that we ought to listen to the political appointees of the Reagan administration; that it might be good in some instances—but it didn’t satisfy me—that Chuck Spinney was a civil servant; that he was somebody to whom I should listen.

Six weeks later, Mr. Spinney appeared before a joint hearing of the Senate Budget and Armed Services Committees in the ornate Russell Caucus Room, with a dozen TV cameras, a room full of reporters, and standing room only for the public. Instead of a briefing in the privacy of my office, Spinney briefed the entire country maybe for the good of the country.

Beginning Friday, however, Kris began to get phone calls from the Pentagon saying that Spinney would not be available to brief me, that they would send someone named Dr. Chu instead. It turned out that Dr. David Chu was Spinney’s boss, and a political appointee.

My reaction was, it’s okay to send Dr. Chu, but I want Spinney there as well. It didn’t happen. I had an inkling that I had to go see Chuck Spinney in his office if I wanted to talk to him. I told Kris to go warm up my orange Chevette, that we were going to the Pentagon to find out why Cap Weinberger had reneged on his promise to me.

It’s not every day that a United States Senator shows up at the Pentagon unannounced and in a disturbed mood. Cap Weinberger was at the White House, and Dr. Chu was called to persuade me that Spinney’s briefing was just a bunch of chicken scratches on pieces of paper. My suspicions were really heightened. We left the Pentagon unsatisfied but resolved. My last words to Dr. Chu were, one way or another, I will get that briefing.

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That episode marked the beginning of the end for the Reagan defense budget buildup. In just two short years, in large part due to Kris' leadership as a staffer, the defense budget was frozen, and remained so until 2 years ago—a span of 11 years.

We had a vote. It was 50–49 on the floor of the Senate when we adopted that as part of the budget of 1985.

During those 2 years, Kris helped uncover the infamous over-priced spare parts scandal in 1985, eight of the top ten defense contractors were under criminal indictment or criminal investigation for contract fraud. In that year, he was named in Esquire magazine as one of the top eight staffers in Washington.

In the late 1980s and early 1990s Kris investigated the POW/MIA issue. His work, which uncovered many unanswered questions about missing soldiers from the Vietnam War, led to the establishment of the Senate Select Committee on POW/MIA Affairs. I was a member of that Committee, and Kris staffed it for me. The Committee was able to find answers for many of the families who, up until then, had none. And millions of pages of POW/MIA records were declassified for the public to see.

In 1995, after Republicans took control of the Congress, House and Senate Republican leaders asked Kris and a small number of us to staff their oversight committee, to protect whistleblowers throughout the government. Having performed oversight over the Defense and Justice Departments for a dozen years, Kris and his colleagues, now began to apply their oversight skills to the rest of the federal government. The result has been increased and systematic oversight by Congress across the board.

During that time, Kris focused on overseeing the FBI. Such systematic oversight, as Kris did on a committee that has always been reluctant to investigate the bureau, has not been successfully done in recent times in the Senate. Because of Kris' staff work, much has been done to help restore the public's confidence in federal law enforcement.

Among the celebrated cases Kris investigated or helped investigate were: the FBI crime lab scandal; the FBI's poor investigation of the TWA Flight 800 crash; the incidents at Waco and Ruby Ridge; Chinese espionage cases, including the FBI's botched case against Wen Ho Lee; and the campaign finance scandals of the 1996 election. Kris' legacies will be the tens of billions of dollars he helped to save the taxpayers through his work, as well as his work on behalf of whistleblowers. After all, without the whistleblowers, there would be no savings. He depended on that free, unfettered, open information. And so he fiercely defended their right, through legislation he helped draft on my behalf, to share information with Congress. He assisted in the drafting and/or passing of major whistleblower statutes including: the False Claims Act Amendments of 1986; the Whistleblower Protection Act; and, the yearly-passed anti-gag appropriations rider for federal employees.

Appropriating $1.5 billion for the FBI and $7,600 coffee maker purchased by the FBI crime lab scandal; the FBI's botched case against Wen Ho Lee; and the campaign finance scandals of the 1996 election.

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Federal Government. We are very heavy in resources—oil, gas, and coal. We are the largest producer of coal in the United States. We need to be able to increase our efforts in the area of energy, at the same time protecting the environment. That we have to increase the opportunity for access to things such as Yellowstone Park and at the same time keep the principle of the parks there, to protect the resource. We can do those things with some more flexibility.

Obviously, we need to strengthen the military. We have had a time, a peaceful time, with a tendency to not emphasize the military as much as I think we should. Our best opportunity for peacetime in the future is to have a strong military and to keep it that way, to have national preparedness. Certainly we need to do that.

We need more emphasis on opportunity for everyone to do well in this country. Opportunity is what we need to seek.

We need to strengthen the economy. Hopefully in some of our tax activities, we can leave more dollars in the private sector invested to create jobs. These are the things I think will be paramount for us.

Will there be differences in view? Of course, I hope we have moved to a situation where we will be less partisan in our approaches, where we recognize there finally has to be a solution. But will we agree on everything? Of course not. We have different ideas. We represent different areas of the country. But in large we represent the United States and we need to understand that there are things we need to accomplish.

I think there will be agreement on general topics such as education, health care, and military. At the same time, of course, there will be disagreements on the details of how those things are implemented—but that is OK. That is the system. We all have different views. We all have different reasons to be putting forward our views. They are legitimate. And the system does work.

I suspect we will certainly be looking at education, we will be looking at strengthening the military, we will be looking at Social Security to ensure young people paying into their first job will have the opportunity to reap benefits 40 years from now. I think that is our obligation.

Energy has been a problem for some time, but it was not recognized, of course, until we started having black-outs in California and started having increases in gasoline and natural gas prices. Now, it is a problem that more people recognize as a problem.

If we have tax relief efforts we also have some tax simplification so we do not have to go through all these things with every little tax reduction being oriented at affecting behavior. That really is not the purpose of taxes. Taxes are to raise the amount of revenue necessary to conduct the Government, not necessarily to direct everyone’s behavior.

Education is a legitimate concern. The first responsibility, of course, for education is that of the States and local governments. We want to keep it that way. The Federal Government’s contribution is about 7 percent of the total expenditures. So we need to assist and to make opportunities available for all children everywhere, but we need to have local control and we need to have flexibility. And, of course, we need accountability, not only for the Federal Government’s contribution but to all taxpayers to ensure those dollars are being used to produce the kind of product each of us wants.

Sometimes we find ourselves with an excessive amount of paperwork. I hear about it quite often since my wife is a special education teacher and spends a good deal of her time on paperwork, which detracts a little from her other work.

I believe a powerful military is our best hope for the future. We need modern equipment. We also need to reorganize the military. As times change, things are different than they were 50 years ago. Of course when you have no draft in place, it is voluntarily, we need to make that attractive, not only for people to come but hopefully for people to stay. What we have now is people come to the military, they are trained to fly airplanes or be mechanics or whatever but then leave to go to more attractive private sector.

We will need to go to that. I think one of the alternatives is to allow young people to have individual accounts that can be invested in the private sector to create a much higher return to ensure there will be benefits. I understand that is not something everybody agrees to. Certainly we all agree we should be setting aside those dollars that come in for Social Security for Social Security and not spend them on other things. So I am sure we can do a great deal there.

Second, we have had a time, a peaceful time, without a real energy policy, a policy that will direct where the resources go, how we encourage production of domestic resources and not allow ourselves to become a total captive of OPEC and foreign nations. That is not only oil and gas, but we have various ways of producing energy, of course, hydro, wind, and nuclear—things that can be used. With a policy of that kind, certainly we can do some things.

We are also now looking at some short-term problems. California has a real problem. Regardless of how they got there, they have one, and there is some peeling off of that in other places. So hopefully we will have a longer term policy in the private sector and certainly be able to do something on the short term.

So I think we have a great opportunity as always to serve this country. That is why we are here. I hope we can work together in a bipartisan fashion to work with the Federal Government and how we strengthen that and how we finance that and how we will be able to leave people’s money in their hands. How do we that will turn a lot on how we work together here and work with the administration during these next at least 2 years.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAGEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HAGEL. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. The Senate is in morning business?

The PRESIDING OFFICER. Senators have 10 minutes.

THE SENATE AGENDA

Mr. WELLSTONE. Mr. President, Democrats have introduced some of our legislation. George W. Bush is now President Bush. His administration is coming in. We will have votes on nominees.

I think the important word here is civility. I also point out—not that I am opposed to civility—I think when people in the country—in Minnesota, Nebraska, and around the Nation—say they want us to be bipartisan, what they are not saying is, we don’t want any debate. People expect debate on issues and they expect us to have differences that make a difference, especially in their lives.

But I think what people are saying is two things: No. 1, we want to have civility, we want to see civility; and the second thing that people are saying is we want you to govern at the center. But, colleagues, they are not talking about the center that I think pundits in D.C. talk about, or too many of us talk about. I think what people are talking about is not the usual labels that we use. I believe we are talking about the center of our lives.
So if, in fact, we have legislation on the floor and have amendments and debate about amendments that deal with making sure people are able to have a standard of living where they can support their families and give their children the care they need, and deliver the care they are governing at the center of their lives. If we are talking about legislation that provides more resources to enable States and school districts to do a better job of providing the best education for all the children in this country, we are governing at the center of people's lives.

If we are going to speak, as the President did with considerable eloquence, about leaving no child behind, let us make sure this is not symbolic politics. This cannot be done on a tin can budget. If we want to leave no child behind, the best thing we can do is make a real investment in early childhood development so these children, when they come to kindergarten, are ready to learn. They are not already way behind.

If we are going to talk about governing at the center of people's lives then we are going to have to talk about the health insecurity that so many Americans feel. I am not talking just about elderly people who cannot pay prescription drug bills. I am also talking about people toward the end of their lives who are worried they are going to go to a nursing home and not be able to pay prescription drug bills. I am also talking about people toward the end of their lives. If we are talking about leaving no child behind, let us make the environment better; which will leave it better. I also believe we will have a healthy debate—again with civility—over the question of whether or not there is such a thing as a workable star wars, a workable missile defense which ultimately could cost hundreds of billions of dollars. This was, at first glance, a good idea, starting in the late 1990s. But every time we look at it and realize the ways offensive weaponry overwhelms defensive weaponry, and we consider the danger of chemical and biological warfare being brought in by suitcases, there is no evidence this is technologically feasible, much less the way this puts the arms control regime in jeopardy.

So I say to my colleagues on the first day: I look forward to the debate. I look forward to passionate politics. I look forward to politics focused on people's lives. I look forward to civil debate, but certainly not debate we cannot have that. But I believe so much has changed in the country, so much is at stake, the Senate is 50-50—we can agree on some important legislation that will help people. Let's move forward. When we do not agree, there will be major, major debate on the floor of the Senate.

For my part, I look forward to working with my Republican colleagues whenever we can and wherever we can agree on something to be honest. With a twinkle in my eye, I just as much look forward to the debate and disagreement. As a Senator from Minnesota, I am in profound disagreement with the direction on some things I think the President is going to go forward with. But that is what the Senate is all about, to have debate, to do your best for people, and I look forward to the Senate functioning at its very best. I hope we can make amendments on the floor to legislation that will help people. We can start early in the morning, work late at night, we can do the work and then I think the Senate will be at its best as a institution and give all of us a chance to be good Senators.

I yield the floor. The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHINSON. I thank the Chair. (The remarks of Mrs. Hutchinson relating to the introduction of S. 11 and S. 140 are found in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Nelson of Florida). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROTECTING HUMAN RIGHTS IN COLOMBIA

Mr. KENNEDY. Mr. President, I would like to call my colleagues' attention to the brave and persistent efforts of the Association of the Families of the Detained and Disappeared on behalf of human rights in Colombia.

One of the most pressing human rights emergencies in our hemisphere has been taking place in Colombia, where the government, paramilitary groups, and guerrillas remain locked in fierce struggles. Thousands of innocent civilians have been caught in the crossfire, and human lives have been rampant. Throughout Colombia, members of ASFADDES have responded to this crisis by seeking justice for their relatives who have been killed or disappeared.

From the outset, members of ASFADDES have asked that cases of forced disappearances be properly investigated and prosecuted. They have worked for the last twenty years to make forced disappearances an official crime in Colombia, and a law was finally passed last year to do so, because of their work and dedication.

Because of their calls for justice, members of ASFADDES are at tremendous personal risk. Since 1993, their members have received numerous threats. According to ASFADDES, members have been harassed, and have been the subject of intelligence-gathering by Colombian police and military personnel.

The members are under particular threat, because they are one of the few organizations to bring cases against members of Colombia's security forces at the local, national, and international levels—including the Inter-American Commission on Human Rights—often raising the issue of collusion between Colombia's security forces and the paramilitary. ASFADDES is the only nation-wide organization in Colombia that represents families of human rights victims. Attacks are carried out against the staff of the organization and against the families of members who seek the organization's help.

Regrettably, serious acts of violence against members increased in 2000.
The pomp and ceremony, the colors and the parade were memorable, but the remarks made by the Chairman of the Joint Chiefs of Staff, General Henry S. Shelton, and the response by Secretary Cohen will be long remembered. I respectfully believe that these speeches are worthy of the attention of my colleagues. Accordingly, I ask unanimous consent that the remarks by General Henry S. Shelton, Chairman of the Joint Chiefs of Staff, and the responding remarks of the Secretary of the Department of Defense, the Honorable William S. Cohen, be printed in the RECORD.

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

REMARKS OF GENERAL HENRY H. SHELTON, USA, AT THE FAREWELL CEREMONY IN HONOR OF SECRETARY COHEN

Secretary and Mrs. Cohen. Mr. Kevin Cohen, Members of the Cabinet, Designated Members of the Cabinet, Members of the Diplomatic Corps, Distinguished Members of Congress, Service secretaries, Fellow members of the Joint Chiefs, Commanders-in-Chief, Unified and Functional Commands, Distinguished Members of the Armed Forces, Ladies and Gentlemen:

Thanks to each of you for coming to this special event as we, the members of the Armed Services Committee of this Department of Defense, pause to honor and salute a truly great American couple.

But first, let me, once again, thank the outstanding men and women standing in front of you today and representing hundreds of thousands of soldiers, sailors, airmen, marines and coastguardmen. They are truly heroes who serve with honor and courage . . . and they are committed to keeping America strong and free.

Let’s give them a hand!

We are all here this morning to honor and pay tribute to Secretary and Mrs. Cohen. And while it is always difficult to say farewell . . . the task is particularly difficult today because the Secretary and Janet have served the department . . . and indeed this Nation . . . with such distinction and so unfailingly over the past 4 years.

Of course, Secretary’s outstanding service to the Nation encompasses much more than his tenure as Secretary of Defense. For nearly a quarter century, first as a Congressman from the great State of Maine, he served his constituents and, indeed, all Americans well . . . as a skillful legislator and powerful advocate.

In the Senate, he was known as an influential voice on defense and international security. He was admired for his commitment to the principle that the security of our Nation is not, and should never be, a partisan matter. His focus, always, was on what was best for America and what was best for the men and women of our Armed Forces.

All of us here today recognize it is a great honor to be asked by the President to serve in the Cabinet. But, for me, it’s the first time in American history when our troops were officially reviewed by the Secretary and his lady. Janet Cohen was most deserving of this high honor. As the remarks eloquently note, she is, indeed, the First Lady of the United States Armed Forces.

SECRETARY OF DEFENSE, WILLIAM S. COHEN

Mr. INOUYE. Mr. President, our Nation has been most pleased with the extraordinary leadership of Secretary William S. Cohen at the helm of our Armed Forces for the past 4 years. On January 17, 2001, the Chairman and members of the Joint Chiefs of Staff honored Secretary Cohen and his lady, the Lady of our military, Janet Cohen, with a spectacular ceremony at Fort Myer. Although the ceremony was to officially honor Secretary Cohen, it made all in attendance most pleased that Mrs. Cohen, Janet, as she is known to men and women in the Armed Forces, was also honored. I believe it was the first time in history when our troops were officially reviewed by the Secretary and his lady. Janet Cohen was most deserving of this high honor. As the remarks eloquently note, she is, indeed, the First Lady of the United States Armed Forces.

Yet, from almost daily observation for the past 4 years, I know that the Secretary took the job out of a deep love for our country . . . and an equally strong devotion and respect for those who serve. And those of us in the Armed Forces are fortunate that he did.

For the past four years, America has successfully navigated this era of terrorism with a vigorous and indispensible role. We have played a firm and decisive role in the war against terrorism.

A strong, better military today, a military that is a force multiplier, a military that can deal with the multiple threats we now face, has become a reality. Thanks to each of you for coming to this special event as we, the members of the Armed Services Committee of this Department of Defense, pause to honor and salute a truly great American couple.
your outstanding leadership and vision. Of course, you have been helped along the way by the fantastic team you built within OSD... and, from one other very "special assistant," I refer to the past Secretary of Defense, and you have had a great partner at your side. And so, today, we say goodbye as well to your partner, the First Lady of the Department, Janet. God bless you and God bless her.

Janet, on behalf of our men and women in uniform, let me say a special thank you... for your tireless efforts to improve the quality of life of our people in uniform and their families. And for your efforts to help the Secretary reconnect the military to the America we serve. Those of us here today who know you, know how much you mean to you greatly. But, so too will the families of those who serve... the very families that you have served so compassionately. Finally, on a very personal note Mr. Secretary, let me thank you for the tremendous opportunity to serve as your, and President Clinton’s, principal military advisor and to represent our great soldiers, sailors, airmen, and marines here in Washington—there can be no greater honor and for that I am forever indebted to you.

You embody those attributes and values that the members of our Armed Forces try to live by—you’re a person of great character... the “character” that Chamberlain eloquently described as a person of absolute integrity and of tremendous vision. I have watched you work tirelessly on behalf or our men and women in uniform, watched you travel over 750,000 miles to foster peace and stability around the globe with Allies, partners and friends and fight the tough fights at home and abroad for what was best for America’s Armed Forces. For that, we are all indebted to you.

In closing... thank you, Mr. Secretary... and thank you Janet... for all that you have done. For a stronger, better-prepared, and prouder military for your efforts. The Nation has been truly blessed by your service. All of us wish you and Janet life’s best in all your future endeavors. Thank You.

**Remarks by Secretary of Defense William S. Cohen**

General Shelton, thank you for your overly generous remarks. Carolyn Shelton. When I recommended that Hugh Shelton be selected as Secretary of Defense, I was approached by a reporter who asked, “What’s our reaction to him? How do you size him up?” I answered, “About 6’8.” I say he’s a combination of Philadephia’s General Wayne and a little bit of Clint Eastwood. He’s a man of few words, but who’s silence tells you all you really need to know about him. You don’t want to make his day.

One of the first things he did after his confirmation was to give me and the other members of the Joint Chiefs a copy of a book entitled “Big Tin Can”. He was not only giving me a very strong signal in passing out that book—he was saying that under my watch I would never have as much as a little insubordination. He was creating a warrior’s code not on your sleeve, but in your soul. I am deeply grateful that I had the chance to work beside you and to have you as a principal advisor.

General Joe Ralston and Dede, I believe you’re here, but if you’re not I will say a few words about all of the men and women who wear our uniform. I know that all of the men and women who wear our uniform... I know that all of the men and women who wear our uniform... I know that all of the men and women who wear our uniform... I know that all of the men and women who wear our uniform... I know that all of the men and women who wear our uniform... I know that all of the men and women who wear our uniform... I know that all of the men and women who wear our uniform... I know that all of the men and women who wear our uniform... I know that all of the men and women who wear our uniform... I know that all of the men and women who wear our uniform... I know that all of the men and women who wear our uniform... I know that all of the men and women who wear our uniform... I know that all of the men and women who wear our uniform... 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sincerity, ‘That’s all right, ma’am. Somebody has to do it. And besides, I think we’re making a difference here.’

Men and women of the United States Armed Forces over the past four years, we’ve been blessed to serve with you as you stand guard in the night, and as you continue to make an extraordinary difference the world over. Your patriotism and internationalism, because of your dedication and your daring, more people today sleep under the flag of freedom than at any time in history.

So the poet asks, ‘How should we presume?’ I was recently asked, ‘What’s your legacy?’ I suppose what I mean is, ‘What do you foresee that you’ve helped to make happen on your watch?’ Well, I’d never really given any thought to legacies, I simply tried to keep the faith until the day we come before me and those who come after.

The Chairman stole my thunder here, because I was going to engage in just a touch of immodesty, but he already outlined everything we’ve done. We have managed to secure an additional $227 billion for future years defense spending. Four years ago we were $1 billion higher, but we won’t be any increases. We now have an additional $227 billion coming to our armed forces. That’s a remarkable achievement that this team has produced.

We have spent $53 billion in an increase in 15 years, the largest pay raise in a generation, retirement benefits back up to 50 percent, the elimination of housing inequities for those who don’t live on base, overhauling the health care system to make sure that we give decent health care for the men and women who are serving us and those who have retired and their families-care that’s worth of this nation.

We conducted the most successful air campaign in warfare. We defeated Milosevic out of Kosovo, and hopefully into oblivion, or at least to The Hague where he can stand trial. We kept Saddam Hussein in his box and out of his neighbors when he was last in the Osprey, and whenever the phone rang at midnight or in the early morning I thought that I would not make the headlines, but that would rip a hole in the hearts of the families who were affected, then we understand why these brave men and their families are truly are patriots among us—the pride of America, the envy of the world.

I’d like to say special tribute to the most remarkable person of my life. When you think of Janet Langhart Cohen, you think of passion, of fire, of spirit. Creative ideas spring from her like the cherry blossoms in springtime. That it’s not just in the spring time, they’re always springing forward. And it’s not just the creativity, it’s moving from the creation of the idea to the actuality of the event.

I think of all she has been able to do—creating that first Family Forum or the Pentagon Page, originally two calm, sweet ladies. That’s not just the creation, but it’s the living, raising the pageant and the families, and the families are truly among us—the pride of America, the envy of the world.

I’d like to pay special tribute to the most remarkable person of my life, Victor Borge. I’ve helped to make happen on your watch. Lou I’ve helped to make happen on your watch. Because of your patriotism and professionalism, because of your dedication and your leadership, because of your courage and your professionalism, because of your character and their devotion to duty. Stand in awe of their courage and their professionalism, because of their ability to maintain bravely in the midst of tragedy and loss.

When we stood on the tarmac at Andrews Air Force Base to welcome home the flag of freedom than at any time in history.

I’d like to take a few minutes today to remember the remarkable life and laughter inspired by Victor Borge, an entertainer who gave new meaning to the expression “tickling the ivories” by combining comedy and classical programming. You have heard him play on in the early morning hours, or with the kids. He was a one-of-a-kind keyboard ham who enjoyed making his audiences laugh as much as he enjoyed making music.

He was a classically trained concert pianist who could be in the middle of a breathtaking rendition of Tchaikovsky’s ‘Die Fledermaus’ and suddenly fall right off the side of his piano bench, sending his audience into hysterics. Or in a similar stunt, while in the middle of conducting an aria, a soprano’s high note might blast right through his piano stool, and he would stoically climb back on, only this time wielding a safety belt to bolt himself to his seat. Sometimes Victor would intentionally strike the wrong pitch at the piano, only to brandish the sheet music and a pair of scissors and literally cut out the offending note.

He’s the only musician I know who could begin a solemn rendering of Beethoven’s ‘Moonlight Sonata,’ then suddenly slide seamlessly slide into Cole Porter’s ‘Night and Day.’ To say nothing of his ability to morph Mozart into ‘Happy Birthday.’ Sight gags and musical quirks were only part of the act. Borge always had a stable of rhetorical flourishes at the ready, such as, ‘Mozart wrote this piece in four flats, because he moved three times while composing it.’

I felt lucky to count Victor as my friend. I’ll never forget the many times I gave a loud round of applause to the joyful laughter of people, only to find myself drawn into the role of his straight man as he joked with the droopy-faced delivery that made everyone laugh until in hurt.

His comic genius hid the life story of a European Jew who narrowly escaped Nazi persecution. Borge was born in Copenhagen, Denmark, to a father who was a violinist in the Royal Danish Philharmonic. The younger Borge was a child prodigy concert pianist, debuting at age 8, and an Austrian star by his early 20s. By 1940, he was at the top of the Nazis’ extermination list because he poked fun at Hitler and the Third Reich in his act. Ultimately,
though, his music helped save his life when two Russian diplomats who were fans of his show helped smuggle him on a ship bound for Finland, where Borge found his way onto the S.S. American Legion, one of the last boats out of Europe.

Victor Borge arrived in New York penniless and speaking no English. But he quickly learned the language by watching 10-cent movies in midtown Manhattan theaters. In less than two years, he had adapted his act to the English language and debuted on the Bing Crosby radio show. Within a decade he had appeared on Ed Sullivan and had logged 849 performances, which is still a record today.

Over the last half-century, he also developed credentials as an orchestra conductor, directing the London and New York Philharmonics, the Philadelphia Orchestra, and the Boston Pops. He also raised millions of dollars for worthy causes such as Thanks to Scandinavia, a scholarship fund to commemorate efforts to help victims of Nazi persecution. Victor was knighted by all five Scandinavian countries for his life’s work, and was honored by the United Nations as well as the U.S. Congress.

I will never forget the night of December 29, 1999, right here in Washington, when Victor received the prestigious Kennedy Center Honors along with Jason Robards, Sean Connery, and Steve Wonder. President Clinton hung a medal around his neck that night in recognition of his life achievements, and Borge—clowning around into his 90s—showed up at the reception afterward in a red clown nose.

Years ago, on the occasion of his 75th birthday, the New York Times wrote ‘’the funniest man on earth.’’ To me, Victor was a bright and irresistible star who lit the world around him. We shall miss him.

TRIBUTE TO RICHARD METREY

Mr. SARBAKES. Mr. President, today I want to pay tribute to an outstanding public servant, Mr. Richard Metrey, who retired last week after 41 years of Government service in the United States Navy.

Throughout his career, Richard Metrey distinguished himself through his leadership, commitment and dedication to public service, and by making government work better and more efficiently. Beginning as a project engineer in the Ships Machinery Division of the former Bureau of Ships, he worked his way up through the ranks into positions in senior management, including Head of the Combat Systems Branch in the Naval Sea Systems Command and Manager for the Navy Advanced Prototyping Program.

For the last fifteen years, Mr. Metrey has served as Technical Director of the Naval Surface Warfare Center, Carderock Division, and has had a profound impact on the Navy’s approach to researching, developing, testing and evaluating naval vehicles. During this time, Richard was directly responsible for the Division’s entire technical program—its planning, execution, and evaluation, as well as strategic planning and new starts. Prior to that, Mr. Metrey also served in the Navy Secretariat in a range of important responsibilities from Deputy Assistant Secretary of the Navy for Surface Warfare to principal advisor to the Assistant Secretary of the Navy for Surface Warfare Research and Development and Acquisition.

Mr. Metrey’s colleagues attest to the ingenuity and integrity he has brought to the positions in which he has served. His contributions and accomplishments have been recognized through many prestigious awards, including the Presidential Rank Meritorious Executive Award, the Navy Superior Civilian Service Award, and Champions Outstanding Performance Awards—to name only a few. He has also been selected to serve as the United States representative on several international forums, and on high level committees, including the Congressionally established Advanced Submarine Advisory Panel.

I came to know Richard Metrey in the early 1990s during the Base Closure and Realignment (BRAC) process. Having had the opportunity to work with him during the BRAC and on other matters, I can also attest firsthand to his professionalism and deep commitment to our Navy and its mission. It is my firm conviction that public service is one of the most honorable callings, one that has been the best, most dedicated efforts of those who have the opportunity to serve their fellow citizens and country. Throughout his career, Richard Metrey’s commitment and remarkable talent have enabled him to go beyond meeting this demand. So I want to extend my personal gratitude to Richard for these many years of hard work and dedication and I wish him well in whatever endeavors he seeks to undertake in the years ahead.

TRIBUTE TO DEAN KAMEN

Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Dean Kamen of Bedford, New Hampshire, whose dedication to the field of technology has earned him the admiration and gratitude of his state and nation. As a testament to his many extraordinary achievements, Dean was awarded the National Medal of Technology by President Clinton in 2000 for inventions that have advanced medical care worldwide. His innovative spirit and imaginative leadership have awakened America to the excitement of science and technology.

Dean’s remarkable career as an inventor began while he was still a college undergraduate, when he invented the first wearable infusion pump. This device rapidly found uses in such diverse medical specialties as chemotherapy, neonatology, and endocrinology. Since then Dean has played a leading role in many major advances in healthcare, such as the insulin pump for diabetics. He was also instrumental in the development of IBOT, a personal transporter developed for the disabled community, which is capable of climbing stairs, traversing sandy and rocky terrain and raise its user to eye-level with a standing person.

Nearly a decade ago, Dean founded FIRST (For Inspiration and Recognition of Science and Technology) to motivate America’s youth to learn about science and technology, and has personally recruited many of the top leaders of industry, education and government in this mission. He has been recognized for his efforts by prestigious publications such as Smithsonian Magazine and the New York Times, which labeled him ‘’the New Kind of Hero for America’s Youth.’’

Dean’s passion for technology and its practical uses has changed the face of healthcare and inspired a love of science in a generation of American children. Because of his extraordinary achievements, we have a new understanding of ourselves and the world, as well as a renewed hope for the future. It is an honor to represent Dean in the
Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Alyssa Spellman of Bow, New Hampshire, a young woman whose poise, hard work, and intelligence have earned her the respect and admiration of her state and community. At the age of seventeen, Alyssa has dedicated much of her young life to serving others. This service was recognized publicly when she was recently awarded the Governor’s Award for Volunteerism.

An accomplished musician and artist, Alyssa has been nominated to Art, Classical Music and Jazz Music All-State. She was also chosen as Female Youth Entertainer, Traditional Entertainer, and Rising New Star Vocalist of 1999 by the New Hampshire Country Music Association. After winning these titles, Alyssa continued in her tradition of helping others by performing at benefits to raise money for diabetes and cancer research.

Graceful and accomplished, Alyssa recently competed for and won the title of Miss Bedford 2001. She will go on to compete for and win the title of Miss New Hampshire and possibly Miss America. At the age of seventeen, Alyssa is a tribute to her community, and I wish her all the best in her future endeavors.

I know that Alyssa will continue to be a fine New Hampshire representative. It is an honor to serve her in the United States Senate.

Mr. SMITH of New Hampshire. Mr. Chairman, I rise today to honor Suzanne Lull, a teacher whose devotion to education and literacy serves as an inspiration for her colleagues and students alike. Recently named New Hampshire Teacher of the Year, Ms. Lull is credited with a special ability to involve both parents and the community in her students education.

Ms. Lull began her career in private education. She moved to her current position at Washington elementary school. Starting out as a fourth grade teacher, she initiated a balanced literacy program that integrates reading and writing into all areas of the curriculum. Her passion for literacy continued to be evident as she moved to teaching younger students with the hopes of inspiring reading education early in their academic career.

Ms. Lull of her own accord knew she would be a teacher. Ever the educator, she spends her free time working alongside her husband in his ministry, giving religious instruction to Sunday school children of all ages. Suzanne Lull is a devoted and loyal community member, and profession, and it is an honor and a privilege to serve her in the United States Senate.
EC-21. A communication from the Deputy Associate Administrator of the Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of the Office of Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC-22. A communication from the Deputy Associate Administrator, Office of Acquisition Policy, General Service Administration, transmitting, pursuant to law, the report of a rule entitled “Federal Acquisition Regulation” (FAC97-21) received on December 19, 2000; to the Committee on Governmental Affairs.

EC-23. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the Office of Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC-24. A communication from the Chairwoman, Equal Employment Opportunity Commission, transmitting; pursuant to law, the report of the Office of Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC-25. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled “Excepted Service; Career and Conditional Employment Fund Federal Wage System Wage Area” (RIN2026-A-J28) received on December 19, 2000; to the Committee on Governmental Affairs.

EC-26. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled “Prevailing Rate System; Redefinition of the Los Angeles, CA, Appropriated Fund Federal Wage System Wage Area” (RIN2026-A-J23) received on December 19, 2000; to the Committee on Governmental Affairs.

EC-27. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the fiscal 2001 annual management report; to the Committee on Governmental Affairs.

EC-28. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report on a rule entitled “Prevailing Rate Systems: Abolishment of the St. Louis, MO, Special Wage Schedule for Printing Positions” (RIN2026-A-J24) received on December 19, 2000; to the Committee on Governmental Affairs.

EC-29. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report on a rule entitled “Prevailing Rate System; Abolishment of the Philadelphia, PA, Special Wage Schedule for Printing Positions” (RIN2026-A-J22) received on December 19, 2000; to the Committee on Governmental Affairs.

EC-30. A communication from the Associate Administrator of the Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Summer Food Service Program: Implementation of Legislative Reforms” (RIN2070-AGAF) received on January 5, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-31. A communication from the Deputy Associate Administrator of the Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of the Office of Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC-32. A communication from the Director, Office of Small and Disadvantaged Business Utilization (Acquisition and Technology), Office of the Secretary of Defense, transmitting, pursuant to law, a report on Efforts to Achieve the 5% Women-Owned Small Business Goal for fiscal year 2000; to the Committee on Armed Services.

EC-33. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled “Implementation of Fiscal Year 2001 Legislative Provisions” (RIN2026-A-J12) received January 5, 2001; to the Committee on Energy and Natural Resources.

EC-34. A communication from the Assistant General Counsel, Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled “Emergency Exemptions” (RIN2026-A-J4) received on January 5, 2001; to the Committee on Energy and Natural Resources.

EC-35. A communication from the Assistant General Counsel, Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled “Emergency Exemptions” (RIN2026-A-J4) received on January 5, 2001; to the Committee on Energy and Natural Resources.

EC-36. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the Federal Managers’ Financial Integrity Act Report for the fiscal year 2000; to the Committee on Governmental Affairs.

EC-37. A communication from the Executive Director, National Transportation Board, transmitting, pursuant to law, the report of a rule entitled “Home Classified Information—Final Rule” (RIN9000-A-J11) received on December 21, 2000; to the Committee on Governmental Affairs.

EC-38. A communication from the Acting Chairman of the National Transportation Board, transmitting, pursuant to law, the report of a rule entitled “Emergency Exemptions” (RIN2026-A-J4) received on January 5, 2001; to the Committee on Energy and Natural Resources.

EC-39. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report on a rule entitled “Prevailing Rate Systems: Abolishment of the St. Louis, MO, Special Wage Schedule for Printing Positions” (RIN2026-A-J24) received on December 19, 2000; to the Committee on Governmental Affairs.

EC-40. A communication from the Inspector General, General Services Administration, transmitting, pursuant to law, the report of the Inspector General for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC-41. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, the report relative to modifications to the 10% rule; to the Committee on Energy and Natural Resources.

EC-42. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, the report relative to modifications to the 10% rule; to the Committee on Energy and Natural Resources.

EC-43. A communication from the Director of the Office of the Comptroller General of the United States, transmitting, transmitting, pursuant to law, a report entitled “Role of Independent Directors of Investment Companies” (RIN3285-AH75) received on January 4, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-44. A communication from the President of the United States, transmitting, pursuant to law, a notice that the Libya emergency is to continue in effect beyond January 7, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-45. A communication from the Acting Chief Counsel (Foreign Assets Control), Department of Treasury, transmitting, pursuant to law, the report of a rule entitled “ Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Foreign Terrorist Organizations, and Specially Designated Narcotics Traffickers” (appendix A to 31 CFR chapter AH75) received on December 20, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC-46. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to South Africa; to the Committee on Banking, Housing, and Urban Affairs.

EC-47. A communication from the Assistant General Counsel, Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled “Regulation Y—Bank Holding Companies and Change in Bank Control” (Docket NO. 01-129) received on December 20, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC-48. A communication from the Deputy Secretary of the Division of Investment Management (Office of Investment Adviser Regulation), Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled “Electronic Filing by Investment Advisers; Amendments to Form ADV; Technical Amendments” (Docket No. SI04) received on December 20, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC-49. A communication from the Deputy Secretary of the Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled “ Role of Independent Directors of Investment Companies” (RIN3285-AH75) received on January 4, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-50. A communication from the Assistant Secretary to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled “Home Classified Information—Final Rule” (RIN9000-A-J11) received on December 21, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC-51. A communication from the President of the United States, transmitting, pursuant to law, a six month periodic report on the national emergency with respect to Libya; to the Committee on Banking, Housing, and Urban Affairs.

EC-52. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a report relative to modifications to the 10% rule; to the Committee on Energy and Natural Resources.
transmitting, pursuant to law, the report of a rule entitled “Food Labeling, Safe Handling Statements, Labeling of Shell Eggs: Refrigeration of Shell Eggs Held for Retail Distribution” (RIN 0470-AX90) received on December 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-54. A communication from the Director of the Office of Workers Credit, Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Food Additives Permitted for Direct Addition to Food for Human Consumption; Polyoxyethylene” (Docket No. 95F-0336) received on January 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-55. A communication from the Acting Assistant General Counsel for Regulation, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled “Asistencia to States for the Education of Children with Disabilities” received on January 4, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-56. A communication from the Acting Assistant General Counsel for Regulation, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled “Final Regulations—Developing Hispanic-Serving Institutions” received on January 4, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-57. A communication from the Director of the Safety STDS Programs, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled “Occupational Exposure to Cotton Dust” (RIN2128-AB90) received on December 19, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-58. A communication from the Acting Assistant General Counsel, Corporation for National and Community Service, transmitting, pursuant to law, the report of a rule entitled “AmeriCorps Education Awards” (RIN9345-AA09) received on December 20, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-59. A communication from the Acting Assistant General Counsel for Regulation, Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled “National Institute on Disability and Rehabilitation Research” received on December 20, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-60. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Notice 2001-13; Inflation-adjusted items for 2001” (Rev. Proc. 2001-13) received on December 19, 2000; to the Committee on Finance.

EC-61. A communication from the Director of the Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled “Disclosure to Participants; Benefits Payable in Terminated Single-Employer Plans” received on December 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-62. A communication from the Acting Director of the Office of Workers’ Compensation Programs, Department of Labor, transmitting, pursuant to law, the report of a rule entitled “Regulations implementing the Federal Coal Mine Health and Safety Act of 1969, as Amended,” received on December 19, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-63. A communication from the Office of Enforcement, OSHA, Department of Labor, transmitting, pursuant to law, the report of a rule entitled “Labor Standards for Construction Projects Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Davis-Bacon Act)” (RIN1215-AB21) received on December 20, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-64. A communication from the Acting General Counsel, Corporation for National and Community Service, transmitting, pursuant to law, the report of a rule entitled “AmeriCorps Education Awards” (RIN9345-AA09) received on December 20, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-65. A communication from the Acting Assistant General Counsel for Regulation, Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled “American Indian Tribally Controlled Colleges and Universities Programs; Strengthening Institutions Program, American Indian Tribally Controlled Colleges and Universities Program” (RIN1545-AW92) received on January 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-66. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Nondiscrimination in Health Coverage in the Group Market” (RIN1545-AW92) received on January 5, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-67. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Refund of Duties Paid on Imports of Certain Wool Products” (RIN1515-AC79) received on December 20, 2000; to the Committee on Finance.

EC-68. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Rev. Proc. 2001-9 Form e-File Program,” received on December 20, 2000; to the Committee on Finance.

EC-69. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Time for Filing Form 1139 by a Consolidated Group” (RIN1545-AY57) received on January 4, 2001; to the Committee on Finance.

EC-70. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Awards of Attorney’s Fees and Other Costs Based Upon Qualified Offers” (RIN1545-AX90) received on January 4, 2001; to the Committee on Finance.

EC-71. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Notice 2001-12; Annual Inflation Adjustments for 2001” (Notice 2001-12) received on January 4, 2001; to the Committee on Finance.

EC-72. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Administration of Federal Inmate Tax Credit Rules” (RIN1545-AW71) received on December 19, 2000; to the Committee on Finance.

EC-73. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Section 467 Rental Agreements In-
EC-85. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Revenue Procedure 2001-7” (RP-125643-08) received on January 5, 2001; to the Committee on Finance.

EC-86. A communication from the Chairman of the Surface Transportation Board, Office of Safety/Security Zone Regulations; (Including Fees For Services Performed In Connection With Licensing and Related Services—2000 Update) received on January 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC-87. A communication from the Deputy Assistant Administrator for Fisheries National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Donation Program” (RIN 0648-AN49) received on December 8, 2000; to the Committee on Commerce, Science, and Transportation.

EC-88. A communication from the Deputy Assistant Administrator for National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Exclusive Economic Zone Off Alaska—License Limitation Program for the Scallop Fishery” (RIN0648-AM42) received on December 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC-89. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Exclusive Economic Zone Off Alaska—Closure for Pacific Cod by Catcher Processor Vessels Using Hook-and-Line Gear in the BSAI Management Area” (RIN0648-AM43) received on December 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC-90. A communication from the Special Assistant Director, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Amendment of Section 73.101(b), "Table of Allotments, FM Broadcast Stations (Dayton, Incline Village and Reno, Nevada)” (Docket No. 99-229) received on December 19, 2000; to the Committee on Commerce, Science, and Transportation.

EC-91. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Fire Protection Requirements for Powerplant Installations on Transport Category Airplanes” (12-19-12-21)” (RIN2120-AH00) received on December 20, 2000; to the Committee on Commerce, Science, and Transportation.

EC-92. A communication from the Deputy Chief Counsel of the Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Pipeline Safety: Areas Unusually Sensitive to Environmental Damage (USAs)” (RIN2137-AC34) received on December 20, 2000; to the Committee on Commerce, Science, and Transportation.

EC-93. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Zone Regulations; Big Island Contract Section of the Wilmington Harbor Deepening Project, Wilmington, NC” (RIN2119-AN81) received on December 20, 2000; to the Committee on Commerce, Science, and Transportation.

EC-94. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Zone Regulations; Potent- tial Explosive Material, Vessel Highland Faith, Port of New York/New Jersey (CGD01-00-203)” (RIN2119-AC17) received on December 20, 2000; to the Committee on Commerce, Science, and Transportation.

EC-95. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Regatta Regulations; SLR; Bellsouth Louisiana, La.” (RIN2119-AE44) received on December 20, 2000; to the Committee on Commerce, Science, and Transportation.

EC-96. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, transmitting, pursuant to law, the report of a rule entitled “Emergency Laser Transmitters” (12-22-12-21)” (RIN2120-AH16) received on December 20, 2000; to the Committee on Commerce, Science, and Transportation.

EC-97. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Regatta Regulations; SLR; Fireworks Display, Smith Bay, Saint Thomas, USVI (CGD01-00-041)” received on December 20, 2000; to the Committee on Commerce, Science, and Transportation.

EC-98. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Drawbridge Regulations; Atlantic Inter- coastal Waterway, mile 1062.6 and 1064.0, Fort Lauderdale, Florida” (CGD06-00-029)” (RIN2119-AE47) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-99. A communication from the Deputy Assistant Administrator for the National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Emergency Water Transmitters” (12-22-12-21)” (RIN2120-AH16) received on December 20, 2000; to the Committee on Commerce, Science, and Transportation.

EC-100. A communication from the Program Analyst for the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 747 Series Airplanes Powered by Pratt & Whitney JT9D-3 and -7 Series Eng-ines; docket no. 2000- NM-129” (12-21-1-4)” (RIN2120-AA95) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-101. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Regatta Regulations; Including 4 regulations’’ (RIN2119-AE46) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-102. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Safety/Security Zone Regulations; (Including 58 regulations)” (RIN2119-AE47) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-103. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment to Class E Air- space; Columbus, GA; docket no. 00-ASO-42” (12-13-1-4)” (RIN2120-AA66) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-104. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment to Class E Airspace; Miscellaneous Amend- ments (58)” (Amendment No. 4"]) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-105. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amend- ments (58)” (Amendment No. 4"]) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-106. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amend- ments (58)” (Amendment No. 4"]) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-107. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amend- ments (58)” (Amendment No. 4"]) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-108. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Direc- tives:McDonnell Douglas Model DC-9-82 and 340 Series Airplanes; MD-88 and MD-88 Airplanes; docket no. 2000-NM-356” (12-28-1-4)” (RIN2120-AE45) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-109. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Direc- tives:Saab Model SAAB SF340A and 340B Series Airplanes; Docket no. 2000-NM-78” (12-27-1-4)” (RIN2120-AE47) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-110. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of

EC-111. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Embraer Brasiliera de Aeronautica Model EMB 120 Series Airplanes; docket no. 2000-NM-131 [11-28-1-4]” ((RIN2120-AA65)(2001-0012)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-112. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Empresa Brasileira de Aeronautica Model EMB 135 and 145 Series Airplanes; docket no. 2000-NM-384 [12-13-1-4]” ((RIN 2120-AA64)(2001-0010)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-113. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Establishment of Restricted Area, ID; docket no. 99-ANM-16 [12-18-1-4]” ((RIN2120-AAA6)(2001-0009)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-114. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: British Aerospace Model 4101; docket no. 2000-NM-152 [11-8-1-4]” ((RIN2120-AA65)(2001-0001)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-115. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 767 Series Airplanes; docket no. 99-NM-347 [11-8-1-4]” ((RIN2120-AA64)(2001-0002)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.


EC-117. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Raytheon Aircraft Company Beech Model 58 Airplanes; docket no. 2000-CE-42 [12-14-1-4]” ((RIN2120-AA64)(2001-0004)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-118. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: McDonnell Douglas Model MD-11; Docket no. 2000-28 [12-4-1-4]” ((RIN2120-AA64)(2001-0005)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-119. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Raytheon Model MD-300, MD-300-10, 400, 400A, and 400T Series Airplanes; docket no. 2000-NE-60 [12-13-1-4]” ((RIN2120-AA64)(2001-0006)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-120. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Rolls-Royce RB-211D2 S-500 Series Turbofan Engines docket no. 98-ANE-30” ((RIN2120-AA64)(2001-0007)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-121. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment to Class E Airspace; Dexter, MO; Correction; docket no. 00-ACE-31, [12-24-1-4]” ((RIN2120-AA66)(2001-0008)) received on January 4, 2001; to the Committee on Commerce, Science, and Transportation.

EC-122. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Notice of Final Funding Priorities for the National Center for Accessible Information Technology and the Disability and Business Technical Assistance Center” received on January 10, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-123. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relating to the State Contingency Allowments for the Low Income Housing Program of the Federal Program for fiscal year 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-124. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled “Title 151. Acquisition of Title to Land in Trust” ((RIN1076-AD90) received on January 9, 2001; to the Committee on Indian Affairs.

EC-125. A communication from the Acting Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled “Notice of Final Funding Priorities for the National Center for Accessible Information Technology and the Disability and Business Technical Assistance Center” received on January 10, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-126. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relating to the Status Report on the Pediatric Exclusivity Provision; to the Committee on Health, Education, Labor, and Pensions.

EC-127. A communication from the Administrator, Office of Workforce Security, Department of Labor, transmitting, pursuant to law, the report of a rule entitled “Unemployment Insurance Program Letter 12-01—Outsourcing of Unemployment Compensation Administrative Functions” received on January 10, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-128. A communication from the Assistant General Counsel for Regulations, Office of the Regulations Policy and Management Staff, Food and Drug Administrations,
Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Animal Drug Availability Act; Veterinary Feed Directive” (Docket No. 99N-AC54) received on January 10, 2001, to the Committee on Energy and Natural Resources.

EC-158. A communication from the Acting Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, to the report of a rule entitled “Oil and Gas Leasing: Onshore Oil and Gas Operations” (RIN1004–AC54) received on January 5, 2001; to the Committee on Energy and Natural Resources.

EC-159. A communication from the Acting Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, to the report of a rule entitled “Oil and Gas Leasing: Onshore Oil and Gas Operations” (RIN1004–AC54) received on January 5, 2001; to the Committee on Energy and Natural Resources.

EC-160. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report of the Inspector General and management’s report on final action for Inspector General Audits for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC-161. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated December 12, 2000; to the Committee on Appropriations.

EC-162. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated December 7, 2000; to the Committee on Appropriations.

EC-163. A communication from the Administrator of the Federal Trade Commission, transmitting, pursuant to law, a report on the review of commercial activities for the year 2001; to the Committee on Energy and Natural Resources.

EC-164. A communication from the Director of Congressional Affairs, U.S. Trade and Development Agency, transmitting, pursuant to law, a report on the review of commercial activities for the year 2001; to the Committee on Governmental Affairs.

EC-165. A communication from the Chairman of the National Mediation Board, transmitting pursuant to law, a report of the Internal Controls Evaluation which contains the Management Control Plan, Statistical Summary of Performance, and Conduct of the Internal Controls Evaluation for the fiscal year 2000; to the Committee on Governmental Affairs.

EC-166. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report relating to the apportionment population and number of representatives by State as of April 1, 2000; to the Committee on Appropriations.

EC-167. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, a report relating to the apportionment population and number of representatives by State as of April 1, 2000; to the Committee on Appropriations.

EC-168. A communication from the Acting General Accounting Office, transmitting, pursuant to law, a report relating to suspensions of contract appropriations for fiscal year 2000; to the Committee on Governmental Affairs.

EC-169. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, the report of additions to the procurement list received on January 10, 2001; to the Committee on Governmental Affairs.

EC-170. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report of the Inspector General and management’s report on final action for Inspector General Audits for the period April 1 through September 30, 2000; to the Committee on Governmental Affairs.

EC-171. A communication from the Assistant Secretary, Health Affairs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Tart Cherries Grown in the State of Michigan, et al.; Decreased Assessment Rate” (Docket No. 00–085–5 FR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-172. A communication from the Associate Administrator of the Livestock and Seed Program, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Regulations Governing the Certification of Sanitary Design and Fabrication of Equipment Used in the Processing of Live-Stock and Poultry Products” (Docket No. 00–085–5 FR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-173. A communication from the Acting Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported into the United States; Requirements” (Docket No. FV99–905–5 FR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-174. A communication from the Associate Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Raisins Produced from Grapes Grown in California; Reduction in Production Cap for 2001 Diversion Program” (Docket No. FV00–099–5 FR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-175. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Animal Welfare; Confiscation of Animals” (Docket No. 98–065–2) received on January 4, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-176. A communication from the Associate Administrator of the Office of Agricultural Marketing, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Tart Cherries Grown in the State of Michigan, et al.; Decreased Assessment Rate” (Docket No. 00–085–5 FR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-177. A communication from the Associate Administrator of the Office of Agricultural Marketing, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Raisins Produced from Grapes Grown in California; Reduction in Production Cap for 2001 Diversion Program” (Docket No. FV00–099–5 FR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-178. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated December 7, 2000; to the Committee on Appropriations.

EC-179. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated December 12, 2000; to the Committee on Appropriations.

EC-180. A communication from the Associate Administrator of Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Raisins Produced from Grapes Grown in California; Reduction in Production Cap for 2001 Diversion Program” (Docket No. FV00–099–5 FR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-181. A communication from the Assistant Secretary, Health Affairs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Tart Cherries Grown in the State of Michigan, et al.; Decreased Assessment Rate” (Docket No. 00–085–5 FR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-182. A communication from the Associate Administrator of the Livestock and Seed Program, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Regulations Governing the Certification of Sanitary Design and Fabrication of Equipment Used in the Processing of Live-Stock and Poultry Products” (Docket No. 00–085–5 FR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-183. A communication from the Associate Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported into the United States; Requirements” (Docket No. FV99–905–5 FR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-184. A communication from the Associate Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Raisins Produced from Grapes Grown in California; Reduction in Production Cap for 2001 Diversion Program” (Docket No. FV00–099–5 FR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-185. A communication from the Associate Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Tart Cherries Grown in the State of Michigan, et al.; Decreased Assessment Rate” (Docket No. 00–085–5 FR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-186. A communication from the Executive Vice President, Tobacco and Peanuts Division, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Cleaning and Reinspection of Farmers’ Stocks of Peanuts” (RIN0560–AF56) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-187. A communication from the Acting Assistant Secretary, Health Affairs, Department of Defense, transmitting, pursuant to law, the report of a rule entitled “Regulations Governing the Certification of Sanitary Design and Fabrication of Equipment Used in the Processing of Live-Stock and Poultry Products” (Docket No. 00–085–5 FR) received on January 10, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-188. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled “Federal Acquisition Regulation Supplement to make miscellaneous administrative and editorial changes received on January 18, 2001; to the Committee on Science, Commerce, and Transportation.

EC-189. A communication from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled “The ARGO Project:
Global Ocean Observations for Understanding and Prediction of Climate Variability” received on January 4, 2001, to the Committee on Commerce, Science, and Transportation.


EC-171. A communication from the President and Chief Executive Officer of the Corporation for Public Broadcasting, transmitting, pursuant to law, the annual report on the Corporation’s financial and operational performance for the fiscal year 2000; to the Committee on Commerce, Science, and Transportation.

EC-172. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Bell Helicopter Textron Canada Model 430 Helicopters; docket no. 2000-SW–1 [11–7–1]” (RIN2120-AA64(2001–0032)) received on January 8, 2001, to the Committee on Commerce, Science, and Transportation.


EC-174. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Turbomeca Arriel 1 Series Turboshaft Engines; CORRECTION; docket no. 2000–NE–11 [11–27–1]” (RIN2120-AA64(2001–0030)) received on January 8, 2001, to the Committee on Commerce, Science, and Transportation.

EC-175. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: McDonnell Douglas Model Model MD-11 Series Airplanes; docket no. 2000–NM–54 [12–4–1]” (RIN2120-AA64(2001–0029)) received on January 8, 2001, to the Committee on Commerce, Science, and Transportation.


EC-178. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 747 Series Airplanes; docket no. 99–NM–377 [12–4–1]” (RIN2120-AA64(2001–0024)) received on January 8, 2001, to the Committee on Commerce, Science, and Transportation.


EC-183. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Airbus Model A320 and A340 Series Airplanes; docket no. 2000–NM–38 [12–4–1]” (RIN2120-AA64(2001–0020)) received on January 8, 2001, to the Committee on Commerce, Science, and Transportation.

EC-184. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Airbus Model A300 and A310 Series Airplanes and Model A340 and A380 Series Airplanes; docket no. 2000–NM–96 [12–4–1]” (RIN2120-AA64(2001–0019)) received on January 8, 2001, to the Committee on Commerce, Science, and Transportation.

EC-185. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 707, 727, and 727-100C Series Airplanes; docket no. 99–NM–383 [12–4–1]” (RIN2120-AA64(2001–0018)) received on January 8, 2001, to the Committee on Commerce, Science, and Transportation.

EC-186. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 707, 727, and 727–100C Series Airplanes; docket no. 99–NM–383 [12–4–1]” (RIN2120-AA64(2001–0017)) received on January 8, 2001, to the Committee on Commerce, Science, and Transportation.


EC-188. A communication from the Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Track Safety Standards Amendment To Address Gage Restraint Measurement Systems” (RIN2130–AB32) received on January 8, 2001, to the Committee on Commerce, Science, and Transportation.

EC-189. A communication from the Chairmen of the Committee of Environmental Analysis, and Administration, Surface Transportation Board, transmitting, pursuant to law, the report of a rule entitled “Sanctions Against Motor Carriers, Brokers, and Freight Forwarders for Failure to Pay Civil Penalties” (RIN2128–AS4) received on January 8, 2001, to the Committee on Commerce, Science, and Transportation.

EC-190. A communication from the Chairman of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications” (RIN0668–AN78) received on January 10, 2001, to the Committee on Commerce, Science, and Transportation.

EC-191. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for North Carolina” received on January 10, 2001, to the Committee on Commerce, Science, and Transportation.

EC-192. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for North Carolina” received on January 10, 2001, to the Committee on Commerce, Science, and Transportation.

EC-193. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, a report on the conduct of foreign affairs to the Committee on Foreign Relations.

EC-194. A communication from the Deputy Associate Administrator of the Environment Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Pesticide Registration Notice 2000–9” received on December 19, 2000, to the Committee on Agriculture, Nutrition, and Forestry.

EC-195. A communication from the Deputy Associate Administrator of the Environment Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Pesticide Registration Notice 2000–8” received on December 19, 2000, to the Committee on Agriculture, Nutrition, and Forestry.

EC-196. A communication from the Deputy Associate Administrator of the Environment Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Harmonization of Regulation of Pesticide Registration Notice 2000–3” received on December 19, 2000, to the Committee on Agriculture, Nutrition, and Forestry.

EC-197. A communication from the Deputy Associate Administrator of the Environment Protection Agency, transmitting,
pursuant to law, the report of a rule entitled “Clopyralid; Pesticide Tolerance” (FRL6762–5) received on January 9, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–198. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Tebuconazole; Pesticide Tolerances for Emergency Exemptions” (FRL6760–3) received on January 4, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–199. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–200. A communicating from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–201. A communication from the Acting Assistant General Counsel for Special Education and Rehabilitation Services, Department of Education, transmitting, pursuant to law, a rule entitled “Definition of Contribution in Aid of Education Data Collection Center” received on December 22, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–202. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Notice 2001–7—Information Reporting on Payments for Proceeds to Attornies” received on December 22, 2000; to the Committee on Finance.

EC–203. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Notice 2001–8—Information Reporting on Discharges of Indebtedness” received on December 22, 2000; to the Committee on Finance.

EC–204. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Removal of the Federal Reserve Banks as Federal Lenders” (RIN1545–AY30) received on December 22, 2000; to the Committee on Finance.

EC–205. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Qualified Zone Academy Bonds Allocations 2001” (RIN1545–A5X5) received on December 22, 2000; to the Committee on Finance.

EC–206. A communication from the Regulations Officer of the Social Security Administration, transmitting, pursuant to law, the report of a rule entitled “Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Substantial Gainful Activity Amounts; ‘Services’ for Trial Work Period Purposes—Monthly Amounts; Student Child Earned Income Exclusion” (RIN9650AF12) received on January 4, 2001; to the Committee on Finance.

EC–207. A communication from the Chief, Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Protection of Personal Privacy—Executive Orders 12333 and ESOPs” (RIN1545–AX71) received on January 5, 2001; to the Committee on Finance.

EC–208. A communication from the Chief, Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Conversion to the Euro” (RIN1545–AW34)(TD 8927) received on January 10, 2001; to the Committee on Finance.

EC–209. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Accounting for Long-Term Contracts” (RIN1545–AQ30) received on January 10, 2001; to the Committee on Finance.

EC–210. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Conversion to the Euro” (RIN1545–AW34)(TD 8927) received on January 10, 2001; to the Committee on Finance.

EC–211. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relating to the termination of the “Prime Percentage Arrangement” for Kampala; to the Committee on Foreign Relations.

EC–212. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled “Suspension of Community Eligibility” (Docket No. FEMA–2779) received on January 9, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–213. A communication from the Deputy Director, Export-Import Bank of the United States, transmitting, pursuant to law, the report of a rule entitled “Tax Treatment of Cafeteria Plans” (RIN1545–AY23) received on January 9, 2001; to the Committee on Finance.

EC–214. A communication from the Chief, Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Notice 2001–10—Information Reporting on Indemnities and Arrangements” (Notice 2001–10) received on January 9, 2001; to the Committee on Finance.

EC–215. A communication from the Chief, Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Excise Taxes on Excess Benefit Transactions” (RIN1545AY94)(TD 8920) received on January 9, 2001; to the Committee on Finance.

EC–216. A communication from the Chief, Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Excise Taxes on Excess Benefit Transactions” (RIN1545AY94)(TD 8920) received on January 9, 2001; to the Committee on Finance.

EC–217. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Definition of Contribution in Aid of Construction Under Section 118(c)” (RIN1545–AW81)(TD 8922) received on January 10, 2001; to the Committee on Finance.

EC–218. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Disclosure of Returns and Return Information to Designee of Taxpayer” (RIN1545–AY39) received on January 10, 2001; to the Committee on Finance.

EC–219. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Accounting for Long-Term Contracts” (RIN1545–AQ30) received on January 10, 2001; to the Committee on Finance.

EC–220. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Conversion to the Euro” (RIN1545–AW34)(TD 8927) received on January 10, 2001; to the Committee on Finance.

EC–221. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relating to the termination of the “Prime Percentage Arrangement” for Kampala; to the Committee on Foreign Relations.

EC–222. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled “Suspension of Community Eligibility” (Docket No. FEMA–2779) received on January 9, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–223. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled “Suspension of Community Eligibility” (Docket No. FEMA–2779) received on January 9, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–224. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Protection of Personal Privacy—Executive Orders 12333 and ESOPs” received on January 5, 2001; to the Committee on Finance.

EC–225. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled “Suspension of Community Eligibility” (Docket No. R–1069) received on December 22, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–226. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled “Notice of Fair Market Rents for Fiscal Years 2000 and 2001” (FR–4858–N–04) received on January 4, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–227. A communication from the Associate General Counsel for Legislation and Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled “Notice of Fair Market Rents for Fiscal Year 2001” (FR–4858–N–04) received on January 4, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–228. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, the annual report relating to operations for fiscal year 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–229. A communication from the Acting Chairman, Office of the Secretary, Department of Housing and Urban Development, attaching, pursuant to law, the report of a rule entitled “HEU Agreement Assets Control Regulations” received on January 5, 2001; to the Committee on Banking, Housing, and Urban Affairs.
EC-230. A communication from the Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Implementation of Sanctions for Certain Sovereigns” (Docket No. R-1096) received on January 3, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-231. A communication from the Assistant to the Federal Reserve Board, transmitting, pursuant to law, the report of a rule entitled “Rules Regarding Equal Opportunity (12 CFR parts 256 and 260) (Docket No. R-1096) received on January 9, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-232. A communication from the Assistant to the Board of Governors, Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled “Interagency Guidelines Establishing Standards to Address Common Risks Posed by Customer Information and Recession of Year 2000 Standards for Safety and Soundness” (Docket No. R-1073) received on January 19, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-233. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report entitled “Gasoline Sulfur Rule Questions and Answers”; to the Committee on Environment and Public Works.

EC-234. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled “1999-2000 PCB Question and Answer 4”; to the Committee on Environment and Public Works.

EC-235. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled “Protocol for Testing the Efficiency of Disinfectants Used to Inactivate Duck Hepatitis B Virus and to Support Core Response to a Contamination Claim.” to the Committee on Environment and Public Works.

EC-236. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Implementation Plans; State of Missouri” (FRL6929-2) received on December 20, 2000; to the Committee on Environment and Public Works.

EC-237. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; District of Columbia” to the Committee on Environment and Public Works.

EC-238. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “National Primary and Secondary Ambient Air Quality Standards for Particulate Matter” (FRL6901-4) received on December 20, 2000; to the Committee on Environment and Public Works.

EC-239. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “National Secondary Ambient Air Quality Standards for Particulate Matter” (FRL6901-4) received on December 20, 2000; to the Committee on Environment and Public Works.

EC-240. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Significant New Uses of Certain Chemical Substances” (FRL6962-8) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-241. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Implementation of Drinking Water Regulations for Public Water Systems; Analytical Methods for List 2 Contaminants; Clarifications to the Unregulated Contaminant Monitoring Program and Monitoring of Specific Contaminants under the Drinking Water Security Program” (FRL6922-5) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-242. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Appraisal of Quality of Implication Plans; Connecticut, Massachusetts and Rhode Island; Nitrogen Oxides Budget and Allowance Trading Program” (FRL6999-6) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-243. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Final Rule Making Findings of Failure to Meet Standards for National Air Quality Implementation Plans for the NOX SIP Call” (FRL6922-5) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-244. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval Regulation” (FRL6929-7) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-245. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Nitrogen Oxides Budget Program” (FRL6921-9) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-246. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Reasonably Control Technology for Oxides of Nitrogen” (FRL6921-9) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-247. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Reasonably Control Technology for Oxides of Nitrogen” (FRL6921-9) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-248. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Clean Air Act Full Approval of Operating Permit Program; State of Montana” (FRL6992-4) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-249. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustors; Polyurethane Foam, Sodium Silicate, and Stand-Alone Semichemical Pulp Mills” (FRL6919-9) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-250. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Revisions to the Arizona State Implementation Plan, Final County Air Quality Control” (FRL6992-4) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-251. A communication from the Director of the Fish and Wildlife Service, Department of Interior, transmitting, pursuant to law, the report of a rule entitled “Endangered Species Rule; Final Rule to List Nine Bexar County, Texas Invertebrate Species as Endangered” (IN1018-AF83) received on December 19, 2000; to the Committee on Environment and Public Works.

EC-252. A communication from the Chief Financial Officer of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report relating to mixed waste activities at the Ames Research Center in Sunnyvale, California; to the Committee on Environment and Public Works.

EC-253. A communication from the Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Lead; Identification of Dangerous Levels of Lead” (FRL6783-5) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-254. A communication from the Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Environmental Program Grants—State, Interstate, and Local Government Agencies” (FRL6781-9) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-255. A communication from the Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Environmental Program Grants–State, Interstate, and Local Government Agencies” (FRL6781-9) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-256. A communication from the Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Interagency Program Grants for Tribes” (FRL6929-5) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-257. A communication from the Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Acid Rain Program—Permits Rule Revision, Industrial Utility-Units Exemption” (FRL6900-9) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-258. A communication from the Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; Maine; Vehicle Inspection and Maintenance Program; Restructuring OTR Requirements” (FRL6928-6) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-259. A communication from the Deputy Associate Administrator, Office of Policy,
Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval of New Jersey Clean Water Act Operating Permits Program in Washington” (FRL6955-5) received on January 10, 2001; to the Committee on Environment and Public Works.

EC-276. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Control of Emissions of Hazardous Air Pollutants (Clean Air Act Revisions)” (FRL6924-1) received on January 10, 2001; to the Committee on Environment and Public Works.

EC-278. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approvals and Promulgation of Air Quality Implementation Plans; Virginia; Approval of VOC and NOX RACT Determinations” (FRL6925-6) received on January 5, 2001; to the Committee on Environment and Public Works.

EC-279. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Florida: Final Authorization of State Hazardous Waste Management Program Revisions” (FRL6927-7) received on January 5, 2001; to the Committee on Environment and Public Works.

EC-280. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Clean Air Act Reclassification; Nevada—Reno Planning Area; Particulate Matter of 10 microns or less (PM-10)” (FRL6927-7) received on January 5, 2001; to the Committee on Environment and Public Works.

EC-282. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, the report of a rule entitled “Revisions to the National Emission Standards for Hazardous Air Pollutants for Oil and Gas Extraction Point Source Category; Source Performance Standards for the Oil and Gas Extraction Point Source Category; OMB Approval Under the Paperwork Reduction Act: Technical Amendment” (FRL6929-8) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-283. A communication from the Deputy Administrator of the Office of Congressional Affairs, Office of Enforcement, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled “Protection of Environment from Costs of Compliance and Best Available Control Technology: Allocation of Essential Use Allowances for Calendaryear 2001: Allocation for Metered Dose Inhalers and the Space Shuttle and Titan Upper Stage Rocket” (FRL6929-8) received on January 4, 2001; to the Committee on Environment and Public Works.

EC-284. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval of the Clean Air Act (CAA), Section 112(1) Program and Delegation of Authority to the State of Oklahoma” (FRL6932-4) released on January 8, 2001; to the Committee on Environment and Public Works.

EC-285. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Outer Continental Shelf Air Regulations Consistency Update for Alaska” (FRL6919-3) received on January 5, 2001; to the Committee on Environment and Public Works.

EC-286. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Revisions to the Interim Enhanced Surface Water Treatment (IESWTR), the Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage DDBFR), and Revisions to State Primary Drinking Water Regulations: Safe Drinking Water Act (SDWA) Amendment” (FRL6925-7) received on January 10, 2001; to the Committee on Environment and Public Works.

EC-288. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Control of Emissions of Hazardous Air Pollutants (Clean Air Act Revisions)” (FRL6901-4) received on January 10, 2001; to the Committee on Environment and Public Works.

EC-289. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Acquisition Regulation: Type of Contracts” (FRL6901-4) received on January 10, 2001; to the Committee on Environment and Public Works.
EC–288. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; Connecticut; One-Hour Ozone Attainment Demonstration and Attainment Plan; Greater New Haven Area, Connecticut Ozone Nonattainment Area” (FRL9629–5) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–289. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “National Emission Standards for Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks” (FRL6623–8) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–290. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Louisiana: Final Authorization of State Hazardous Waste Management Program Revisions” (FRL9692–5) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–291. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; One-Hour Ozone Attainment Demonstration and Attainment Date Extension for the Springfield (Western Massachusetts) Ozone Nonattainment Area” (FRL9627–6) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–292. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Final Authorization of State Hazardous Waste Management Program Revisions” (FRL9629–1) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–293. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Control of Air Pollution from New Motor Vehicles, Engines, and Equipment; Petro-Engine and Vehicle Emissions and Vehicle Highway Fuel Sulfur Control Requirements” (FRL296) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–294. A communication from the Chief of the Division of Management Authority, Fish and Wildlife Service, transmitting, pursuant to the Interior, transmitting, pursuant to law, the report of a rule entitled “Import of Polar Bear Trophies from Canada: Change in the Findings of the McClintock Channel Population and Revision of Regulations in 50 CFR 18.30” (RIN1018–AH72) received on January 5, 2001; to the Committee on Environment and Public Works.

EC–295. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled “Migratory Bird Hunting; Approval of Tungsten-Nickel-Iron Shot as Nontoxic for Hunting Waterfowl and Coots” (RIN1018–AH64) received on January 5, 2001; to the Committee on Environment and Public Works.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

Mr. GRAMM. Mr. President, for the Committee on Banking, Housing, and Urban Affairs.

The following reports of a rule entitled “Connecticut Ozone Nonattainment Area Implementation Plans; Connecticut; One-Year Extension for the Greater New Haven Area, Connecticut Ozone Nonattainment Area” (RIN1018–AH47) received on January 5, 2001; to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. AKAKA, Mr. BIDEN, Mr. BINGHAMAN, Mrs. BOXER, Mr. BYRD, Mrs. CARNAHAN, Mr. CARPER, Mr. CLELAND, Mrs. CLINTON, Mr. CONRAD, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. DURBIN, Mr. EDWARDS, Mr. GRAHAM, Mr. HARKIN, Mr. HOLLINS, Mr. JOHNSON, Mr. KERRY, Mrs. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mr. MISUKI, Mrs. MURRAY, Mr. NELSON OF FLORIDA, Mr. REED, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SCHUMER, Ms. STABENOW, Mr. TORICELLI, Mr. WELLSTONE, and Mr. WYDEN):

S. 8. A bill to improve the economic security of workers, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. BAUCUS, Mr. DORGAN, Mr. REID, Mr. DURBIN, Mr. RUSKIN, Mr. ROCKEFELLER, Mr. CLINTON, Mr. KERRY, Mr. SCHUMER, Mr. DODD, and Mr. CONRAD):

S. 9. A bill to amend the Internal Revenue Code of 1986 to provide for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. BAUCUS, Mr. GRAHAM, Mr. KENNEDY, Mr. AKAKA, Mr. BIDEN, Mr. BINGHAMAN, Mrs. BOXER, Mr. BYRD, Mrs. CARNAHAN, Mr. CLELAND, Mrs. CLINTON, Mr. CONRAD, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. HOLLINGS, Mr. INOUYE, Mr. JOHNSON, Mr. KERRY, Mr. LEAHY, Mr. LEVIN, Mrs. LINCOLN, Ms. MISUKI, Mrs. MURRAY, Mr. NELSON OF FLORIDA, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SCHUMER, and Mr. KENNEDY;)

S. 10. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drug benefits under the Medicare program; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. LOTT, Mr. BROKAW, Mr. NICKLES, Mr. KYL, Mr. MURKOWSKI, Mr. ALLEN, Mr. GRAMM, Mr. CRAPO, Mr. WARNER, Mr. Hagel, Mr. Bunning, Mr. Frist, Mr. McCONNELL, Mr. ENSIGN, Mr. HILLS, and Mr. CRAIO):

S. 11. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by providing that the income tax rate bracket amounts, and the amount of the standard deduction, for joint returns shall be the same as the amounts applicable to unmarried individuals, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. LEAHY, Mr. SCHEIDER, Mr. LEVIN, Mrs. BOXER, Mr. BREAUX, Mrs. CLINTON, Mr. CORZINE, Mr. ROCKEFELLER, Mr. LEVIN, Mr. JOHNSON, Mr. BIDEN, Ms. SARBANES, Mr. SCHUMER, Mr. AKAKA, Mr. KERRY, and Ms. STABENOW;)

S. 12. A bill to improve law enforcement, crime prevention, and victim assistance in the 21st century; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. DODD, Mr. LIEBERMAN, Mr. DORGAN, Mr. DURBIN, Mr. RUSKIN, Mrs. BOXER, Mr. BREAUX, Mrs. CLINTON, Mr. CORZINE, Mr. ROCKEFELLER, Mrs. LEVIN, Mr. JOHNSON, Mr. BIDEN, Mr. THOMAS, Mr. DUDEN, Ms. MUKULSKI, Mrs. CLINTON, Mr. BREAUX, Mr. LEVIN, Mr. SCHUMER, Mr. AKAKA, Mr. KERRY, and Ms. STABENOW):

S. 13. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; to the Committee on Rules and Administration.

By Mr. DASCHLE (for himself, Mr. DODD, Mr. LIEBERMAN, Mr. DURBIN, Mr. BREAUX, Mrs. CLINTON, Mr. CORZINE, Mr. ROCKEFELLER, Ms. SARBANES, Mr. SCHUMER, Mr. AKAKA, Mr. KERRY, and Ms. STABENOW):

S. 14. A bill to amend the Victims of Crime Act of 1984 to increase availability and affordability of quality child care and other early learning services, to amend the Family and Medical Leave Act of 1993 to expand the scope of the Act; and to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for himself, Mr. DODD, Mrs. MURRAY, Mr. WELSTON, Mrs. CLINTON, Mr. SARBANES, Mr. ROCKEFELLER, Mr. SCHUMER, Mrs. BOXER, Mr. JOHNSON, Mr. CORZINE, Mr. BREAUX, Mr. DURB, Mr. LEVIN, Mr. DODGON, Mr. REED, Mr. KERRY, and Mr. AKAKA):

S. 15. A bill to improve the availability and affordability of quality child care and other early learning services, to amend the Family and Medical Leave Act of 1993 to expand the scope of the Act; and to the Committee on Health, Education, Labor, and Pensions.
S. 19. A bill to protect the civil rights of all Americans, and for other purposes; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. LEAHY, Mr. JOHNSON, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. KERRY, Mr. WYDEN, and Ms. STABENOW):

S. 20. A bill to enhance fair and open competition in the production and sale of agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DASCHLE (for himself, Mrs. FEINSTEIN, Mr. CONRAD, Mr. FEINGOLD, Ms. STABENOW, Mr. DORGAN, Mr. WYDEN, Ms. LINCOLN, Mrs. CLINTON, Mrs. MURRAY, Mr. SARBANES, Mrs. BOXER, Mr. CARPER, Mr. DURBIN, Mr. RICHARDSON, Mr. ROBERSON, Mr. SCHUMER, Mr. BIDEN, Mr. NELSON of Florida, Mr. LEVIN, Mr. AKAKA, Mr. CORZINE, Mr. DAVITYAN, Mr. KERRY, Mr. MCCAIN, Mr. BROWN, and Ms. MUKULSKI):

S. 21. A bill to establish an off-budget lockbox to strengthen Social Security and Medicare by reforming the manner in which the Federal, State, and local governments spend Social Security and Medicare dollars; to the Committee on Rules and Administration.

By Mr. HAGEL (for himself, Ms. LANDRIEU, Mr. BREAUX, Mr. DEWEINE, Mrs. HUTCHISON, Mr. NELSON of Nebraska, Mr. SMITH of Oregon, and Mr. THOMAS):

S. 22. A bill to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits and other purposes; to the Committee on Rules and Administration.

By Mr. LOTT (for Mr. SPECTER):

S. 23. A bill to promote a new urban agenda, and for other purposes; to the Committee on Finance.

By Mr. LOTT (for Mr. SPECTER):

S. 24. A bill to provide improved access to health care, to protect, inform, and individual choice regarding health care services, lower health care costs through the use of appropriate technology, improve the quality of health care, improve access to long-term care, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. SCHUMER, and Mrs. BOXER):

S. 25. A bill to provide for the implementation of a system of licensing for purchasers of certain firearms and for a record of sale system for those firearms, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 26. A bill to amend the Department of Energy Authorization Act to authorize the Secretary of Energy to impose interim limitations on the cost of electric energy to protect consumers from unjust and unreasonable prices in the electric energy market; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself, Mr. FEINGOLD, Mr. COCHRAN, Mr. LEVIN, Mr. THOMPSON, Mr. LIEBERMAN, Ms. COLLINS, Mr. SCHUMER, Ms. SNOWE, Mr. WELLSTONE, Mr. JEFFORDS, Mr. REED, Mr. DURBIN, Mr. WYDEN, Mr. KORZENIOWSKI, Mrs. BOXER, Mr. HARKIN, Mr. STABENOW, Ms. CANTWILL, Mr. KERRY, Mr. DATTON, and Mr. MCCAIN):

S. 27. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; to the Committee on Rules and Administration.

By Mr. GRAMM (for himself and Mrs. HUTCHISON):

S. 28. A bill to guarantee the right of all active duty military personnel, merchant mariners, and their dependents to vote in Federal, State, and local elections; to the Committee on Rules and Administration.

By Mr. BOND (for himself, Mr. DURBIN, Mr. BAUCUS, Ms. SNOWE, Mr. KERRY, Mr. JEFFORDS, Mr. KRYZAN, Mr. BURN, Mr. DORGAN, Mr. HARKIN, Mrs. LINCOLN, Mr. LEAHY, Mr. JOHNSON, Mr. FITZGERALD, Mr. WELLSTONE, Mr. BINAMAN, Mr. LUGAR, Mr. ROBERTS, Ms. COLLINS, Mr. SPECTER, and Mr. KORZENIOWSKI):

S. 29. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals; to the Committee on Finance.

By Mr. SARBANES (for himself, Mr. LEAHY, Mr. DODD, Mr. REED, Mr. KERRY, Mr. HARKIN, and Mr. EDWARDS):

S. 30. A bill to strengthen control by consumers over the use and disclosure of their personal financial and health information by financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CAMPBELL:

S. 31. A bill to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period; to the Committee on Finance.

By Mr. THURMOND:

S. 32. A bill to amend title 28, United States Code, to clarify the remedial jurisdiction of inferior Federal courts; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. HATCH):

S. 33. A bill to amend title II of the Americans with Disabilities Act of 1990 and section 504 of the Rehabilitation Act of 1973 to exclude prisoners from the requirements of that title and section; to the Committee on Health, Education, Labor, and Pensions.

By Mr. THURMOND:

S. 34. A bill to eliminate a requirement for a unanimous verdict in criminal trials in Federal courts; to the Committee on the Judiciary.

By Mr. GRAMM (for himself and Mr. MILLER):

S. 35. A bill to provide relief to America's working families and to promote continued economic growth by returning a portion of the tax surplus to those who created it; to the Committee on Finance.

By Mr. THURMOND:

S. 36. A bill to amend title 1, United States Code, to clarify the effect and application of legislation; to the Committee on the Judiciary.

By Mr. LUGAR (for himself, Mr. LEAHY, Mr. FITZGERALD, Mr. HARKIN, Mr. ROBERTS, Mr. DODD, Mr. DEWEINE, Mr. REED, Mr. SANTORUM, Mr. BAYH, and Mr. JOHNSON):

S. 37. A bill to amend title 10, United States Code, to increase the grade provided for certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Armed Services.

By Mr. INOUYE:

S. 38. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary stores; to the Committee on Armed Services.

By Mr. INOUYE:

S. 43. A bill to amend title 5, United States Code, to require the issuance of a prisoner-medal to civilian employees of the Federal Government who are forcibly detained or interned by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 44. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 47. A bill to amend the Internal Revenue Code of 1986 to exempt certain helicopter uses from ticket taxes on transportation by air; to the Committee on Finance.

By Mr. INOUYE:

S. 48. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for the conversion of cooperative housing corporations into condominiums; to the Committee on Finance.

By Mr. STEVENS:

S. 49. A bill to amend the wetlands regulatory program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska, to protect Alaskan property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities, and villages; to the Committee on Environment and Public Works.

By Mr. STEVENS (for himself, Mr. INOUYE, and Mr. MURkowski):

S. 50. A bill to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time for Presidential and other Federal elections; to the Committee on Rules and Administration.

By Mr. INOUYE:

S. 51. A bill to amend title VIII of the Social Security Act to eliminate the perception that a clinical psychologist or clinical social worker provide services in a comprehensive
outpatient rehabilitation facility to a patient only under care of a physician; to the Committee on Finance.

By Mr. INOUYE:
S. 58. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the Medicare program; to the Committee on Finance.

By Mr. INOUYE:
S. 53. A bill to amend title XIX of the Social Security Act to provide for coverage of services provided by nursing school clinics under State Medicaid programs; to the Committee on Finance.

By Mr. INOUYE:
S. 51. A bill to provide for a special application of section 1020 of the Internal Revenue Code of 1986 to the Committee on Finance.

By Mr. PENDLETON:
S. 50. A bill to provide funding for the National Academies of Practice; to the Committee on the Judiciary.

By Mr. INOUYE:
S. 48. A bill to authorize the Department of Energy programs to develop and implement an accelerated research and development program for advanced coal technologies for Pacific or Alaskan coal-fired generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or conversion of coal-fired electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity; to the Committee on Finance.

By Mr. INOUYE:
S. 61. A bill to restore the traditional day of observance of Memorial Day; to the Committee on the Judiciary.

By Mr. INOUYE:
S. 62. A bill to amend title 38, United States Code, to revise certain provisions relating to the appointment of professional psychologists in the Veterans Health Administration, and for other purposes; to the Committee on Veterans’ Affairs.

By Mr. INOUYE:
S. 63. A bill for the relief of Donald C. Pence; to the Committee on Veterans’ Affairs.

By Mr. INOUYE:
S. 64. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE:
S. 65. A bill to amend title VII of the Public Health Service Act to ensure that social work students or social work schools are eligible for support under the certain programs to assist individuals in pursuing health careers and programs of grants for training of individuals in geriatric care to establish a social work training program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:
S. 66. A bill to amend title VII of the Public Health Service Act to revise and extend certain programs relating to the education of individuals in health professions, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HELMS:
S. 67. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:
S. 68. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in professional psychology eligible to participate in various health professions loan programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:
S. 69. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:
S. 70. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BYRD:
S. 71. A bill to amend the Federal Power Act to improve the hydroelectric licensing process by granting the Federal Energy Regulatory Commission statutory authority to better coordinate participation by other agencies and entities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN:
S. 72. A bill to amend the National Energy Conservation Policy Act to enhance and extend the authorities to enter into performance contracts of the Federal Government; to the Committee on Energy and Natural Resources.

By Mr. AKAKA:
S. 73. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools; read the first time.

By Mr. HELMS:
S. 74. A bill to prohibit the provision of Federal funds to any State or local educational agency that distributes or provides morning-after pills to schoolchildren; read the first time.

By Mr. HELMS:
S. 75. A bill to protect the lives of unborn human beings; read the first time.

By Mr. HELMS:
S. 76. A bill to make it a violation of the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus; read the first time.

By Mr. DASCHLE (for himself, Mr. MIKULASCH, Mr. KENNY, Mr. HARKIN, Mr. WELLSTONE, Ms. LANDRIEU, Mrs. LINCOLN, Mr. AKAKA, Mr. BREAUX, Mr. CLELAND, Mr. DURBIN, Mr. INOUYE, Mr. REED, Mr. SARBANS, Mr. SCHUMER, and Mr. JOHNSON):
S. 77. A bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HELMS:
S. 78. A bill to amend the Civil Rights Act of 1964 to provide preferential treatment for the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWNBACK, Mr. C LELAND, Mrs. C LINDBERG, Mr. HELMS, Mr. LEAHY, Mr. CONRAD, Mr. REID, and Mr. S ARBANES, Mr. S CHUMER, Mr. T HOMAS, Mr. W YDEN, Mr. M URRAY, Mr. R OBERTS, Mr. SCHUMER, Mr. THOMAS, Mr. WYDEN, Mr. HELMS, Mr. LEAHY, Mr. CONRAD, Mr. REID, and Mr. S ARBANES):
S. 80. A bill to require the Federal Energy Regulatory Commission to order refusals of unjust, unreasonable, unduly discriminatory or preferential rates or charges for electricity, to establish cost-based rates for electricity sold at wholesale in the Western Systems Coordinating Council, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. AKAKA (for himself and Mr. INOUYE):
S. 81. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians, to provide for purposes of the Native Hawaiian government and the recognition by the United States of the Native Hawaiian government, and for other purposes; to the Committee on Indian Affairs.

By Mr. LUGAR:
S. 82. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

By Mr. LUGAR:
S. 83. A bill to phase-out and repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

By Mr. LUGAR:
S. 84. A bill to increase the unified estate and gift taxes and the tax credit to exempt small businesses and farmers from estate taxes; to the Committee on Finance.

By Mr. LUGAR:
S. 85. A bill to amend the Internal Revenue Code of 1986 to increase the gift tax exclusion to $25,000; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. AKAKA):
S. 86. A bill to amend the Elementary and Secondary Education Act of 1965 to improve Native Hawaiian education programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE (for himself and Mr. AKAKA):
S. 87. A bill to amend the Native Hawaiian Health Care Improvement Act to revise and extend such Act; to the Committee on Indian Affairs.

By Mr. ROBCKEFELLER (for himself, Mr. SNOWE, Mr. KERRY, Mr. HATCH, Mr. BAUCUS, Mr. BURNS, Mr. HOLINGS, Mr. BAYH, Mrs. BOXER, Mr. BROWNACK, Mr. CLELAND, Mr. CLINTON, Mr. CRAIG, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. EDWARDS, Mr. ENZI, Mr. JOHNSON, Mr. KENNEDY, Ms. LANDRIEU, Mrs. LANDRIEU, Mr. MILLER, Mrs. MURRAY, Mr. ROBERTS, Mr. SCHUMER, Mr. THOMAS, Mr. WYDEN, Mr. HELMS, Mr. LEAHY, Mr. CONRAD, Mr. REID, and Mr. S ARBANES):
S. 88. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain affordable access to the Internet over current and future generations of broadband capability; to the Committee on Finance.

By Mr. GRASSLEY,
S. 89. A bill to enhance the illegal narcotics control activities of the United States Department of State; to the Committee on Finance.
States, and for other purposes; to the Committee on the Judiciary.

By Mr. BINGAMAN:
S. 90. A bill authorizing funding for programs in science and engineering research and development at the Department of Energy for fiscal years 2002 through 2006; to the Committee on Energy and Natural Resources.

By Mr. INOUYE (for himself and Mr. AKAKA):
S. 91. A bill to amend the Native American Languages Act to provide for the support of Native American Language Survival Schools, and for other purposes; to the Committee on Indian Affairs.

By Mr. GRAMM (for himself, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. DOMENICI, Mr. KYL, Mr. McCaIN, and Ms. COLLINS):
S. 92. A bill to authorize appropriations for the United States Customs Service for fiscal years 2002 and 2003, and for other purposes; to the Committee on Finance.

By Ms. SNowe (for herself and Mr. JEFFORDS):
S. 93. A bill to amend the Federal Election Campaign Act of 1971 to require disclosure of certain disbursements made for electioneering communications, and for other purposes; to the Committee on Rules and Administration.

By Mr. DORGAN:
S. 94. A bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for electricity produced from wind; to the Committee on Energy and Natural Resources.

By Mr. KOHL (for himself and Mr. FEINGOLD):
S. 95. A bill to promote energy conservation investments in Federal facilities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KOHL:
S. 96. A bill to ensure that employees of traveling sales crews are protected under there Fair Labor Standards Act of 1938 and under other provisions of law; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL:
S. 97. A bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes; to the Committee on Finance.

By Mr. CARPER:
S. 98. A bill to amend the Elementary and Secondary Education Act of 1965 to promote parental involvement and parental empowerment in public education through greater competition and choice, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL (for himself and Mr. GRAHAM):
S. 99. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

By Mr. ALLARD:
S. 100. A bill to amend the Internal Revenue Code of 1986 to repeal the estate and gift taxes; to the Committee on Finance.

By Mr. BINGAMAN:
S. 101. A bill to improve teacher quality, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself and Mr. McCaIN):
S. 102. A bill to provide assistance to address school dropout problems; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself, Mrs. HUTCHISON, and Ms. COLLINS):
S. 103. A bill to provide for advanced placement programs; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNowe (for herself, Mr. REID, Mr. LEAHY, Mr. JORDAN, Mrs. BOXER, Mr. SPECTER, Mrs. MURRAY, Ms. COLLINS, Mr. JOHNSTON, Mr. WELLSTONE, Mr. LEAHY, Mr. KERRY, Mrs. AKAKA, Mr. SARABANES, Mr. SCHUMER, Mr. HARKIN, Mrs. CLINTON, and Mr. CORZINE):
S. 104. A bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD:
S. 105. A bill to amend the Agricultural Adjustment Act to prohibit the Secretary of Agriculture from basing minimum prices for Class I milk on the distance or transportation costs from any location that is not within a 50-mile radius of the point to which the milk is delivered, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD (for himself and Mr. HUTCHISON):
S. 106. A bill to amend the provisions of title III of the Age Discrimination in Employment Act of 1973 to require equal access to justice, award of reasonable attorneys’ fees, and expenses, administrative settlement offers, and for other purposes; to the Committee on the Judiciary.

By Mr. FEINGOLD:
S. 107. A bill to allow modified bloc voting by cooperative associations of milk producers in connection with a referendum on Federal Milk Marketing Order reform; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD:
S. 108. A bill to reduce the number of executive branch appointments, to the Committee on Governmental Affairs.

By Mr. FEINGOLD (for himself, Mr. JEFFORDS, and Mr. KOHL):
S. 109. A bill to establish the Dairy Farmer Viability Commission; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD:
S. 110. A bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress; to the Committee on Governmental Affairs.

By Mr. FEINGOLD (for himself and Mr. KOHL):
S. 111. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD (for himself, Mr. HARKIN, Mr. WELLSTONE, and Mr. WYDEN):
S. 112. A bill to terminate operation of the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

By Mr. FEINGOLD (for himself, Mr. HARKIN, Mr. WELLSTONE, and Mr. WYDEN):
S. 113. A bill to terminate production under the DS submarine-launched ballistic missile program and to prohibit the backfit of certain Trident I ballistic missile submarines to carry DS submarine-launched ballistic missiles; to the Committee on Armed Services.

By Mr. FEINGOLD:
S. 114. A bill to terminate the Uniformed Services University of the Health Sciences; to the Committee on Armed Services.

By Mr. FEINGOLD (for himself, Mr. LEAHY, and Mr. INOUYE):
S. 115. A bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hardrock mines, and for other purposes; to the Committee on Finance.

By Mr. FEINGOLD:
S. 116. A bill to amend the Reclamation Reform Act of 1982 to clarify the acreage limitations and incorporate a means test for certain farm operations, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. FEINSTEIN:
S. 118. A bill to strengthen the penalties for violations of plant quarantine laws; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. SNOWE (for herself and Mr. GRAHAM):
S. 119. A bill to provide States with funds to support State, regional, and local school construction; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN:
S. 120. A bill to establish a demonstration project to increase teacher salaries and employee benefits for teachers who enter into contracts with local educational agencies to serve as master teachers; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FeINSTEIN:
S. 121. A bill to establish an Office of Children’s Services within the Department of Justice to coordinate and implement Government actions involving unaccompanied alien children, and for other purposes; to the Committee on the Judiciary.

By Mr. CAMERON:
S. 122. A bill to prohibit a State from determining that a ballot submitted by an absent uniformed service voter was improperly or fraudulently cast unless that State finds clear and convincing evidence of fraud, and for other purposes; to the Committee on Rules and Administration.

By Mrs. FEINSTEIN (for herself and Mr. Voinovich):
S. 123. A bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to teachers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LOTT (for Mr. BROWNBACK (for himself, Mr. RINEHART, Mr. KOSKI, and Mr. DORGAN)):
S. 124. A bill to exempt agreements relating to voluntary guidelines governing telemarketing, movies, video games, Internet content, and music lyrics from the applicability of the antitrust laws, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSON (for himself, Mr. KENNEDY, Mr. DORGAN, Mr. BINGAMAN, Mr. FEINGOLD, Mr. LEAHY, Mr. INOUYE, Mr. KERRY, and Mr. DASHIELL):
S. 125. A bill to provide substantial reductions in the price of prescription drugs for Medicare beneficiaries; to the Committee on Finance.

By Mr. CLELAND (for himself, Mr. MILLER, Mr. INOUYE, Mr. TORRICELLI, Mr. BINGAMAN, and Mr. HARKIN):
S. 126. A bill to authorize the President to present a gold medal on behalf of Congress to former President Jimmy Carter and his wife Rosalyn Carter in recognition of their service to the Nation; to the Committee on Banking, Housing, and Urban Affairs.
January 22, 2001

CONGRESSIONAL RECORD — SENATE

S101

By Mr. MCCAIN (for himself, Mr. CLELAND, Mrs. HUTCHISON, and Mr. MURKOWSKI):
S. 127. A bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSON (for himself, Mr. HAGEL, Mr. DASCHLE, Mr. FEINGOLD, Mr. BINGAMAN, Mr. CONRAD, and Mr. ROBERTS):
S. 128. A bill to amend the Federal Deposit Insurance Act to require periodic cost of living adjustments to the maximum amount of deposit insurance available under that Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CLELAND:
S. 129. A bill to amend title 38, United States Code, to provide for the payment of a monthly stipend to the surviving parents (known as “Gold Star Parents”) of members of the Armed Forces who die during a period of war; to the Committee on Veterans’ Affairs.

By Mr. JOHNSON:
S. 130. A bill to amend the Agricultural Market Transition Act to establish a flexible fallow program under which a producer may idel a portion of the total planted acreage of the loan commodities of the producer in exchange for higher loan rates for marketing assistance loans on the remaining acreage of the producer; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSON (for himself and Ms. COLLINS):
S. 131. A bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes; to the Committee on Veterans’ Affairs.

By Mr. JOHNSON (for himself, Mr. INOUYE, Mr. KENNEDY, Mr. BAUCUS, Mr. REID, Mr. DORGAN, Mr. DASCHLE, Ms. SNOWE, and Mr. CONRAD):
S. 132. A bill to amend the International Revenue Code of 1986 to provide that housing assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 be treated for purposes of the low-income housing credit in the same manner as comparable assistance; to the Committee on Finance.

By Mr. BAUCUS:
S. 133. A bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. JEFFORDS, Mr. COCHRAN, Mrs. BOXER, and Ms. LANDRIEU):
S. 134. A bill to ban the importation of large capacity ammunition feeding devices; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. JEFFORDS, Mr. COCHRAN, Mrs. BOXER, and Ms. LANDRIEU):
S. 135. A bill to amend title XVIII of the Social Security Act to improve payments for direct graduate medical education under the Medicare program; to the Committee on Finance.

By Mr. GRAMM:
S. 136. A bill to amend the Omnibus Trade and Competitiveness Act of 1988 to extend trade negotiating authority and trade agreement implementing authority; to the Committee on Finance.

By Mr. GRAMM:
S. 138. A bill to authorize negotiation for the accession of Chile to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

By Mr. BENNETT:
S. 139. A bill to assist in the preservation of archaeological, paleontological, zoological, geological, and botanical artifacts through construction of a new facility for the University of Utah Museum of Natural History, Salt Lake City, Utah; to the Committee on Energy and Natural Resources.

By Mr. GRAMM:
S. 140. A bill to authorize negotiation for the accession of United Kingdom to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mrs. MURRAY, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. DOMENICI, and Mr. BREAUX):
S. 141. A bill to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSON (for himself, Mr. GRASSLEY, Mr. THURMOND, and Mr. DASCHLE):
S. 142. A bill to amend the Packers and Stockyards Act, 1921, to make unlawful for a packer to own, feed, or control livestock intendend for slaughtering for market in exchange for higher loan rates for marketing assistance loans on the remaining acreage of the producer; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAMM (for himself, Mr. SCHUMER, Mr. HAGEL, Mr. ENZI, Mr. BENNETT, Mr. BUNDY, Mr. BOND, Mr. TORCELLINI, Mr. ALLARD, and Mr. CRAPO):
S. 143. A bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934, to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to amend the Antidiscrimination Act of 1984, to prohibit the use of Social Security surpluses to achieve compliance; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. THURMOND:
S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

By Mr. GRAMM:
S.J. Res. 2. A joint resolution to provide for a Balanced Budget Constitutional Amendment that prohibits the use of Social Security surpluses to achieve compliance; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INOUYE:
S. Res. 11. A resolution expressing the sense of the Senate reaffirming the cargo preference policy of the United States; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):
S. Res. 12. A resolution relative to the death of Alan Cranston, former United States Senator for the State of California; considered and agreed to.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. LEAHY, Mr. JOHNSON, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. KOHL, Mr. SARBANES, Mr. WELLSTONE, Mr. DORGAN, Mr. DURBIN, Mr. CONRAD, Mr. KERRY, Mrs. CARNANAN, Mr. DAYTON, Mr. KENNEDY, Ms. STABENOW, and Mr. GRAMM):
S. Res. 13. A resolution expressing the sense of the Senate regarding the need for Congress to enact a new farm bill during the 1st session of the 107th Congress; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. DODD, Mr. BINGAMAN, Mrs. MURRAY, Mr. WELLSTONE, Mr. DORGAN, Ms. MIKULSKI, Mr. LEVIN, Mrs. CLINTON, Mr. SCHUMER, Mr. ROCKEFELLER, Mr. JOHNSON, Mr. CORZINE, Mr. BIDEN, Mr. KERRY, Mr. DASCHLE, and Mr. REED):

PATIENTS’ BILL OF RIGHTS ACT

Mr. DASCHLE. 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. 6

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 “Patients’ Bill of Rights Act”.

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

Sec. 1. Short title; table of contents.
Sec. 2—Improving Managed Care
Subtitle A—Grievance and Appeals
Sec. 101. Utilization review activities.
Sec. 102. Internal appeals procedures.
Sec. 103. External appeals procedures.
Sec. 104. Establishment of a grievance process.

Subtitle B—Access to Care
Sec. 111. Consumer choice option.
Sec. 112. Choice of health care professional.
Sec. 113. Access to emergency care.
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TITLE I—IMPROVING MANAGED CARE

Subtitle A—Grievance and Appeals

SEC. 101. UTILIZATION REVIEW ACTIVITIES.

(a) Compliance With Requirements.—

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

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

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

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

(2) Written Criteria.—

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

(B) Conforming of Standards in Retrospective Review.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall meet the appropriate training and development criteria, or procedures used for the utilization review activities in connection with the enrollee’s covered services. The utilization review services provided under the program shall be conducted consistent with the requirements of this section.

(c) Review of Determinations.—Such a program shall provide an evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(1) Conduct of Program Activities.—

(A) Administration by Health Care Professionals.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(B) Use of Qualified, Independent Persons.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are not part of the health care provider or the managed care organization and have received appropriate training in the conduct of such activities under the program.

(B) Prohibition of Contingent Compensation Arrangements.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors or otherwise encourage denials of claims for benefits.

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

(2) Accessibility of Review.—Such a program shall provide that appropriate personnel performing utilization review activities under the program are reasonably accessible by toll-free telephone during normal business hours to all covered individuals, health care providers and enrollees to receive and respond promptly to calls received during other hours.

(d) Limits on Frequency.—Such a program shall not provide for the performance of utilization review activities with respect to a class of health care services more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(1) Prior Authorization Services.—

(A) IN GENERAL.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual’s designee and the individual’s health care provider by telephone and in printed form, within 30 days of the date of receipt of the claim for benefits.

(B) DEADLINE.—Such a program shall not be treated under this subtitle as a denial of the claim as of the date of the deadline specified in this subparagraph.

(2) Failure to Meet Deadline.—In a case in which a group health plan or health insurance issuer fails to make a determination on a claim for benefit under paragraph (1), the date of receipt of the claim for benefits.

(3) Failure to Meet Deadline.—In a case in which a group health plan or health insurance issuer fails to make a determination on a claim for benefit under paragraph (1), the date of receipt of the claim for benefits.

(4) Failure to Meet Deadline.—In a case in which a group health plan or health insurance issuer fails to make a determination on a claim for benefit under paragraph (1), the date of receipt of the claim for benefits.

(5) Reference to Special Rules for Emerging Services, Maintenance of Coverage, and Post-Stabilization Care.—For waiver of prior authorization requirements in certain cases involving emergency services and maintainance of coverage, see sections (a)(1) and (b) of section 113, respectively.
(e) NOTICE OF DENIALS OF CLAIMS FOR BENEFITS.—

(1) IN GENERAL.—Notice of a denial of claims for benefits under a utilization review program or quality of care review program provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include:

(A) the reason for the denial (including the clinical rationale);

(B) instructions on how to initiate an appeal under section 102; and

(C) the availability, upon request of the individual (or the individual’s designee) of the clinical review criteria relied upon to make such denial.

(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify what (if any) additional necessary information must be provided by or obtained from the person making the denial in order to make a decision on such an appeal.

(i) CLAIM FOR BENEFITS AND DENIAL OF CLAIM FOR BENEFITS DEFINED.—For purposes of this subtitle:

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

(2) DENIAL OF CLAIM FOR BENEFITS.—The term “denial” means, with respect to a claim for benefits, a denial, or a failure to act on a request for continuation of ongoing care, in whole or in part, the claim for benefits and includes a failure to provide benefits (including items and services) required to be provided under this title.

SEC. 102. INTERNAL APPEALS PROCEDURES.

(a) RIGHT OF REVIEW.—

(1) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage—

(A) shall provide adequate notice in writing to any participant or beneficiary under such plan, or enrollee under such coverage, whose claim for benefits under the plan or coverage has been denied (within the meaning of section 101(f)(2), setting forth the specific reasons for such denial of claim for benefits and rights to any further review or appeal, written in a manner calculated to be understood by the participant, beneficiary, or enrollee; and

(B) shall afford such a participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual or fiduciary of a health plan) a reasonable opportunity (of not less than 180 days) to request and obtain a full and fair review by a named fiduciary (with respect to such plan) or named appropriate individual (with respect to such coverage) of the decision denying the claim.

(2) TREATMENT OF ORAL REQUESTS.—The request under paragraph (1)(B) may be made orally, but, in the case of an oral request, shall be followed by a request in writing.

(b) INTERNAL REVIEW PROCESS.—

(1) CONDUCT OF REVIEW.—

(A) IN GENERAL.—A review of a denial of a claim under this section shall be made by an individual who—

(i) in a case involving medical judgment, shall be a physician or, in the case of limited scope coverage (as defined in subparagraph (B)), shall be an appropriate specialist;

(ii) has been selected by the plan or issuer; and

(iii) did not make the initial denial in the internal appealable decision.

(B) LIMITED SCOPE COVERAGE DEFINED.—For purposes of subparagraph (A), the term “limited scope coverage” means a group health plan or health insurance coverage the only benefits under which are for benefits described in section 2791(c)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg–901(c)(2)).

(2) TIME LIMITS FOR INTERNAL REVIEWS.—

(A) IN GENERAL.—Having received such a request for review of a denial of claim, the plan or issuer shall—

(i) complete the review on the denial and treatment of or for which the claim for benefits is made; and

(ii) if the recommendation of the external review described in subsection (c)(1)(A), the deadline specified in this subparagraph is 72 hours after the time of receipt of the request for expedited review, except that in a case described in paragraph (1)(B), the decision must be made before the end of the approved period of time for expedited review.

(B) WAIVER OF PROCESS.—A plan or issuer may waive its rights for an internal review under subsection (b). In such case the participant, beneficiary, or enrollee involved (and any provider or other person acting on behalf of such an individual or fiduciary of a health plan) shall be relieved of any obligation to complete the review involved and may, at the option of such participant, beneficiary, enrollee, designee, or provider, provide, or request such further seek such further appeal through any applicable external appeals process.

SEC. 103. EXTERNAL APPEALS PROCEDURES.

(a) RIGHT TO EXTERNAL APPEAL.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2), for which a timely appeal is made either by the plan or issuer or by the participant, beneficiary, or enrollee (and any provider or other person acting on behalf of such an individual or fiduciary of a health plan), and

(i) that is based in whole or in part on a decision that the item or service is not medically necessary or appropriate or is investigational or experimental; or

(ii) in which the decision as to whether a benefit is covered involves a medical judgment.

(B) INCLUSION.—Such term also includes a failure to meet an applicable deadline for internal review under section 102.

(C) EXCLUSIONS.—Such term does not include—

(i) specific exclusions or express limitations on the amount, duration, or scope of coverage that do not involve medical judgment;

(ii) a decision regarding whether an individual is a participant, beneficiary, or enrollee under the plan or coverage.

(b) EXCLUSION OF INTERNAL REVIEW PROCESS.—Except as provided under section 102(d), a plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon a final decision in an internal review under section 102, but only if the decision is made in a timely basis consistent with the deadline provided under this title.

(c) FILING FEE REQUIREMENT.—

(1) FILING FEE.—(A) IN GENERAL.—Subject to subparagraph (B), a plan or issuer may require payment of the filing fee in the case of an individual participant, beneficiary, or enrollee who certifies (in a form and manner specified in guidelines established by the Secretary of Health and Human Services) that the individual is indigent (as defined in such guidelines).

(B) REFUNDING FEE IN CASE OF SUCCESSFUL APPEAL.—The plan or issuer shall (i) refund payment of the filing fee under this paragraph if the recommendation of the external appeal is in favor of the participant, beneficiary, or enrollee; or (ii) in a case described in paragraph (1)(B), refund the filing fee that does not exceed $25.

(d) EXCEPTION FOR INDIGENITY.—The plan or issuer may not require payment of the filing fee in the case of an individual participant, beneficiary, or enrollee who certifies (in a form and manner specified in guidelines established by the Secretary of Health and Human Services) that the individual is indigent (as defined in such guidelines).

(e) REFUNDING FEE IN CASE OF SUCCESSFUL APPEAL.—The plan or issuer shall (A) refund payment of the filing fee under this paragraph if the recommendation of the external appeal is in favor of the participant, beneficiary, or enrollee; or (ii) in a case described in paragraph (1)(B), refund the filing fee that does not exceed $25.
appeal entity is to reverse or modify the de-
nial of a claim for benefits which is the sub-
ject of the appeal.

(b) General Elements of External Ap-
peal Processes

(1) CONTRACT WITH QUALIFIED EXTERNAL AP-
PEAL ENTITY.—

(A) CONTRACT REQUIREMENT.—Except as
provided in subparagraph (D), the external
appeal processes under this section of a plan or
issuer shall be conducted under a contract
between the plan or issuer and one or more
qualified external appeal entities (as defined
in subsection (C)).

(B) LIMITATION ON PLAN OR ISSUER SELECT-
ION.—

(i) In general.—The applicable authority
shall implement procedures—

(1) to assure that the selection process
among qualified external appeal entities will
not create any incentives for external appeal
entities to make a decision in a biased man-
ner; and

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

(ii) Limitation on ability to influence se-
lection.—No selection process established
by the applicable authority under this sub-
section shall allow the participant, benefi-
ciary, enrollee or the plan or issuer with
the ability to determine or influence the se-
lection of a qualified external appeal entity to
review the appeal of the participant, benefi-
ciary, or enrollee.

(C) OTHER TERMS AND CONDITIONS.—The
terms and conditions of a contract under
this paragraph shall be consistent with the stan-
dards the appropriate Secretary shall estab-
lish to assure there is no real or apparent
conflict of interest in the conduct of external
appeal activities. Such contract shall pro-
vide that all costs of the process (except
those incurred by the participant, bene-
ciciary, enrollee, or the plan or issuer in sup-
port of the appeal) shall be paid by the plan
or issuer, and not by the participant, benefi-
ciary, or enrollee. The previous sen-
tence shall not be construed as applying to
the imposition of a filing fee under sub-
section (a)(4).

(D) STATE AUTHORITY WITH REGARD TO QUALI-
FIED EXTERNAL APPEAL ENTITIES FOR STATE
INSURANCE ISSUERS.—With respect to health
insurance issuers offering health insurance
coverage in a State, the State may provide
for external review activities to be con-
ducted by a qualified external appeal entity
that is designated by the State or that is
selected by the State in a manner determined
by the State to assure an unbiased deter-
mation.

(2) ELEMENTS OF PROCESS.—An external ap-
peal process shall be conducted consistent with
standards established by the appro-
priate Secretary that include at least the fol-
lowing:

(A) FAIR AND DE NOVO DETERMINATION.—The
process shall be fair and de novo deter-
mination. However, nothing in this para-
graph shall be construed as providing for
coverage of items and services for which ben-
efits are specifically excluded under the plan
or coverage.

(B) STANDARD OF REVIEW.—An external ap-
peal entity shall determine whether the plan’s
decision is in accordance with the medical
needs of the patient in-
volved (as determined by the entity) taking
into account, as of the time of the entity’s
determination, the patient’s medical condi-
tion and any relevant and reliable evidence
the entity obtains under subparagraph (D). If
the entity determines the decision is in ac-
cordance with the medical needs, the entity
shall affirm the decision and to the extent that
the entity determines the decision is not in
accordance with such needs, the entity shall
reverse or modify the decision.

(C) CONSIDERATION OF PLAN OR COVERAGE
DEFINITIONS.—In making such determination,
the external appeal entity shall consider (but
not be bound by) any language in the plan or
coverage document relating to the defini-
tions of the terms medical necessity, medi-
cally necessary, experimental, investiga-
tional, or related terms.

(D) EVIDENCE.—

(i) In general.—An external appeal entity
shall include—

(1) the evidence taken into consideration;

(2) any personal health and medical infor-
mation supplied with respect to the indi-
vidual whose denial of claim for benefits has
been appealed; and

(3) the opinion of the individual’s treat-
ing physician or health care professional.

(ii) ADDITIONAL EVIDENCE.—Such entity
may also take into consideration but not be
limited to the following evidence (to the ex-
tent available):

(I) the results of studies that meet profes-
sionally recognized standards of validity and
replicability or that have been published in
peer-reviewed journals;

(II) the results of professional consensus
conferences conducted or financed in whole or
in part by one or more Government agen-
cies;

(III) practice and treatment guidelines pre-
pared or financed in whole or in part by
Government agencies;

(IV) Government-issued coverage and

treatment policies.

(V) Community standard of care and gen-
erally accepted principles of professional
medical practice.

(VI) To the extent that the entity deter-
nimates it to be free of any conflict of interest,
the opinions of individuals who are qualified
as experts in one or more fields of health
care which are directly related to the mat-
ters under appeal.

(VII) To the extent that the entity deter-
nimates it to be free of any conflict of interest,
the results of peer reviews conducted by the
plan or issuer for the plan or issuer.

(E) DETERMINATION CONCERNING EXTER-
NALE APPEALABLE DECISIONS.—A qualified
external appeal entity shall determine—

(i) whether the denial of benefits is an exter-
nally appealable decision (within the mean-
ing of subsection (a)(2));

(ii) whether an externally appealable deci-
sion involves medical necessity; and

(iii) for purposes of initiating an external
review, whether the internal review process
has been completed.

(F) OBLIGATION TO SUBMIT EVIDENCE.—

Each party to an externally appealable deci-
sion shall submit evidence related to the
issues in dispute.

(G) PROVISION OF INFORMATION.—The plan
or issuer involved shall provide timely ac-
cess to the external appeal entity to infor-
mation and to provisions of the plan or
health insurance coverage relating to the mat-
ter of the externally appealable decision,
as determined by the entity.

(H) TIMELY DECISIONS.—A determination by
the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is
made orally, shall be supplied to the parties
in writing as soon as possible;

(ii) be made in accordance with the med-
ical exigencies of the case involved, but in no
event later than 21 days after the date (or,
in the case of an expedited appeal, within 2 hours
after the time) of requesting an external ap-
peal of the decision;

(iii) state, in layperson’s language, the
basis for the determination, including, if rel-
vent, any basis in the terms or conditions
of the plan or coverage; and

(iv) inform the participant, beneficiary, or
enrollee of the individual’s rights (including
any limitation on such rights) to seek fur-
ther review by the courts (or other process)
of the external appeal determination.

(I) COMPLIANCE WITH DETERMINATION.—If
the external appeal entity reverses or modi-
fies the denial of a claim for benefits, the
plan or issuer shall—

(i) upon the receipt of the determination,
authorize benefits in accordance with such
determination;

(ii) take such actions as may be necessary
to provide benefits (including items or serv-
ices) in a timely manner consistent with such
determination; and

(iii) submit information to the entity docu-
menting compliance with the entity’s deter-
mination and this subparagraph.

(c) QUALIFICATIONS OF EXTERNAL APPEAL
ENTITIES.—

(1) IN GENERAL.—For purposes of this sec-
tion, the term “qualified external ap-
peal entity” means, in relation to a plan
or issuer, an entity that is certified under para-
graph (2) as meeting the following require-
ments:

(A) The entity meets the independence re-
quirements of paragraph (2);

(B) The entity conducts external appeal ac-
tivities through a panel of not fewer than
three clinical peers.

(C) The entity has sufficient medical, legal,
and other expertise and sufficient staffing
to conduct external appeal activities for the
plan or issuer on a timely basis con-
sistent with subsection (b)(2)(G).

(2) INITIAL CERTIFICATION OF EXTERNAL
APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as
a qualified external appeal entity with re-
spect to—

(i) a group health plan, the entity must be
certified (and, in accordance with subpara-
graph (B), periodically recertified) as meet-
ing the requirements of paragraph (1)—

(1) by the Secretary of Labor;

(2) under a process recognized or approved
by the Secretary of Labor; or

(III) to the extent provided in subpara-
graph (C)(i), by a qualified private standard-
setting organization (certified under such sub-
paragraph); or

(ii) a health insurance issuer operating in a
State, the entity must be certified (and, in
accordance with subparagraph (B), peri-
odically recertified) as meeting such require-
ments—

(I) by the applicable State authority (or
under a process recognized or approved by
such authority); or

(II) if the State has not established a cer-
tification and recertification process for
such entities, by the Secretary of Health and
Human Services, under a process recognized
or approved by such Secretary, or to the ex-
tent provided in subparagraph (C)(i), by a
qualified private standard-setting organiza-
tion (certified under such subparagraph);

(B) RECERTIFICATION PROCESS.—The appro-
priate Secretary shall develop standards for
the recertification of external appeal enti-
ties. Such standards shall include a review of—

(i) the number of cases reviewed;

(ii) a summary of the disposition of those
cases; and

(iii) the length of time in making deter-
minations on those cases;
(iv) updated information of what was required to be submitted as a condition of certification for the entity’s performance of external appeal activities; and
(v) such other information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted.

(3) BY QUALIFYING PRIVATE STANDARD-SETTING ORGANIZATIONS.—

(I) FOR EXTERNAL REVIEWS UNDER GROUP HEALTH PLANS.—For purposes of subparagraph (F), the Secretary of Labor may provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external review entities. Such an organization shall only be certified if the organization does not certify an external appeal entity unless it meets standards required for certification of such an entity by such Secretary under subparagraph (A)(i).

(ii) FOR EXTERNAL REVIEWS OF HEALTH INSURANCE ISSUERS.—For purposes of subparagraph (A)(i)(II), the Secretary of Health and Human Services may provide for a process for certification (and periodic recertification) of qualified private standard-setting organizations which provide for certification of external review entities. Such an organization shall only be certified if the organization does not certify an external appeal entity unless it meets standards required for certification of such an entity by such Secretary under subparagraph (A)(i)(I).

(4) LIMITATION ON LIABILITY OF REVIEWERS.—No qualified external appeal entity having a contract with a plan or issuer under this part and no person who is employed by such entity or any professional services to such entity, shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if due to the exercise of such duty, function, or activity and there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

(d) EXTERNAL APPEAL DETERMINATION BINDING ON PLAN.—The determination by an external review entity under this section is binding on the plan and issuer involved in the determination.

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

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

(II) CEASE AND DESIST ORDER AND ORDER OF ATTORNEY’S FEES.—In any action described in paragraph (1) brought by a participant, beneficiary, or enrollee with respect to such plan or issuer for one or more group health plans, or by a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such paragraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity in violation of such terms of the plan, coverage, or this subtitle, or has failed to take an action for which such person is responsible under such plan, coverage, or this title and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

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

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

(3) ADJUDICATION.—

(A) IN GENERAL.—In addition to any penalty imposed under paragraph (1) or (2), the appropriate Secretary may assess a civil penalty against any person or entity who has engaged in any such pattern or practice described in paragraph (3)(A) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may order the person or entity responsible for such action, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any such position or involvement for a period determined by the court.

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

SEC. 104. ESTABLISHMENT OF A GRIEVANCE PROCESS.

(a) ESTABLISHMENT OF GRIEVANCE SYSTEM.—

In general.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of written grievances brought by individuals who are participants, beneficiaries, enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual’s consent or without such consent if the individual is medically unable to provide such consent, regarding any aspect of the plan or issuer’s services.

(b) GRIEVANCE SYSTEM.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least three previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

Grievances are not subject to appeal under the previous provisions of this subtitle.

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) IN GENERAL.—If—

(1) a health insurance issuer providing health insurance coverage which provides for coverage of services only if such services are furnished through health professionals and providers who are members of a network of health care professionals and providers with whom the issuer has entered into a contract with the issuer.

(2) a group health plan offers to participants or beneficiaries health benefits which
provide for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers, enter into a contract with the plan to provide such services, and then the issuer or plan shall also offer or arrange to be offered to such enrollees, participants, or beneficiaries (at the time of enrollment, renewal, or open enrollment the plan has provided under subsection (c) the option of health insurance coverage or health benefits which provide for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered an additional premium charged by the health insurance issuer in the group market. (b) ADDITIONAL COST.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary and provided by the health plan sponsor or group health plan through agreement with the health insurance issuer. (c) OPEN SEASON.—An enrollee, participant, or beneficiary, or a nonparticipating health care provider with prior authorization; and

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

(2) DEFINITIONS.—In this section:

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

(B) EMERGENCY SERVICES.—The term ‘emergency services’ means—

(1) a medical screening examination as required under section 1867 of the Social Security Act that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)); and

(ii) within the capabilities of the staff and facilities available at the hospital, such further treatment as may be required to stabilize the patient.

(C) STABILIZE.—The term ‘to stabilize’ means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that the condition is likely to result from or occur during the transfer of the individual from a facility.

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—In the case of services (other than emergency services) for which benefits are available under a group health plan, under any health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) (and shall otherwise comply with the guidelines established under section 1852(d)(2) of the Social Security Act), if the services are maintenance care or post-stabilization care covered under such guidelines.

SEC. 114. ACCESS TO SPECIALTY CARE.

(a) SPECIALTY CARE FOR COVERED SERVICES.—

(1) IN GENERAL.—If—

(A) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer;

(B) the individual has a condition or disease of sufficient seriousness and complexity to warrant referral to a specialist, and

(C) benefits for such treatment are provided under the plan or coverage, the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(d) SPECIALIZED CARE.—For purposes of this subsection, the term ‘specialist’ means, with respect to a condition, a health care practitioner, facility, or center that has adequate expertise through training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(3) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under paragraph (1) be—

(A) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual’s designee); and

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

Nothing in this subsection shall be construed as preventing an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as any necessary medical information.

(4) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under paragraph (1) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and acceptable to treat the individual’s condition and that is a participating provider with respect to such treatment.

(5) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to paragraph (1), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(b) MALLEABLES AND OTHER NONPREREQUISITE CONDITIONS.

(1) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition, or a condition (as defined in paragraph (3)) may request and receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual’s care with respect to the condition. Under such procedures if such an individual’s care would most appropriately be coordinated by such a specialist, the plan or issuer shall refer the individual to such specialist.

(2) TREATMENT FOR RELATED REFERRALS.—Such specialists shall be permitted to treat the individual without a referral from the individual’s primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual’s primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment (referred to in subsection (a)(3)(A) with respect to the ongoing special condition.

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

(A) is life-threatening, degenerative, or disabling; and...
SECTION 114. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

(a) In General.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participating professional or enrollee to designate a participating primary care health professional, the plan or issuer:

(1) may not require authorization or a referral by the individual’s primary care health professional or otherwise for coverage of gynecological care (including prenatal examinations and pregnancy-related services provided by a participating health care professional, including a physician, who specializes in obstetrics and gynecology to the extent such care is otherwise covered; and

(2) shall treat the ordering of other obstetrical or gynecological care by such a participating professional or enrollee to designate a participating primary care health professional with respect to such care under the plan or coverage.

(b) Construction.—Nothing in subsection (a) shall be construed to—

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

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

SECTION 115. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE—CONTINUED.

(a) In General.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for an enrollee to designate a participating primary care health professional, from requiring that any action by which an enrollee who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist if the individual so desires.

(b) TERMS OF REFERRAL.—The provisions of paragraphs (3) through (5) of subsection (a) apply with respect to referrals under paragraph (1) of this subsection in the same manner as they apply to referrals under subsection (a)(1).

SECTION 116. ACCESS TO PEDIATRIC CARE.

(a) Pediatric Care.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for an enrollee to designate a participating primary care provider for a child of such enrollee, the plan or issuer shall permit the enrollee to designate a physician who specializes in pediatrics as the child’s primary care provider.

(b) Construction.—Nothing in subsection (a) shall be construed to—

(1) waive any exclusions of coverage under the terms of the health insurance coverage with respect to coverage of pediatric care.

SECTION 117. CONTINUITY OF CARE.

(a) In General.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated, as provided under subsection (b), the issuer shall—

(1) notify the individual on a timely basis of such termination and of the right to elect continuation of coverage of treatment by the provider under this section; and

(2) apply to subsection (c), the individual to elect to continue to be covered under the contract of the provider of such treatment during a transitional period (provided under subsection (b)).

(b) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated, as provided under subsection (b), the issuer shall—

(1) provide for a transition of the transitional period shall extend for the remainder of the individual’s life for care related to the terminal illness and its medical manifestations.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the individual notifying the plan of the provider’s agreement to such plan or issuer agreeing to such plan or issuer necessary medical information related to the care provided.

The provider agrees otherwise to adhere to such plan’s or issuer’s policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services in effect for the drug pursuant to the plan or issuer shall.

(1) The provider agrees to accept reimbursement in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for such termination under such plan or issuer after the date of the notice described in subsection (a)(1)(A) of the provider’s termination.

(3) DEFINITIONS.—For purposes of this section:

(A) ONGOING SPECIAL CONDITION.—The term "ongoing special condition" has the meaning given such term in subsection (b)(5), and also includes pregnancy.

(B) TERMINATION.—The term "terminated" includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(c) Permissible Terms and Conditions.—For purposes of this subsection, the term "provider" includes any provider of the following types of services:

(1) The provider agrees to accept reimbursement at the rates applicable to the prior arrangement for such services.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

SECTION 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

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

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

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

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

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

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

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the Food and Drug Administration pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act,
SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

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

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

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs and services that are reasonably expected (as determined by the Secretary) to be paid for by the participants or beneficiaries as of such date, and at least annually thereafter, the information described in paragraph (2) are met:

(1) The National Institutes of Health.

(2) A cooperative group or center of the National Institutes of Health.

(3) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

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

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

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

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

Subtitle C—Access to Information

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) DISCLOSURE REQUIREMENT.—

(1) GROUP HEALTH PLANS.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

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

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

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

(2) Either—

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

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

(2) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs to the extent required by the Secretary.

(2) PROCEDURE.—In the case of covered benefits, including benefit limits and coverage exclusions; and

(b) INFORMATION PROVIDED.—The information described in this section with respect to group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including the provision of coverage, including the provision of coverage for

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayments, including any liability for balance billing, any maximum limit on out-of-pocket expenses, and the maximum out-of-pocket costs for services that are provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers as the types of providers participating in the plan or issuer network;

(E) the process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) How the plan or issuer determines the provision of services and post-stabilization care.

(B) The process and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(4) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 112(b)(2).

(5) HOW THE PLAN OR ISSUER DETERMINES THE NEED FOR SERVICES.—How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing prospective providers or coverage, including the provision of information described in this subsection and section (c) to such individuals.

(6) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) any limitation on the selection of medical facilities and medical personnel that are appropriate for emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation; and

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(6) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) any limitation on the selection of medical facilities and medical personnel that are appropriate for emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation; and

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(6) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.
with rules established or recognized by the Secretary of Health and Human Services).

(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements shall result in noncoverage or nonpayment.

(8) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under this section shall be in place, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, which is the applicable authority with respect to the plan or issuer.

(9) QUALITY ASSURANCE.—Any information made public by an accrediting organization in the process of accreditation of the plan or issuer shall be within the scope of the provider’s license or certification under applicable State law, solely on the basis of such license or certification.

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

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall not discriminate with respect to the availability of the provider’s professional license or certification to the plan or issuer.

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

SEC. 133. PROHIBITION AGAINST IMPROPER INCENTIVE PLANS.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall not discriminate with respect to the availability of any incentive plan (as defined in section 118) to the provider based on the provider’s professional license or certification to the plan or issuer.

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

Title VII—Prohibiting the Doctor-Patient Relationship

Subtitle D—Protecting the Doctor-Patient Relationship

SEC. 134. PAYMENT OF CLAIMS.

The person or entity responsible for payment of a claim for covered benefits shall ensure that any portion of such payment that is not disputed in good faith shall be paid in accordance with the terms of the plan or contract.

SEC. 135. PROTECTION FOR PATIENT ADVOCACY.

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

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith

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

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

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider’s care, services, or conditions affecting one or more patients within an institutional health care plan.
(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;  
(ii) the disclosure is made to an appropriate public regulatory agency pursuant to disclosure procedures established by the body; or  
(iii) the disclosure is in response to an inquiry or a prior application of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) DETERMINATIONS OF COVERAGE.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider observes that the health care professional demonstrated that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to abridge the rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(B) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term ‘‘protected health care professional’’ means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle E—Definitions

SEC. 151. DEFINITIONS.

(a)INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term ‘‘Secretary’’ means the Secretary of Health and Human Services:

(1) in the case of enforcement of applicable authority;  
(2) in the case of an appropriate public regulatory agency; and  
(3) in the case of an appropriate Secretary.

(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) ACTIVELY PRACTICING.—The term ‘‘actively practicing’’ means, with respect to a physician or other professional, such a physician or professional who provides professional services to individual patients on average at least two full days per week.

(2) APPLICABLE AUTHORITY.—The term ‘‘applicable authority’’ means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and  
(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing applicable authority.

(3) CLINICAL PEER.—The term ‘‘clinical peer’’ means, with respect to a review or appeal, an actively practicing physician (allopathic or osteopathic) or other actively practicing health care professional who holds non-negotiated third-party contracts and is appropriately credentialed in the same or similar specialty or subspecialty (as appropriate) as typically handles the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician (allopathic or osteopathic) may be a clinical peer with respect to the review or appeal of treatment recommended or rendered by a physician.

(4) ENROLLEE.—The term ‘‘enrollee’’ means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(5) GROUP HEALTH PLAN.—The term ‘‘group health plan’’ has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974 and in section 2791(a)(1) of the Public Health Service Act.

(6) HEALTH CARE PROFESSIONAL.—The term ‘‘health care professional’’ means an individual who is a licensed or certified health care professional and who—

(A) has a contract or other arrangement with a group health plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) has a contract or other arrangement with an institutional health care provider that provides health care items and services relating to such items and services.

(7) NETWORK.—The term ‘‘network’’ means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(8) NONPARTICIPATING.—The term ‘‘nonparticipating’’ means, with respect to a health care professional offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to a participant, beneficiary, or enrollee.

(9) PARTICIPATING.—The term ‘‘participating’’ means, with respect to a health care professional offering health insurance coverage, a health care professional that is not a participating health care provider with respect to such items and services.

(10) PRIORITY AUTHORIZATION.—The term ‘‘priority authorization’’ means the process by which a health insurance issuer or group health plan for the provision or coverage of medical services.
TITLE III—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 201. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

(a) In General.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by inserting after the following new section:

"SEC. 214. PATIENT PROTECTION STANDARDS.

(1) In General.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Patients' Bill of Rights Act (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

(2) Plan Satisfaction of Certain Requirements.—

(A) Plan Satisfaction of Certain Requirements Through Insurance.—For purposes of subsection (a), incidental as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Patients' Bill of Rights Act with respect to such benefits if the issuer publishes and maintains a plan to meet such requirements because of a failure of the insurer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the insurer.

(B) Plan Satisfaction of Certain Requirements Through a Group Health Plan.—Except as provided under the other provisions of this subtitle, the term 'group health plan' means a group health plan offered through a health insurance issuer, the Secretary determines are appropriate to meet such requirements because of a failure to meet such requirements.

(3) Limitation on Liability.—If a health insurance issuer fails to provide for such process and system (and is not liable for the issuer's failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

(4) External Appeals.—Pursuant to rules of the Secretary, insofar as a group health plan complies with this section, an external appeal entity for the conduct of external appeals in accordance with section 831(b)(1) of the Patients' Bill of Rights Act, the plan shall be deemed as meeting the requirements of subsection (a), but only if the plan sponsor is liable for such process and system.

(b) In General.—A health insurance issuer shall comply with the patient protection requirements under title I of the Patients' Bill of Rights Act and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

(c) Conforming Amendments.—

(1) Section 2752 the following new section:

"SEC. 2752. PATIENT PROTECTION STANDARDS.

"(a) In General.—A health insurance issuer shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

(b) Notice.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

(c) Enforcement of Certain Requirements.—

(1) Complaints.—Any protected health care professional believes that the plan sponsor or its representative has been retaliated or discriminated against in violation of section 135(b)(1) of the Patients' Bill of Rights Act may file a complaint within 180 days of the date of the alleged retaliation or discrimination.

(2) Investigation.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to secure the protection of the patient's rights.

(3) Satisfactory Resolution of Complaints.—The plan sponsor or its representative shall take action in violation of any of the requirements of this Act, and such requirements shall be deemed to be incorporated into this subsection.

(d) Satisfactory Resolution of Complaints.—Any protected health care professional believes that the plan sponsor or its representative has been retaliated or discriminated against in violation of section 135(b)(1) of the Patients' Bill of Rights Act may file a complaint within 180 days of the date of the alleged retaliation or discrimination.

(e) Enforcement of Certain Requirements.—

(1) Complainants.—Any protected health care professional believes that the plan sponsor or its representative has been retaliated or discriminated against in violation of section 135(b)(1) of the Patients' Bill of Rights Act may file a complaint within 180 days of the date of the alleged retaliation or discrimination.

(f) Investigation.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to secure the protection of the patient's rights.

(g) Satisfactory Resolution of Complaints.—Any protected health care professional believes that the plan sponsor or its representative has been retaliated or discriminated against in violation of section 135(b)(1) of the Patients' Bill of Rights Act may file a complaint within 180 days of the date of the alleged retaliation or discrimination.

(h) Satisfactory Resolution of Complaints.—Any protected health care professional believes that the plan sponsor or its representative has been retaliated or discriminated against in violation of section 135(b)(1) of the Patients' Bill of Rights Act may file a complaint within 180 days of the date of the alleged retaliation or discrimination.

(i) Enforcement of Certain Requirements.—

(1) Complainants.—Any protected health care professional believes that the plan sponsor or its representative has been retaliated or discriminated against in violation of section 135(b)(1) of the Patients' Bill of Rights Act may file a complaint within 180 days of the date of the alleged retaliation or discrimination.
(3) Section 522(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting “(other than section 132(b))” after “part 7.”

SEC. 302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICY-HOLDERS.

(a) In general.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) (as amended by section 301(b)) is amended further by adding at the end the following subsections:

“(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

(A) In general.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action by a participant or beneficiary (or the estate of a participant or beneficiary) under State law to recover damages resulting from personal injury or wrongful death against any person—

“(i) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan as defined in section 733), or

“(ii) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

(B) EXCEPTION TO PUNITIVE DAMAGES.—

“(1) IN GENERAL.—No person shall be liable for any punitive, exemplary, or similar damages in the case of a cause of action brought under subchapter J of chapter 110 of title 29 against any person for the provision of such insurance, administrative services, or medical services by such person to or for a group health plan as defined in section 733, other than those described in section 733(c)(2)(A).

“(2) CONSTRUCTION.—Nothing in this subsection shall be construed as—

“(A) permitting the application of State laws that are otherwise superseded by this title and that mandate the provision of specific benefits by a group health plan (as defined in section 733(a)) or a multiple employer welfare arrangement (as defined in section 3(30))—

“(B) affecting any cause of action under State law for the failure to provide an item or service which is specifically excluded under the group health plan involved;

“(C) as preempting a State law which requires an affidavit or certificate of merit in a civil action;

“(D) permitting a cause of action under State law for the failure to provide an item or service which is specifically excluded under the group health plan involved;

“(E) as preempting a State law which requires an affidavit or certificate of merit in a civil action;

“(F) permitting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A).

“(1) IN GENERAL.—Subject to paragraph (2), the amendments made by section 201(a), 301, 303, and 401 (and title I insofar as it relates to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 2002 (in this section referred to as the “general effective date”) and also shall apply to portions of plan years occurring on and after such date.

“(2) DEFINITIONS.—In this section, no action may be brought under such a collective bargaining agreement relating to the plan terminations (determined without regard to any extension thereof agreed to after the date of the enactment of this Act) of:

(1) the last collective bargaining agreement relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(2) the general effective date.

(3) For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section 202 shall apply with respect to individual health insurance policies issued, renewed, in effect, or operated in the individual market on or after the general effective date.

SEC. 502. COORDINATION IN IMPLEMENTATION.

(a) GROUP HEALTH COVERAGE.—

(1) In general.—Subject to paragraph (2), the amendments made by sections 201(a), 301, 303, and 401 (and title I insofar as it relates to group health plans) shall not affect any other provision of law for any plan described in section 135(b) for any plan year beginning on or after the general effective date.

(2) Coordination with other provisions of law.—Nothing in this title shall be construed to affect any other provision of law for any plan described in section 135(b) for any plan year beginning on or after the general effective date.
the execution of an interagency memorandum of understanding among such Secretaries, that:

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

TITLE VI—MISCELLANEOUS PROVISIONS

SECTION 601. HEALTH CARE PAPERWORK SIMPLIFICATION.

(a) Establishment of Panel.—

(1) Establishment.—There is established a panel to be known as the Health Care Panel to Devise a Uniform Explanation of Benefits (in this section referred to as the “Panel”).

(2) Duties of Panel.—

(A) In General.—The Panel shall devise a single form for use by third-party health care payers for the remittance of claims to providers.

(B) Definition.—For purposes of this section, the term “third-party health care payer” means any entity that contractually pays health care bills for an individual.

(C) Membership.—The Secretary of Health and Human Services shall determine the number of members and the composition of the Panel. Such Panel shall include equal numbers of representatives of private insurance organizations, consumer groups, third-party health care payers, State medical societies, State hospital associations, and State medical specialty societies.

(D) Terms of Appointment.—The members of the Panel shall serve for the life of the Panel.

(E) Vacancies.—A vacancy in the Panel shall not affect the power of the remaining members to execute the duties of the Panel, but any such vacancy shall be filled in the same manner in which the original appointment was made.

(4) Procedures.—

(A) Meetings.—The Panel shall meet at the call of a majority of its members.

(B) First Meeting.—The Panel shall convene not later than 60 days after the date of the enactment of the Patients’ Bill of Rights Act.

(C) Quorum.—A quorum shall consist of a majority of the members of the Panel.

(D) Hearings.—For the purpose of carrying out its duties, the Panel may hold such hearings and consider such other activities as the Panel determines to be necessary to carry out its duties.

(5) Administration.—

(A) Compensation.—Except as provided in subparagraph (B), members of the Panel shall receive no additional pay, allowances, or benefits by reason of their service on the Panel.

(B) Travel Expenses and Per Diem.—Each member of the Panel who is not an officer or employee of the Federal Government shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(C) Contract Authority.—The Panel may contract with Government, private firms, or other entities for the use of their facilities or of their services.

(D) Use of Mails.—The Panel may use the United States mails in the same manner and under the same conditions as Federal agencies shall and, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(E) Administrative Support Services.—Upon the request of the Panel, the Secretary of Health and Human Services shall provide to the Panel on a reimbursable basis such administrative support services as the Panel may request.

(F) Submission of Form.—Not later than 2 years after the first meeting, the Panel shall submit a form to the Secretary of Health and Human Services for use by third-party health care payers.

(G) Termination.—The Panel shall terminate on the date of submitting the form under paragraph (6).

(b) Requirement for Use of Form by Third-Party Health Care Payer.—A third-party health care payer shall be required to use the form devised under subsection (a) for plan years beginning on or after 5 years following the date of the enactment of this Act.

SEC. 602. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) In General.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter the Social Security Act (or any regulation promulgated under that Act).

(b) Transfers.—

(1) Estimate of Secretary.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) Transfer of Funds.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general fund of the Treasury, an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such Act.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. DODD, Mr. BINGAMAN, Mrs. MURRAY, Mr. WELLSTONE, Mr. DORGAN, Ms. MIKULSKI, Mr. LEVIN, Mrs. CLINTON, Mr. ROCKEFELLER, Mr. JOHNSON, Mr. CORZINE, Mr. BIDEN, Mr. KERRY, and Mr. REED)

S. 7. A bill to improve public education for all children and support lifelong learning; to the Committee on Health, Education, Labor, and Pensions.

EDUCATIONAL EXCELLENCE FOR ALL LEARNERS

ACT OF 2001

Mr. DASCHLE. 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. 7

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 “Educational Excellence for All Learners Act of 2001.”

(b) Table of Contents.—The table of contents of this Act is as follows:

SEC. 1. Short title; table of contents.
SEC. 2. References.

TITLE I—HOLDING SCHOOLS ACCOUNTABLE

Sec. 100. Short title.
Sec. 101. Helpinmg Disadvantaged Children.
Sec. 102. Improving accountability.
Sec. 103. Comprehensive school reform.
Sec. 121. State applications.
Sec. 131. Requirements for State plans.
Sec. 132. Performance objectives.
Sec. 133. Report cards.
Sec. 134. Additional accountability provisions.

TITLE II—CLOSING THE ACHIEVEMENT GAP

Subtitle A—Reauthorization of Programs
Sec. 201. Authorization of appropriations.
Sec. 211. Options: Opportunities to Improve our Nation’s Schools.
Sec. 221. Parental involvement.
Sec. 222. State plans.
Sec. 223. Parental assistance.

TITLE III—NATIONAL PRIORITIES WITH PROVEN EFFECTIVENESS

Subtitle A—Qualified Teacher in Every Classroom
Sec. 301. Teacher quality.

Subtitle B—Safe, Healthy Schools and Communities

CHAPTER 1—GRANTS FOR SCHOOL RENOVATION
Sec. 311. Grants for school renovation.
Sec. 312. Charter school credit enhancement initiative.

CHAPTER 2—SCHOOL CONSTRUCTION
Sec. 321. Short title.
Sec. 322. Expansion of incentives for public schools.
Sec. 323. Application of certain labor standards on construction projects financed under public school modernization program.
Sec. 324. Employment and training activities relating to construction or reconstruction of public school facilities.
Sec. 325. Indian school construction.

CHAPTER 3—21ST CENTURY COMMUNITY LEARNING CENTERS
Sec. 331. Reauthorization.

CHAPTER 4—ENHANCEMENT OF BASIC LEARNING SKILLS
Sec. 341. Reducing class size.
Sec. 342. Reading excellence.
Sec. 343. Tutoring assistance grants.

CHAPTER 5—INTEGRATION OF TECHNOLOGY INTO THE CLASSROOM
Sec. 351. Short title.
Sec. 352. Local applications for school technology resource grants.
Sec. 353. Teacher preparation.
Sec. 354. Professional development.

TITLE IV—INDIVIDUALS WITH DISABILITIES EDUCATION ACT
Sec. 401. Full funding of IDEA.

TITLE V—MAKING HIGH SCHOOL EDUCATION MORE AFFORDABLE
Sec. 501. Increase in maximum Pell grant.
Sec. 502. Deduction for higher education expenses.

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment

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to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2791 et seq.).

TITLE I—HOLDING SCHOOLS ACCOUNTABLE

SEC. 100. SHORT TITLE.

This title may be cited as the “School Improvement Accountability Act.”

Subtitle A—Helping Disadvantaged Children

SEC. 101. RESERVATIONS FOR ACCOUNTABILITY.

Section 1003 (20 U.S.C. 6303) is amended to read as follows:

‘‘(a) STATE RESERVATION.—

‘‘(1) IN GENERAL.—Each State educational agency shall reserve 3 percent of the amount the agency receives under part A for each of fiscal years 2002 and 2003, and 5 percent of that amount for each of fiscal years 2004 through 2006, to carry out paragraph (2) and to carry out its responsibilities under sections 1116 and 1117, including carrying out its statewide system of technical assistance and providing support for local educational agencies.

‘‘(2) LOCAL EDUCATIONAL AGENCIES.—Of the amount reserved under paragraph (1) for any fiscal year, the State educational agency shall reserve at least 30 percent directly to local educational agencies. In making allocations under this paragraph, the State educational agency shall give first priority to agencies and agencies serving schools, identified for corrective action or improvement under section 1116(c).’’

‘‘(3) USE OF FUNDS.—Each local educational agency allotment under paragraph (2) shall use the allotment to—

‘‘(A) carry out corrective action, as defined in section 1116(c)(5)(A), in those schools; or

‘‘(B) achieve substantial improvement in the performance of the schools.

‘‘(4) NATIONAL ACTIVITIES.—From the total amount appropriated for any fiscal year to carry out this title, the Secretary may reserve not more than 0.3 percent to conduct evaluations and studies and to collect data.’’

SEC. 102. IMPROVED ACCOUNTABILITY.

(a) STATE PLANS.—Section 1111(b) (20 U.S.C. 6311(b)) is amended—

(1) in the subsection heading, by striking “AND INCREASING”, “ASSESSMENTS, AND ACCOUNTABILITY”; and

(2) by amending paragraph (2) to read as follows:

‘‘(A) ADEQUATE YEARLY PROGRESS.—(A) Each State plan shall specify what constitutes adequate yearly progress in student achievement, under the State’s accountability system described in paragraph (4), for each school and each local educational agency receiving funds under this part, and for the State.

(i) The specification of adequate yearly progress in the State plan for schools—

(I) shall be based primarily on the standards described in paragraph (1) and the valid and reliable assessments aligned to State standards described in paragraph (3); and

(II) shall include specific numerical adequate yearly progress requirements in each subject and grade included in the State assessments at least for each of the assessments required under paragraph (3) and shall base the numerical goal required for each group of students specified in clause (iv) upon a timeline that ensures all students meet or exceed the proficient level of performance on the assessments required by this title or meet the effective date of the School Improvement Accountability Act;

‘‘(iii) shall include other academic indicators, such as school completion or dropout rates, with the data for all such academic indicators disaggregated as required by clause (iv), but the number or length of time local educational agencies that would be subject to identification for improvement or corrective action if the indicators were not included;

‘‘(iv) shall compare separately data for the State as a whole, for each local educational agency, for each school, regarding the performance and progress of students, disaggregated by each major ethnic and racial group, by English proficiency status, and by economically disadvantaged students as compared with students who are not economically disadvantaged (except that such English proficiency shall be required in a case in which the number of students in a category would be insufficient to yield statistically reliable information or the results would reveal individually identifiable information about individual students); and

‘‘(B) The accountability system described in this paragraph shall provide the following:

(I) Adequate yearly progress for a local educational agency shall be based upon—

(I) the number or percentage of schools identified for school improvement or corrective action; and

(II) the progress of the local educational agency in reducing the number or length of time schools are identified for school improvement or corrective action.

(ii) The State plan shall provide that each local educational agency include in its accountability system that is or will be effective in substantially increasing the numbers of students who have an accountability system for all schools and local educational agencies in the State, if the State accountability system—

(I) is in place—

(A) by January 22, 2001, for each of fiscal years 2002 and 2003, and 5 percent of that amount for each of fiscal years 2004 through 2006, to carry out paragraph (2) and to carry out its responsibilities under sections 1116 and 1117, including carrying out its statewide system of technical assistance and providing support for local educational agencies.

(B) by redesigning subparagraphs (G), (H), and (I) as subparagraphs (H), (I), and (J); and

(C) in subparagraph (F)

(i) in clause (ii), by striking “and” after the word “accountable”;

(ii) by adding at the end the following:

(iv) the use of assessments written in Spanish for the assessment of Spanish-speaking students with English proficiency, if Spanish-language assessments are more likely than English language assessments to yield accurate and reliable information regarding what students know and can do in content areas other than English; and

(C) notwithstanding classes (iii) and (iv), the State shall be based upon both—

(D) by inserting after subparagraph (F) the following:

‘‘(G) result in a report from each local educational agency that indicates the number and percentage of students excluded from each assessment at each level, including, where statistically sound, data disaggregated in accordance with subparagraph (J), except that a local educational agency shall be prohibited from providing such information if providing the information would reveal the identity of any individual student.’’; and

(E) by amending subparagraph (1) (as so redesignated) to read as follows:

‘‘(1) available student interpretive and descriptive reports, which shall include scores and other information on the attainment of student performance standards that reflect the quality of daily instruction and learning of each student, such as rates of student success over time, student attendance rates, student dropout rates, and rates of student participation in advanced level courses; and—

(4) by striking paragraph (7);

(5) by redesignating paragraphs (4), (5), (6), and (8) as paragraphs (8), (9), (10), and (11), respectively;

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

‘‘(4) ACCOUNTABILITY.—(A) Each State plan shall demonstrate that the State has developed and is implementing a statewide accountability system that is or will be effective in substantially increasing the numbers of students who have an accountability system for all schools and all local educational agencies in the State;

(B) hold local educational agencies and schools accountable for student achievement in at least reading and mathematics and in any other subject that the State may choose; and

(C) hold schools and local educational agencies accountable for improvement or corrective action based upon failure to make adequate yearly progress as defined in the State plan pursuant to paragraph (2).’’

‘‘(B) The accountability system described in subparagraph (A) and described in the State plan shall also include measures for identifying for improvement a school or local educational agency, intervening in that
school or agency, and (if that intervention is not effective) implementing a corrective action not later than 3 years after first identifying such agency or school, that—

(i) in the case of a school identified in paragraphs (1) and (10) for the succeeding fiscal year, the Secretary shall withhold not less than 5% of the funds made available under this part for administrative expenses for the fiscal year, and the State shall—

(ii) The State plan shall provide that, if the State fails to meet the deadlines described in paragraphs (1) and (10) for a fiscal year, then the Secretary may withhold funds made available under this part for administrative expenses for the succeeding fiscal year; and

(iii) The State shall continue to make a substantial effort to ensure that information regarding this part is widely known and understood by citizens, parents, teachers, and school officials, throughout the State, and is provided in a widely read or distributed medium.

(6) ANNUAL REVIEW.—The State plan shall provide an assurance that the State will annually submit to the Secretary information, as part of the State’s consolidated plan under section 1402, on the extent to which schools and local educational agencies are making adequate yearly progress, including the number and names of schools and local educational agencies identified for improvement by the local educational agency, and the number and names of schools that are no longer so identified, for purposes of determining State and local compliance with section 1116.

(7) PENALTIES.—(A) The State plan shall provide that, if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for demonstrating that the State has in place adequate yearly progress performance standards and aligned assessments, or if the State fails to establish a system for monitoring and reporting adequate yearly progress, for the fiscal year, including having the ability to disaggregate student achievement data for the assessments as required under this section and the State, local educational agency, and school levels, then the State shall be ineligible to receive any funds under this part for the succeeding fiscal year that the State reserved for such purposes for the fiscal year preceding the fiscal year in which the failure occurred.

(B) For each fiscal year, the State shall provide that, except as described in clause (ii), if the State fails to meet the deadlines described in paragraphs (1)(C) and (10) for a fiscal year, then the Secretary may withhold funds made available under this part for administrative expenses for the succeeding fiscal year in such amount as the Secretary determines appropriate to the State assessments that are aligned to challenging State content standards in at least mathematics and reading or language arts by school year 2000–2001, the State shall not receive funds made available under the Ed-Flex Partnership State under the Education Flexibility Partnership Act of 1999 until the State develops such assessments, and the State shall provide to the Secretary a certification that the State has in place adequate yearly progress as defined in this Act for failure to develop the assessments; and

(ii) provides for the State plan to submit annually to the Secretary, in a format and to the extent practicable, in a language, that the parents can understand.

(B)(1) Before identifying a school for school improvement under section 1116, the local educational agency shall inform the parents of each student identified as failing to make adequate progress as defined in the State’s plan, as such plan was in effect on the day preceding the date of enactment of the School Improvement Accountability Act.

(II) In the 2-year period described in subparagraph (A)(i) shall include any continuous period of time immediately preceding the date of the enactment of such Act, during which the school was not identified for school improvement under this section on the day preceding the date of enactment of the School Improvement Accountability Act.

(2) REQUIREMENTS.—(A)(i) Each school identified under paragraph (1)(A) shall promptly notify a parent of each student enrolled in the school that the school was identified for improvement by the local educational agency and provide with the notification—

(II) the reasons for such identification; and

(iii) information about opportunities for parents to participate in the school improvement process.

(B)(1) Before identifying a school for school improvement under paragraph (1)(A), the local educational agency shall inform the parents of each student identified as failing to make adequate progress as defined in the State’s plan, as such plan was in effect on the day preceding the date of enactment of the School Improvement Accountability Act.

(II) The notification under this subparagraph shall be in a format and, to the extent practicable, in a language, that the parents can understand.

(C) Each school identified under paragraph (1)(A) shall, within 3 months of being so identified, and in consultation with parents, the local educational agency, and the school support team or other outside experts, develop or revise a school plan that—

(i) addresses the fundamental teaching and learning needs in the school;

(ii) describes the specific achievement problems to be solved;

(iii) includes the strategies, supported by valid and reliable evidence of effectiveness, with specific goals and objectives, that have the greatest likelihood of improving the performance of participating students in meeting the State’s student performance standards;

(iv) explains how those strategies will work to address the achievement problems identified under clause (ii), including providing a summary of evaluation-based evidence of the implementation of those strategies in other schools;

(v) addresses the need for high-quality staff training; and

(vi) promotes the use of funds made available under this part for the first 3 years of such plan to be used to develop or improve the school in programs supported with funds provided under this part are fully qualified;
addresses the professional development needs of the instructional staff of the school by describing a plan for spending a minimum of 10 percent of the funds received by the school for this part on professional development that—

(I) does not supplant professional development services that the instructional staff would have received in the absence of this plan; and

(II) is designed to increase the content knowledge of teachers, build teachers’ capacity to align classroom instruction with challenging academic content, and bring all students in the school to proficient or advanced levels of performance;

(vi) specifies the school’s goals and objectives the school will undertake for making adequate yearly progress, including specific numerical performance goals and targets that set a high enough standard to ensure that all groups of students specified in section 1111(b)(2)(B)(iv) meet or exceed the proficient levels of performance in each subject area within 10 years after the date of enactment of the School Improvement Accountability Act; and

(vii) identifies specific goals and objectives the school will undertake for making adequate yearly progress, including specific numerical performance goals and targets that set a high enough standard to ensure that all groups of students specified in section 1111(b)(2)(B)(iv) meet or exceed the proficient levels of performance in each subject area within 10 years after the date of enactment of the School Improvement Accountability Act; and

(viii) specifies the responsibilities of the school and the local educational agency, including how the local educational agency will hold the school accountable for, and assist the school in, meeting the school’s obligations under this part and providing technical assistance and support to the school in the areas of student performance problems, and address problems, if any, in implementing the parent involvement requirements in section 1118, implementing the professional development provisions in section 1118, and carrying out the responsibilities of the school and local educational agency under the plan; and

(ii) may be provided directly by the local educational agency, through mechanisms authorized under section 1117, or (with the local educational agency’s approval) by an institution of higher education whose teacher preparation program is not identified as low performing by its State and that is in full compliance with the requirements of section 1117(b), under the Higher Education Act of 1965, a private nonprofit organization, an educational service agency, a comprehensive regional assistance center under part A of title II, or under section 1135 of the Elementary and Secondary Education Act of 1965, a private nonprofit organization, an educational service agency, a comprehensive regional assistance center under part A of title II, or under section 1135 of the Elementary and Secondary Education Act of 1965, an organization that provides services in helping schools improve achievement.

(C) Technical assistance provided under this section by the local educational agency or any subagency acting on behalf of the local educational agency shall be provided by valid and reliable evidence of effectiveness.

(D) by amending paragraph (5) to read as follows:

(5) Corrective Action.—In order to help students served under this part meet challenging State academic content standards, the local educational agency shall implement a system of corrective action in accordance with the following:

(A) In this paragraph, the term ‘corrective action’ means action, consistent with State and local law, that—

(i) substantially and directly responds to the academic failure or achievement problem that caused the local educational agency to take such action and to any underlying staffing, curricular, or other problems in the school involved; and

(ii) is designed to substantially increase the likelihood that students will perform at proficient or advanced levels of performance.

(B) After providing technical assistance under paragraph (4), the local educational agency—

(i) may take corrective action at any time with respect to a school that has been identified under paragraph (1)(A);

(ii) shall, after taking corrective action with respect to any school that fails to make adequate yearly progress, as defined by the State, for 2 consecutive years following the school’s identification under paragraph (1)(A), at the end of the second year; and

(iii) shall continue to provide technical assistance while instituting any corrective action under paragraph (B)(i) or (ii).

(C) In the case of a school described in subparagraph (B)(i), the local educational agency—

(i) shall take corrective action that changes the school’s administration or governance by (I) instituting and fully implementing a new curriculum, including providing appropriate professional development for all relevant staff, that is supported by valid and reliable evidence of effectiveness and offers substantial promise of improving educational achievement for low-performing students;

(II) restructuring the school, such as by creating schools within schools or other small learning environments, or making alternative governance arrangements (such as chartering, innovation, or reconstituting schools or making other changes the school is designed to substantially increase the likelihood that students will perform at proficient or advanced levels of performance);

(III) redesigning the school by reconstituting all or part of the school staff;

(iv) may use the use of noncertified teachers;

(v) closing the school;

(ii) shall provide professional development and shall, to the extent practicable, establish a cooperative agreement with another local educational agency to enable students served by the agency to transfer to a school served by that other agency.

(E) A local educational agency may delay corrective action for the first year, if implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school.

(F) The local educational agency shall publish and disseminate to parents and the public in a format and, to the extent practicable, in a language the parents and the public understand, the content of this paragraph, including, as a minimum, the Internet, the media, and public agencies, information on any corrective action the agency takes under this paragraph.

(G) Before taking corrective action with respect to any school under this paragraph, the local educational agency shall inform the school that the agency proposes to take corrective action and provide the school with an opportunity to review the school-level data, including assessment data, and any State data that are used to determine the adequacy of a corrective action, the agency takes under this paragraph.

(H) If the school believes that the proposed determination is in error for statistical or other substantive reasons, the school may provide supporting evidence to the local educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding corrective action.

(iii) The review period under this subparagraph shall not exceed 45 days. At the end of the review period, the local educational agency shall make public a final determination regarding corrective action for the school.; and

(E) by amending paragraph (6) to read as follows:

(6) State educational agency responsibilities.—If a State educational agency determines that a local educational agency failed to carry out its responsibilities under this section, the State educational agency shall take such action as the agency finds necessary, consistent with this section, to improve the affected schools and to ensure that the local educational agency carries out its responsibilities under this section.; and

(F) by amending paragraph (7) to read as follows:

(7) Waivers.—The State educational agency shall review any waivers that have been previously been approved for a school identified for improvement or corrective action, and shall terminate any waiver approved by the State, under the Educational Flexibility Partnership Act of 1999, if the State determines, after notice and an opportunity for a hearing, that the waiver is not helping such school make adequate yearly progress to improve the areas of objectives, and performance targets in the school’s improvement plan.; and

(G) by amending paragraph (8) to read as follows:

(8) State review and local educational agency improvement.—
“In general.—A State educational agency shall annually review the progress of each local educational agency receiving funds under this part to determine whether schools served by the agency are making adequate yearly progress as defined in section 1111(b)(2) toward meeting the State's student performance standards.

“(2) EVALUATION PROVISIONS.—A State educational agency shall identify for improvement any local educational agency that has—

“(A) failed for two consecutive years to make adequate yearly progress as defined in the State's plan under section 1111(b)(2); or

“(B) failed to substantially reduce the achievement gap between low- and high-performing racial and ethnic groups.

“(3) TRANSITION.—The 2-year period described in paragraph (2)(A) shall include any continuous period of time immediately preceding the date of enactment of such Act, during which a local educational agency did not make adequate yearly progress as defined in the State's plan, as such plan was in effect on the day preceding the date of enactment of the School Improvement Accountability Act.

“(4) TARGETED ASSISTANCE SCHOOLS.—For purposes of reviewing the progress of targeted assistance schools served by a local educational agency, the State educational agency may choose to review the progress of only the students in such schools who are served under paragraph (2).

“(5) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE.—(A) Before identifying a local educational agency for improvement under paragraph (2), a State educational agency shall inform the local educational agency that the State educational agency proposes to identify the local educational agency for improvement and provide the local educational agency with an opportunity to review the local educational agency data, including assessment data, upon which the proposed determination regarding identification is based.

“(B) If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, the agency may provide supporting evidence to the State educational agency during the review period, and the agency shall consider such evidence before making a final determination regarding identification.

“(C) The review period under this paragraph shall extend for 30 days. At the end of the period, the State shall make public a final determination regarding identification of the local educational agency.

“(D) Parents.—(A) The local educational agency shall promptly notify a parent of each student enrolled in a school served by a local educational agency identified for improvement that the agency was identified for improvement and provide with the notification—

“(i) the reasons for the agency's identification; and

“(ii) information about opportunities for parents to participate in upgrading the quality of the local educational agency.

“(B) The notification under this paragraph shall be in a format and, to the extent practicable, in a language, that the parents can understand.

“(7) LOCAL EDUCATIONAL AGENCY REVIEWS.—(A) Each local educational agency identified under paragraph (2) shall, not later than 3 months after being so identified, develop or revise a local educational agency plan and annual academic achievement goals, in consultation with parents, school staff, and others.

“(B) MEETING GOALS.—The annual academic achievement goals shall be sufficiently high to ensure that all students with in the jurisdiction involved, including the lowest performing students, economically disadvantaged students, students of different races and ethnicities, and students with limited English proficiency achieve the proficient level of performance on the assessments required by section 1111 within 10 years after the date of enactment of the School Improvement Accountability Act.

“(C) The plan shall—

“(i) address the fundamental teaching and learning needs in the schools served by that local educational agency, failed to bring about increased achievement;

“(ii) incorporate strategies that are supported by valid and reliable evidence of effectiveness and student engagement in the core academic program in the local educational agency;

“(iii) identify specific annual academic achievement goals and objectives that will—

“(I) have the greatest likelihood of improving the performance of participating students in meeting the State's performance standards;

“(II) include specific numerical performance goals and targets for each of the groups of students for which data are disaggregated pursuant to paragraph (4); and

“(iv) address the professional development needs of the instructional staff of the schools by describing a plan for spending a minimum of 10 percent of the services received by the schools under this part on professional development that—

“(I) does not supplant professional development services that the instructional staff would otherwise receive; and

“(II) is designed to increase the knowledge and build teachers' capacity to align classroom instruction with challenging content standards, and bring all students in the schools to proficient or advanced levels of performance;

“(v) identify measures the local educational agency will undertake to make adequate yearly progress;

“(vi) identify how, pursuant to paragraph (6), the local educational agency will provide written notification to parents in a format and, to the extent practicable, in a language, that the parents can understand;

“(vii) specify the responsibilities of the State educational agency and the local educational agency under the plan; and

“(viii) include strategies to promote effective parental involvement in the schools.

“(D) The local educational agency shall submit the plan under this subparagraph (B)(iii) to the State educational agency for approval. The State educational agency shall, within 60 days after submission of the plan, subject the plan to—

“(1) review by the State educational agency to revise the plan as necessary, and approve the plan.

“(2) the local educational agency to implement as a revised plan as soon as the plan is approved.

“(8) STATE EDUCATIONAL AGENCY RESPONSIBILITY.—(A) For each local educational agency identified under paragraph (2), the State educational agency (or an entity authorized by the agency) shall provide technical assistance to—

“(i) develop and implement the local educational agency plan as approved by the State educational agency consistent with the requirements of this section; and

“(ii) to work with schools identified for improvement.

“(B) Technical assistance provided under this section by the State educational agency or an entity authorized by the agency shall be supported by valid and reliable evidence of effectiveness.

“(9) CORRECTIVE ACTION.—In order to help students served under this part meet challenges identified for improvement, the State educational agency shall implement a system of corrective action in accordance with the following:

“(A) In this paragraph, the term ‘corrective action’ means action, consistent with State law, that—

“(i) substantially and directly responds to the identified academic failure that caused the State educational agency to take such action and to any underlying staffing, curricular, or other problems in the schools involved; and

“(ii) is designed to substantially increase the likelihood that students served under this part will perform at the proficient and advanced performance levels.

“(B) After providing technical assistance under paragraph (8) and subject to subparagraph (D), the State educational agency—

“(i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (2);

“(ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, for 3 consecutive years following the agency's identification under paragraph (2), at the end of the third year; and

“(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

“(C) In the case of a local educational agency described in subparagraph (B)(ii), the State educational agency shall take at least 1 of the following corrective actions:

“(i) Withholding funds from the local educational agency.

“(ii) Reconstituting school district personnel.

“(iii) Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of the schools.

“(D) When a State educational agency has identified a local educational agency for corrective action, the agency shall—

“(i) take corrective action under this subparagraph (B)(ii) to implement a plan to provide—

“(I) planning and implementation assistance to the local educational agency; and

“(II) a plan to support the likelihood that students served under the local educational agency will—

“(a) achieve at levels of performance comparable to the performances of students served under this part;

“(b) make adequate yearly progress and achieve at levels of performance comparable to the performances of students served under this part;

“(c) transfer to higher performing public schools served by another local educational agency and shall provide such students with transportation (or the costs of transportation) to such schools, subject to the following requirements:

“(I) the provision of the transfer shall be done in conjunction with at least 1 additional provision described in this paragraph.

“(ii) If the State educational agency cannot accommodate the request of every student from the schools served by the agency, then it shall permit as many students as possible to transfer, with such students being selected at random on a nondiscriminatory and equitable basis.

“(E) The State educational agency may use not more than 10 percent of the funds the agency receives through the State reserve under section 1003(a)(2) to provide transportation to students who choose to transfer their child to a different school under this subparagraph.
(E) Prior to implementing any corrective action under this paragraph, the State educational agency shall provide due process and a hearing to the affected local educational agency under State law prior to implementing such process and hearing. The hearing shall take place not later than 45 days following the decision to implement the corrective action.

(F) The State educational agency shall publish and disseminate to parents and the public in a format and, to the extent practicable, in a language the parents and the public can understand, through such means as the Internet, the media, and public agencies, information on any corrective action the agency takes under this paragraph.

(G) A State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action if the failure to make adequate yearly progress was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

(10) WAIVERS.—The State educational agency shall review any waivers that have previously been approved for a local educational agency identified for improvement or corrective action, and shall terminate any waiver approved by the State, under the Education Partnership Act of 1999, if the State determines, after notice and an opportunity for a hearing, that the waiver is not helping such agency make adequate yearly progress toward meeting the goals, objectives, and performance targets in the agency’s improvement plan.

(d) STATE ASSISTANCE FOR SCHOOL SUPPORT AND DEVELOPMENT PROGRAM (20 U.S.C. 6319a(a)) is amended to read as follows:—

(1) SYSTEM FOR SUPPORT.—

(1) IN GENERAL.—Each State educational agency that desires to receive a grant under this part shall give priority to local educational agencies or other consortia. The State educational agency may use the grant funds to award subgrants, on a competitive basis, to local educational agencies or other Consortia of local educational agencies. The State educational agency may use the grant funds to award subgrants, on a competitive basis, to local educational agencies or other consortia. The State educational agency shall provide technical assistance to local educational agencies and support through approaches such as the Internet, the media, and public agencies, on and practice of teaching and learning, particularly about strategies for improving educational results for low-achieving students.

(2) APPROACHES.—In order to achieve the objectives of this section, each statewide system shall provide technical assistance and support through approaches such as—

(A) the use of school support teams, composed of individuals who are knowledgeable about research on and practice of teaching and learning, particularly about strategies for improving educational results for low-achieving students;

(B) the designation and use of ‘‘Distinguished Educators,’’ chosen from schools served under this part that have been especially successful in improving academic achievement;

(C) assisting local educational agencies or schools to implement research-based comprehensive school reform models, and support through approaches such as—

(D) use of a peer review process designed to increase the capacity of local educational agencies and schools to develop high-quality school improvement plans.

(2) FUNDS.—Each State educational agency—

(A) shall use funds reserved under section 1003(a)(1), but not used under section 1003(a)(2) and funds appropriated under section 1002(f) to carry out this section; and

(B) may use State administrative funds authorized for such purpose.

(3) ALTERNATIVES.—The State educational agency may deviate from Section 1002(f) and in subparagraphs (A) and (B) of paragraph (3), other than the provision of assistance under the statewide system, such as providing assistance through other educational, educational service agencies, or other local consortia. The State educational agency may seek approval from the Secretary to use funds made available under section 1003 for such approaches as part of the State plan.

(4) COMPREHENSIVE BUDGET AND GRANT AMENDMENTS.—The 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) in section 1111(b)(1)(C) (20 U.S.C. 6311(b)(1)(C)), by striking paragraph (6) and inserting paragraph (18);

(2) in section 1112(c)(1)(D) (20 U.S.C. 6312(c)(1)(D)), by striking ‘‘section 1116(c)(4)’’ and inserting ‘‘section 1116(c)(5)’’;

(3) in section 1117(c)(2)(A) (20 U.S.C. 6317(c)(2)(A)), by striking ‘‘section 1116(b)(2)(A)’’ and inserting ‘‘section 1116(b)(2)(B)’’;

(4) in section 1118(c)(4)(B) (20 U.S.C. 6318(c)(4)(B)), by striking ‘‘school performance profile required under section 1116(a)(3)’’ and inserting ‘‘individual school report required under section 1116(a)(2)(A)’’;

(5) in section 1118(e)(1) (20 U.S.C. 6318(e)(1)), by striking ‘‘section 1116(b)(8)’’ and inserting ‘‘section 1116(b)(7)’’; and

(6) in section 1118(b)(3) (20 U.S.C. 6318(b)(3)), by striking ‘‘section 1116(d)(6)’’ and inserting ‘‘section 1116(d)(5)’’. SEC. 103. COMPREHENSIVE SCHOOL REFORM. Title I (20 U.S.C. 6301 et seq.) is amended—

(1) by redesignating part F as part G; and

(2) by inserting after part E the following:

PART F—COMPREHENSIVE SCHOOL REFORM

SEC. 1551. PURPOSE.
The purpose of this part is to provide financial incentives for schools to develop comprehensive school reforms based upon promising and effective practices and research-based programs that are based upon promising and effective practices and research-based programs.

SEC. 1552. PROGRAM AUTHORIZATION.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary may award to State educational agencies, from allotments under paragraph (2), to enable the State educational agencies to award subgrants to local educational agencies to carry out the purpose described in section 1551.

(2) ALLOTMENTS.—

(A) RESERVATIONS.—Of the amount appropriated under this part for a fiscal year, the Secretary may reserve—

(i) not more than 1 percent to provide assistance to schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands according to their respective needs for assuring that comprehensive school reforms are properly implemented and are sustained in the future;

(ii) not more than 1 percent to conduct national evaluation activities described in section 1557.

(B) IN GENERAL.—Of the amount appropriated under section 1558 that remains after making the reservation under subparagraph (A) for a fiscal year, the Secretary shall allot to each State for the fiscal year an amount that bears the same ratio to the remainder for that fiscal year as the amount made available under section 124 to the State for the preceding fiscal year bears to the total amount made available under section 124 to all States for the preceding fiscal year.

(c) REALLOCATIONS.—If a State educational agency does not apply for funds under this part, the Secretary shall reallocate such funds to other States in proportion to the amount allotted to such other States under section 124(b). SEC. 1553. STATE APPLICATIONS.

(a) IN GENERAL.—Each State educational agency that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) CONTENTS.—Each such application shall describe—

(i) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this part;

(ii) how the State educational agency will ensure that only comprehensive school reforms that are based upon promising and effective practices and research-based programs receive funds under this part;

(iii) how the State educational agency will disseminate information on comprehensive school reforms that are based upon promising and effective practices and research-based programs;

(iv) how the State educational agency will evaluate the implementation of such reforms and measures the extent to which the reforms contribute to increased student academic performance; and

(v) how the State educational agency will make available technical assistance to a local educational agency in evaluating, developing, and implementing comprehensive school reform.

SEC. 1554. STATE USE OF FUNDS.

(a) IN GENERAL.—Except as provided in subsection (e), a State educational agency that receives a grant under this part shall use the grant funds to award subgrants, on a competitive basis, to local educational agencies (including consortia of local educational agencies) in the State that receive funds under part A.

(b) GRANT REQUIREMENTS.—A grant to a local educational agency shall be—

(i) of sufficient size and scope to support the initial costs for the particular comprehensive school reform plan selected or designed by each school identified in the application of the local educational agency;

(ii) in an amount not less than $30,000 for each participating school; and

(iii) renewable for 2 additional 1-year periods after the initial 1-year grant is made, if the participating school is making substantial progress in the implementation of reforms.

(c) PRIORITY.—A State educational agency, in awarding subgrants under this part, shall give priority to local educational agencies that—

(i) plan to use the funds in schools identified for improvement or corrective action under section 1116(c); and

(ii) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to assure that comprehensive school reforms are properly implemented and are sustained in the future.

(d) GRANT CONSIDERATION.—In awarding subgrants under this part, the State educational agency shall take into consideration the equitable distribution of subgrants.
to different geographic regions within the State, including urban and rural areas, and to schools serving elementary school and secondary school students.

(e) AMOUNT OF FUNDS.—A State educational agency that receives a grant under this part may reserve not more than 5 percent of the grant funds for administrative, evaluation, and technical assistance expenses.

(f) SUPPLEMENT.—Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local funds that would otherwise be available to carry out the activities assisted under this part.

(g) REPORTING.—Each State educational agency that receives a grant under this part shall report annually to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools receiving assistance under this part, the amount of the assistance, and a description of the comprehensive school reform model selected and used.

SEC. 1555. LOCAL APPLICATIONS.

(a) IN GENERAL.—Each local educational agency desiring a subgrant under this part shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

(b) CONTENTS.—Each such application shall—

(1) identify the schools, that are eligible for assistance under part A, that plan to implement a comprehensive school reform program and include the projected costs of such program;

(2) describe the promising and effective practices and research-based programs that such schools will implement;

(3) describe how the local educational agency will provide technical assistance and support for the effective implementation of the promising and effective practices and research-based school reforms selected by such schools; and

(4) describe how the local educational agency will evaluate the implementation of such reforms and measure the results achieved in improving student academic performance.

SEC. 1556. LOCAL USE OF FUNDS.

(a) USE OF FUNDS.—A local educational agency that receives a subgrant under this part shall provide the subgrant funds to schools, that are eligible for assistance under part A and served by the agency, to enable the schools to implement a comprehensive school reform program for—

(1) employing innovative strategies for student learning, teaching, and school management that are based upon promising and effective practices and research-based programs and have been replicated successfully in schools with diverse characteristics;

(2) integrating a comprehensive design for effective teaching, including classroom instruction, assessment, classroom management, professional development, parental involvement, and school management, that aligns with State content, technology, and professional development into a comprehensive reform plan for schoolwide change designed to enable all students to meet the State’s content and student performance standards and addresses needs identified through a school needs assessment;

(3) providing high quality and continuous teacher and staff professional development;

(4) including measurable goals for student performance;

(5) providing support to teachers, principals, administrators, and other school personnel;

(6) including meaningful community and parental involvement initiatives that will strengthen school improvement activities;

(7) using high quality external technical support services from an entity that has experience and expertise in schoolwide reform and improvement, which may include an institution of higher education;

(8) evaluating school reform implementation and student performance; and

(9) identifying other resources, including Federal, State, local, and private resources, that will be used to support and sustaining the school reform effort.

(b) SPECIAL RULE.—A school that receives funds under this part shall establish a subcommittee to oversee the development and implementation of the school reform program for that school. Such a subcommittee shall—

(1) identify the schools, that are eligible for assistance under this part,

(2) assess the effectiveness of implementing comprehensive school reforms and

(3) evaluate the implementation and results achieved by schools after implementing comprehensive school reforms; and

(4) submit a report to the Secretary on the results of implementing comprehensive school reforms.

SEC. 1557. NATIONAL EVALUATION AND REPORTS.

(a) IN GENERAL.—The Secretary shall develop a plan for a national evaluation of the programs assisted under this part.

(b) EVALUATION.—The national evaluation shall—

(1) evaluate the implementation and results achieved by schools after implementing comprehensive school reforms; and

(2) assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

(c) REPORTS.—Prior to the completion of the national evaluation, the Secretary shall submit an interim report describing implementation activities for the Comprehensive School Reform Program to the Committee on Education and the Workforce, and the Committee on Education and the Workforce of Representatives, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations, of the Senate.

SEC. 1558. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 4 succeeding fiscal years.

Subtitle B—Teachers

SEC. 121. STATE APPLICATIONS.

(a) CONSTRUCTION PLAN.—Section 2205(b)(2) (20 U.S.C. 6645(b)(2)) is amended—

(1) by amending subparagraph (N) to read as follows:

(‘‘N’’ set specific annual, quantifiable, and measurable performance goals to increase the percentage of teachers participating in sustained professional development activities, reduce the beginning teacher attrition rate, and reduce the percentage of teachers who are not certified or licensed, and the percentage who are out-of-field teachers;)

(2) by redesigning subparagraph (O) as subparagraph (P); and

(3) by inserting after subparagraph (N) the following:

‘‘(O) describe how the State will ensure that all teachers in the State will be fully qualified not later than January 1, 2005; and’’;

(b) STATE AND LOCAL ACTIVITIES.—Part B of title II (20 U.S.C. 6641 et seq.) is amended—

(1) by redesigning section 2211 as section 2213;

(2) by inserting after section 2210 the following:

‘‘SEC. 2211. LOCAL CONTINUATION OF FUNDING.

(a) AGENCY.—If a local educational agency is under contract for federal funds for this part for a fourth or subsequent fiscal year, the agency may not receive the funds for that fiscal year unless the State determines that the school has demonstrated that, in carrying out activities under this part during the past fiscal year, the school has met the requirements of paragraphs (1) through (4) of subsection (a).

SEC. 2212. INFORMATION AND NOTICE TO PARENTS.

(a) PARENTS’ RIGHT TO KNOW INFORMATION.

(1) IN GENERAL.—A local educational agency that receives funds under this title shall provide, on request, in an understandable and uniform format, to any parent of a student attending a school served by the agency, information regarding the professional qualifications of each of the student’s classroom teachers.

(2) CONTENTS.—The agency shall provide, at a minimum, information on—

(A) whether the teacher has met State certification or licensing criteria for the academic subjects and grade levels in which the teacher teaches the student;

(B) whether the teacher is teaching with emergency or other provisional credentials, due to which any State certification or licensing criteria have been waived; and

(C) the academic qualifications of the teacher in the academic subjects and grade levels in which the teacher teaches a student who is not a fully qualified teacher or assigns a student to a teacher who is not a fully qualified teacher or assigns a student, for 2 or more consecutive weeks, to a substitute teacher who is not a fully qualified teacher, the school shall provide notice of the assignment to a parent of the student, not later than 15 school days after the assignment.

SEC. 2213. GENERAL ACCOUNTING OFFICE STUDY.

Not later than September 30, 2005, the Comptroller General of the United States shall, in cooperation with the appropriate committees of the Senate and the House of Representatives, determine whether any of the provisions of section 1245 are necessary to achieve the purposes of the act and whether they are consistent with the principles set forth in such section, and make a report to the Congress on the findings of such study.

SEC. 2214. DEFINITION OF FULLY QUALIFIED.

(a) IN GENERAL.—In this part, the term ‘fully qualified’, used with respect to a teacher, means a teacher who—

(1)(A) has demonstrated the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively the subject in which the teacher teaches, according to the criteria described in subsections (b) and (c); and
"(B) is not a teacher for whom State certification or licensing requirements have been waived or who is teaching under an emergency or other provisional credential; or

"(2) meets the standards set by the National Board for Professional Teaching Standards.

(b) ELEMENTARY SCHOOL.—For purposes of making the demonstration described in subsection (a)(1), each teacher who teaches elementary school students (other than middle school students) shall, at a minimum—

"(1) have State certification (which may include certification obtained through an alternative route) or a State license to teach; and

"(2) hold a bachelor's degree and demonstrate a high level of competence in all academic subjects in which the teacher teaches through—

"(A) achievement of a high level of performance on rigorous academic subject area tests;

"(B) completion of an academic major (or courses totaling an equivalent number of credit hours) in each of the academic subjects in which the teacher teaches; or

"(C) a valid certification or an alternative certification, obtained before the date of enactment of the School Improvement Accountability Act, completion of appropriate coursework for mastery of the academic subjects in which the teacher teaches;" and

"(3) by amending section 2215 (as so redesignated)

(A) in subsection (a)(3), by adding after "agency" the following: "for which at least 40 percent of the students served by the agency are eligible for free or reduced price lunch," and substituting "Richard B. Russell National School Lunch Act;" and

(B) by inserting after subsection (a)(4) the following:

"(6) TESTING REQUIREMENTS.—Each institution of higher education receiving assistance under paragraph (1) shall fully comply with all reporting requirements of title II of the Higher Education Act of 1965.

(c) CONFORMING AMENDMENTS.—The Act (20 U.S.C. 6301 et seq.) is amended—

"(1) in section 2203(2) (20 U.S.C. 6433(2)), by striking "section 2211" and inserting "section 2215;" and

"(2) in section 2205(c)(2) (20 U.S.C. 6465(c)(2)), by striking "section 2211" and inserting "section 2215."

Sec. 132. Performance Objectives.

Título VII (20 U.S.C. 1401 et seq.) is amended by inserting after section 1315 the following:

SEC. 7106. PERFORMANCE OBJECTIVES.

(a) In General.—Each State educational agency receiving a grant under this title may use such grant funds, consistent with section 6202(a)(1)(C), to—

"(1) establish high quality, internationally competitive content and student performance standards and strategies that all students will be expected to meet;

"(2) provide for the improvement of high quality, rigorous assessments that include multiple measures and demonstrate comprehensive knowledge; or

"(3) develop and implement value-added assessments."

Sec. 131. Requirements for State Plans.

Part B of title VI (20 U.S.C. 7331 et seq.) is amended by inserting after section 7326 the following:

SEC. 6204. SANCTIONS.

(a) Third Fiscal Year.—If a State receiving grant funds under this title fails to meet performance goals established under section 6203(c)(2) by the end of the third fiscal year a State receives grant funds under this title, the Secretary shall reduce by 50 percent the amount the State is entitled to receive for administrative expenses under this title.

(b) Fourth Fiscal Year.—If the State fails to meet such performance goals by the end of the fourth fiscal year the State receives grant funds under this title, the Secretary shall reduce the total amount the State receives under this title by 20 percent.

(c) Technical Assistance.—The Secretary shall provide technical assistance, at the request of a State subject to sanctions under subsection (a)(3), (b), or (c), to hold such State accountable for meeting the adequate yearly progress requirements established under part A of title I and the performance goals established under this title.

(d) Local Sanctions.—(1) In General.—Each State receiving assistance under this title shall develop a system to hold local educational agencies accountable for meeting the adequate yearly progress requirements established under part A of title I and the performance goals established under this title.

(2) A system developed under paragraph (1) shall include a mechanism for sanctioning local educational agencies for failure to meet such performance goals and adequate yearly progress levels.

SEC. 6205. State Reports.

Each State educational agency or Chief Executive Officer of a State receiving funds under this title shall annually publish and disseminate to the public in a format and, to the extent practicable, in a language that the public can understand, a report on—

"(1) the use of such funds;

"(2) the impact of programs conducted with such funds and an assessment of such programs' effectiveness; and

"(3) the progress of the State toward attaining the performance goals established under section 6203(c)(2), and the extent to which the programs have increased student achievement.

SEC. 6206. Standards; Assessments Enhancement.

Each State educational agency receiving a grant under this title may use such grant funds, consistent with section 6202(a)(1)(C), to—

"(1) establish high quality, internationally competitive content and student performance standards and strategies that all students will be expected to meet;

"(2) provide for the improvement of high quality, rigorous assessments that include multiple measures and demonstrate comprehensive knowledge; or

"(3) develop and implement value-added assessments."

Sec. 131. Requirements for State Plans.

SEC. 131. REQUIREMENTS FOR STATE PLANS.

(a) State Plans.—In addition to require-
title and the adequate yearly progress levels for limited English proficient students under clauses (ii) and (iv) of section 1111(b)(2)(B). Any State educational agency or local educational agency that fails to meet the annual performance objectives shall be subject to sanctions described in section 1415.

(c) **PARENTAL NOTIFICATION.**—(1) Each State educational agency or local educational agency shall notify a parent of a student who is participating in a language instruction educational program, or an individual who is involved with the educational program and is not the student's parent, of the student's educational strengths and needs, and how such educational programs differ in content and instructional goals from other language instruction educational programs, and, in the case of a student with a disability, the student's educational needs, and how such programs differ in content and instructional goals from general education programs, in a manner and form understandable to the parent, including, if necessary and to the extent feasible, in the native language of the parent, of—

(A) the level of English proficiency, how such level was assessed, the status of the student's academic achievement, and the implications of the student's educational strengths and needs for age-appropriate and grade-appropriate academic attainment, promotion, and graduation;

(B) what programs are available to meet the student's educational strengths and needs, and how such programs differ in content and instructional goals from other language instruction educational programs and, in the case of a student with a disability, how such programs differ in content and instructional goals from general education programs, in a manner and form understandable to the parent, including, if necessary and to the extent feasible, in the native language of the parent, of—

(i) the instructional methods, and how such instructional methods are provided to the student, or to the extent feasible, in the native language of the parent;

(ii) the reasons the student was identified as being in need of a language instruction educational program, and of instructional alternatives; and

(iii) the results of the student's academic achievement and performance standards, including—

(A) the student's level of English proficiency, how such level was assessed, the status of the student's academic achievement, and the implications of the student's educational strengths and needs for age-appropriate and grade-appropriate academic attainment, promotion, and graduation;

(B) not more than 5 percent of the grant funds to carry out activities described in subsections (e) and (g)(2) for fiscal year 2002; and

(C) not more than 5 percent of the grant funds to carry out activities described in subsections (e) and (g)(2) for fiscal year 2003 and each of the 3 succeeding fiscal years.

(d) **WRITING AND REPORTING.**—Each State educational agency receiving a grant under subsection (a) shall allocate the grant made to the State under the reservation described in subsection (c) to each local educational agency in the State in an amount that bears the same relationship to the remainder of the part as the number of students enrolled in elementary schools and secondary schools served by the local educational agency bears to the number of such students served by all local educational agencies within the State.

(e) **ANNUAL STATE REPORT CARD.**—(1) **REPORT CARDS REQUIRED.**—Not later than the beginning of the 2002-2003 school year, a State that receives assistance under this Act shall prepare and disseminate an annual report card for the general public, teachers, and the Secretary, with respect to all elementary schools and secondary schools within the State.

(2) **REQUIRED INFORMATION.**—Each State described in paragraph (1), at a minimum, shall include in the annual State report card information required by this subsection.

(A) student performance on statewide assessments for the year for which the annual State report card is prepared, with proportions of students at each grade level for which assessments are required under title I for the year for which the report card is prepared, with proportions of students at each of the same 3 levels in each subject area at the same grade levels in the preceding school year;

(B) a statement on the most recent 3-year trend in the percentage of students performing at the basic, proficient, and advanced levels in each subject area, for each grade level, including by grade level information regarding whether the school has been identified for school improvement; and

(C) information on the most recent 3-year trend in the number and percentage of elementary schools and secondary schools served by the local educational agency that are identified for school improvement, including schools identified under section 1116.

(ii) information on the most recent 3-year trend in the number and percentage of elementary schools and secondary schools served by the local educational agency that are identified for school improvement, including schools identified under section 1116.

(iii) information on the most recent 3-year trend in the number and percentage of elementary schools and secondary schools served by the local educational agency that are identified for school improvement, including schools identified under section 1116.

(B) **ALLOCATIONS.**—(1) **RESERVATIONS.**—From the amount appropriated under subsection (j) to carry out this part for each fiscal year, the Secretary shall—

(A) ½ of 1 percent of such amount for payments to the Secretary of the Interior for activities approved by the Secretary of Education operated or supported by the Bureau of Indian Affairs, on the basis of their respective needs for assistance under this part; and

(B) the remainder of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this part, as determined by the Secretary, for activities approved by the Secretary, consistent with this part.

(2) **STATE ALLOTMENTS.**—From the amount appropriated under subsection (j) for a fiscal year and remaining after the Secretary makes reservations under paragraph (1), the Secretary shall allot to each State having a State report card meeting the requirements described in subsection (e) an amount that bears the same relationship to the remainder as the number of public school students served by elementary schools and secondary schools in the State bears to the number of such students so enrolled in all States.

(3) **STATE RESERVATION OF FUNDS.**—Each State educational agency receiving a grant under subsection (a) may reserve—

(A) the student's number of such students so enrolled in all States.

(2) not more than 5 percent of the grant funds to carry out activities described in subsections (e) and (g)(2) for fiscal year 2002; and

(3) the educational strengths and needs for assistance under this part; and

(C) Limited English proficient students served by the local educational agency, elementary school, and secondary school described in paragraph (1), at a minimum, shall include in its annual report card consistent with this subsection.

(4) **OPTIONAL INFORMATION.**—A State may include in the State annual report card any other information the State determines appropriate to reflect school quality and school achievement, including by grade level information on the following:

(A) Average class size.

(B) School safety, such as the incidence of school violence and drug and alcohol abuse.

(C) The incidence of student suspensions and expulsions.

(D) Access to technology, including the number of computers for educational purposes, the number of computers per classroom, and the number of computers connected to the Internet.

(E) Parental involvement, as determined by such measures as the extent of parental participation in schools, parental involvement activities, and extended learning time programs, such as after-school and summer programs.

(5) **LOCAL EDUCATIONAL AGENCY AND SCHOOL REPORT CARDS.**—(1) **IN GENERAL.**—The State shall ensure that each local educational agency, elementary school, and secondary school in the State, collects appropriate data and publishes an annual report card consistent with this subsection.

(2) **REQUIRED INFORMATION.**—Each local educational agency, elementary school, and secondary school described in paragraph (1), at a minimum, shall include in its annual report card—

(A) the information described in paragraph (3) of subsection (e) for each local educational agency, elementary school, and secondary school served by the local educational agency that are identified for school improvement, including schools identified under section 1116;

(B) the information regarding whether the school has been identified for school improvement; and

(C) the information regarding whether the school has been identified for school improvement.
"(D) other appropriate information, regardless of whether the information is included in the annual State report.

(g) DISSEMINATION AND ACCESSIBILITY OF REPORTS.—

(1) REPORT CARD FORMAT.—Annual report cards under this part shall be—

(A) concise; and

(B) designed in a format and manner that parents can understand, including, to the extent practicable, in a language the parents can understand.

(2) STATE REPORT CARDS.—State annual report cards under subsection (e) shall be disseminated to all elementary schools, secondary schools, and local educational agencies in a manner made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

(3) LOCAL EDUCATION AGENCY REPORT CARDS.—Local educational agency report cards under subsection (f) shall be disseminated to all elementary schools and secondary schools served by the local educational agency and to parents of students attending such schools, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

(4) SCHOOL REPORT CARDS.—Elementary schools and secondary schools reporting cards under subsection (f) shall be disseminated to parents of students attending that school, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

(h) COORDINATION OF STATE PLAN CONTENT.—State shall include in its plan under part A of title I or part B of title II, an assurance that the State has in effect a policy that meets the requirements of this section.

(i) PRIVACY.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

(j) AUTHORIZATION OF ADOPTIONS.—There are authorized to be appropriated to carry out this part $5,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years.

PART J—ADDITIONAL PERFORMANCE AND ACCOUNTABILITY PROVISIONS

SEC. 14011. REWARDING HIGH PERFORMANCE.

(a) AMENDMENT.—The proviso in section 1111(b)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2801(b)(1)(A)) is amended by striking ""the"" and inserting ""the State's."

(b) COORDINATION OF STATE PLAN CONTENT.—State shall include in its plan under part A of title I or part B of title II, an assurance that the State has in effect a policy that meets the requirements of this section.

(c) REPORT CARDS.—State annual report cards under subsection (e) shall be disseminated to all elementary schools, secondary schools, and local educational agencies in a manner made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

(d) LOCAL EDUCATION AGENCY REPORT CARDS.—Local educational agency report cards under subsection (f) shall be disseminated to all elementary schools and secondary schools served by the local educational agency and to parents of students attending such schools, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

(e) SCHOOL REPORT CARDS.—Elementary schools and secondary schools reporting cards under subsection (f) shall be disseminated to parents of students attending that school, and made broadly available to the public through means such as posting on the Internet and distribution to the media, and through public agencies.

(f) COORDINATION OF STATE PLAN CONTENT.—State shall include in its plan under part A of title I or part B of title II, an assurance that the State has in effect a policy that meets the requirements of this section.

(g) PRIVACY.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

(h) AUTHORIZATION OF ADOPTIONS.—There are authorized to be appropriated to carry out this section $300,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years.

SEC. 14015. ADDITIONAL ACCOUNTABILITY PROVISIONS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, a recipient of funds provided for a fiscal year under part A of title I, part A or C of title III, part A of title IV, part A of title V, or title VII, shall include—

(1) in the plans or applications required under such part or title—

(A) the methods that the recipient will use to measure the annual impact of each program funded in whole or in part with funds provided under such part or title and, if applicable, the extent to which such program will increase student academic achievement; (B) the annual, quantifiable, and measurable performance goals and objectives for such program, and such program shall include—

(i) if applicable, the program’s performance goals and objectives aligned with State content standards and State student performance assessments established under section 1111(b)(1)(A); and

(ii) the methods that the recipient will use to measure the annual impact of each program funded in whole or in part with funds provided under such part or title.

(b) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward collaborative teams of eligible elementary schools and secondary schools, and make the award funds available to the State receiving the award under paragraph (1) for the purpose of improving the level of performance of low-performing students to high academic levels.

(c) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to develop or implement school district-wide programs or policies to increase the number of low-performing students to high academic levels.

(d) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(e) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(f) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(g) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(h) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(i) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(j) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(k) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(l) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(m) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(n) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(o) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(p) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(q) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(r) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(s) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(t) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(u) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(v) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(w) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(x) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(y) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.

(z) IMPROVEMENT OF PERFORMANCE.—Each State receiving an award under paragraph (1) shall set aside not more than 1 percent of the funds made available under the relevant part or title to reward principals who successfully raise the performance of a substantial number of low-performing students to high academic levels.
program for administrative expenses for the succeeding fiscal year, and for each consecutive fiscal year until the recipient meets such performance goals and objectives; and

“(2) shall be subject to such other penalties as are provided in this Act for failure to meet the requirements of subsection (a)(1)(B); and

“(3) may be used for improving low performing schools that lose students as a result of school choice plans, except that not more than 10 percent of the funds under this part may be used by the local educational agency for the improvement of low performing schools; and

“(4) shall not be used to fund programs that are authorized under part C, D, or E.

SEC. 5404. GRANT APPLICATION; PRIORITIES.

“(a) APPLICATION REQUIRED.—A State or local educational agency desiring to receive a grant under this part shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

“(b) APPLICATION CONTENTS.—Each application shall include—

“(A) the description of the program for which funds are sought and the goals for such program;

“(B) a description of how the program funded under this part will be coordinated with, and will complement and enhance, programs under other related Federal and non-Federal programs;

“(C) if the program includes partners, the name of each partner and a description of the partner’s responsibilities; and

“(D) a description of the policies and procedures of the agency for the improvement of low performing schools that lose students as a result of school choice plans, except that not more than 10 percent of the funds received under this part may be used by the local educational agency for the improvement of low performing schools; and

“(E) that all parents are provided with easily comprehensible information about various school options, including information on instructional approaches at different schools, resources, and transportation that will be provided at or for the schools on an annual basis;

“(F) that all parents are given timely notice about opportunities to choose which school their child will attend the following year and the period during which the choice may be made;

“(G) that limitations on transfers between schools only occur because of facilities constraints, statutory class size limits, and local constraints that do not reflect the diversity of the communities in which the schools are located;
“(H) that a lottery or other random system be established for parents of students wishing to attend a school that cannot receive all students wishing to attend; and
“(I) that the program is carried out in a manner consistent with Federal law, including court orders, such as desegregation orders, issued to enforce Federal law.

“(c) Purpose.—(1) In general.—The Secretary shall give a priority to applications for programs that will serve high-poverty local educational agencies.

“(2) Permissive.—The Secretary may give a priority to applications demonstrating that the State or local educational agency will coordinate its programs in partnership with one or more public or private agencies, organizations, or institutions, including institutions of higher education and public or private employers.

“SEC. 5405. AUTHORIZATION OF APPROPRIATIONS; RESERVATION; EVALUATIONS.

“(a) Authorization of Appropriations.—For the purpose of carrying out this part, there are authorized to be appropriated $100,000,000 for each of fiscal years 2002 through 2006.

“(b) Reservation for Evaluation, Technical Assistance, and Dissemination.—From amounts appropriated under subsection (a) for any fiscal year, the Secretary may reserve not more than 5 percent to carry out evaluations and technical assistance and to disseminate information.

“(c) Evaluations.—The Secretary may use funds reserved under subsection (b) to carry out one or more evaluations of programs assisted under this part, which, at a minimum, shall address—

“(1) how, and the extent to which, the programs assisted under this part promote educational equity and excellence; and
“(2) the extent to which public schools of choice supported with funds under this part, which, at a minimum, shall address—

“(A) hold accountable to the public;
“(B) effective in improving public education; and
“(C) open and accessible to all students.”

Subtitle C—Parental Involvement

SEC. 221. STATE PLANS.

Section 1111 (20 U.S.C. 6311) is amended—

(1) by redesigning subsections (d) through (g) as subsections (e) through (h), respectively; and

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

“(d) Parental Involvement.—Each State plan shall demonstrate that the State will support, in collaboration with the regional educational laboratories, the collection and dissemination to local educational agencies and schools of effective parental involvement practices. Such practices shall—

“(1) be based on the most current research on effective parental involvement that fosters achievement to high standards for all children; and

“(2) be geared toward lowering barriers to greater participation in school planning, review, and improvement experienced by parents.”

SEC. 222. PARENTAL ASSISTANCE.

Part D of title I (20 U.S.C. 6421 et seq.) is amended to read as follows:

“PART D—PARENTAL ASSISTANCE AND CHILD OPPORTUNITY

“Subpart I—Parental Assistance.

“SEC. 1401. PARENTAL INFORMATION AND RESOURCE CENTERS.

“(a) Purpose.—The purpose of this part is—

“(1) to provide leadership, technical assistance, and financial support to nonprofit organizations and local educational agencies to help the organizations and agencies implement and support parental involvement policies, programs, and activities that lead to improvements in student performance;

“(2) to strengthen partnerships among parents (including parents of preschool age children), teachers, principals, administrators, and other school personnel in meeting the educational needs of children assisted under this part;

“(3) to develop and strengthen the relationship between parents and the school;

“(4) to further the developmental progress primarily of children assisted under this part; and

“(5) to coordinate activities funded under this part with parental involvement initiatives funded under section 1118 and other provisions of this Act.

“(b) Grants Authorized.—

“(1) In general.—The Secretary is authorized to award grants in each fiscal year to nonprofit organizations, and nonprofit organizations in consortia with local educational agencies, to establish school-linked or school-based parent information and resource centers that provide training, information, and support to—

“(A) parents of children enrolled in elementary schools and secondary schools;

“(B) individuals who work with the parents described in subparagraph (A); and

“(C) State educational agencies, local educational agencies, schools, organizations that support family-school partnerships (such as parent-teacher associations), and other organizations that carry out parent education and family involvement programs.

“(2) Award rule.—In awarding grants under this part, the Secretary shall ensure that such grants are distributed in all geographic regions of the United States.

“SEC. 1402. APPLICATIONS.

“(a) Grants Applications.—

“(1) In general.—Each nonprofit organization or nonprofit organization in consortium with a local educational agency that desires a grant under this part shall submit an application to the Secretary at such time and in such manner as the Secretary shall require.

“(2) Contents.—Each application submitted under paragraph (1), at a minimum, shall include—

“(A) a description of the organization or consortium willing to—

“(i) be governed by a board of directors the membership of which includes parents; or

“(ii) be an organization or consortium that represents the interests of parents; and

“(B) establish a special advisory committee to the membership of which includes—

“(i) parents described in section 1401(b)(1)(A);

“(ii) representatives of education professionals with expertise in improving services for disadvantaged children; and

“(iii) representatives of local elementary schools and secondary schools who may include students and representatives from local youth organizations;

“(C) use at least ½ of the funds provided under this part in each fiscal year to serve areas with high concentrations of low-income families in order to serve parents who are severely educationally or economically disadvantaged; and

“(D) open wide a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

“(E) serve both urban and rural areas;

“(F) design programs that use unique training, information, and support needs of parents described in section 1401(b)(1)(A), particularly such parents who are educationally or economically disadvantaged; and

“(G) demonstrate the capacity and expertise to conduct the effective training, information, and support activities for which assistance is sought.

“(H) network with—

“(i) local educational agencies and schools;

“(ii) parents of children enrolled in elementary schools and secondary schools; and

“(iii) parent training and information centers assisted under section 602 of the Individuals with Disabilities Education Act;

“(IV) clearinghouses; and

“(V) other organizations and agencies;

“(J) focus on services described in section 1401(b)(1)(A) who are parents of low-income, minority, and limited English proficient, children; and

“(k) use part of the funds received under this part to establish, expand, or operate Parent as Teachers programs or Home Instruction for Preschool Youngsters programs.

“(K) provide assistance to parents in such areas as understanding State and local standards and measures of student and school performance; and

“(L) work with State and local educational agencies to determine parental needs and delivery of services.

“(b) Grant Renewal.—For each fiscal year after the first fiscal year an organization or consortium receives assistance under this part, the organization or consortium shall demonstrate in the application submitted for such fiscal year after the first fiscal year that a portion of the services provided by the organization or consortium is supported through non-Federal contributions, which contributions may be in cash or in kind.

“SEC. 1403. FUNDING BASE.

“(a) In General.—Grants received under this part shall be used—

“(1) to assist parents in participating effectively in their children’s education and to help their children meet State and local standards, such as assisting parents—

“(A) to engage in activities that will improve student performance, including understanding the accountability systems in place within their State educational agency and local educational agency and understanding their children’s educational performance in comparison to State and local standards;

“(B) to provide follow-up support for their children’s educational achievement;

“(C) to communicate with teachers, principals, counselors, administrators, and other school personnel;

“(D) to become active participants in the development, implementation, and review of school-parent compacts, parent involvement policies, and school planning and improvement;

“(E) to participate in the design and provision of assistance to students who are not making adequate educational progress;

“(F) to participate in State and local decision-making; and

“(G) to train other parents;

“(2) to obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to assist parents and school personnel who work with parents;

“(3) to help the parents learn and use the technology applied in their children’s education;

“(4) to plan, implement, and fund activities for parents that coordinate the education of the child with other federal programs that serve their children or their families; and

“(5) to provide support for State or local educational agencies if the participation of such personnel will further the activities assisted under the grant.

“SEC. 223. EVALUATIONS.

Each nonprofit organization that receives grants under this part shall—

“(1) be based on the most current research on effective parental involvement that fosters achievement to high standards for all children; and

“(2) be geared toward lowering barriers to greater participation in school planning, review, and improvement experienced by parents.”
“(b) PERMISSIVE ACTIVITIES.—Grant funds received under this part may be used to assist schools with activities such as—

(1) developing and implementing their plans for activities under sections 1118 and 1119; and

(2) developing and implementing school improvement plans, including addressing problems in the implementation of sections 1118 and 1119.

“(c) PROVIDING INFORMATION. —

(1) providing information about assessment and individual results to parents in a manner and a language the family can understand;

(2) coordinating the efforts of Federal, State, and local parent education and family involvement committees under section 1403 and shall instead

(3) providing training, information, and support to—

(A) State educational agencies;

(B) local educational agencies and schools, especially those local educational agencies and schools that are low performing; and

(C) organizations that support school-family partnerships.

“(d) GRANDFATHER CLAUSE.—The Secretary shall continue to award funds available under this part to make grant or contract payments to each entity that was awarded a multiyear grant or contract under title IV of the Goals 2000: Educate America Act (as such title was in effect on the day before the date of enactment of the Educational Excellence for All Learners Act of 2001) for the duration of the award for which the funds were available.

“SEC. 1403A. LOCAL FAMILY INFORMATION CENTERS.

“(a) CENTERS AUTHORIZED.—The Secretary shall award grants to, and enter into contracts and cooperative agreements with, local nonprofit parent organizations to enable the organizations to support local family involvement centers that help ensure that parents of students in schools assisted under part A have the training, information, and support the parents need to enable the parents to participate effectively in helping their children to meet challenging State standards.

“(b) DEFINITION OF LOCAL NONPROFIT PARENT ORGANIZATION.—In this section, the term ‘local nonprofit parent organization’ means a private nonprofit organization (other than an educational institution or an educational agency) that—

(1) has a demonstrated record of working with low-income individuals and parents;

(2)(A) has a board of directors the majority of whom are parents, students in schools the center serves, or individuals with disabilities; and

(B) of which the majority of the students in schools that are assisted under part A have attended or will attend a private school;

(3) is a local nonprofit organization (other than an educational institution or an educational agency) that—

(A) has a governing body that includes representatives of parents, students, and school personnel, and at least one of whom is a parent of a child in a school assisted under part A;

(B) is located in a community with schools that receive funds under part A, and is accessible to the families of students in those schools;

(C) is a coalition of local nonprofit organizations; and

(D) is an organization that provides a wide range of services to parents of students in schools assisted under part A.

“(c) REQUIRED CENTER ACTIVITIES.—Each center assisted under this section shall—

(1) provide training, information, and support that meets the needs of parents of children in schools assisted under part A who are served through a cooperative agreement, particularly underserved parents, low-income parents, parents of students with limited English proficiency, parents of students with disabilities, parents of students in schools identified for school improvement or corrective action under section 1116(c),

(2) provide training, information, and support that meets the needs of parents of children in schools assisted under part A who are served through a cooperative agreement, particularly underserved parents, low-income parents, parents of students with limited English proficiency, parents of students with disabilities, and parents of students in schools identified for school improvement or corrective action under section 1116(c),

(3) provide training, information, and support that meets the needs of parents of children in schools assisted under part A who are served through a cooperative agreement, particularly underserved parents, low-income parents, parents of students with limited English proficiency, parents of students with disabilities, and parents of students in schools identified for school improvement or corrective action under section 1116(c),

(4) assist parents to—

(A) understand what their child’s school is doing to enable students at the school to meet the State and local standards, including understanding and instructional methods the school is using to help the students meet the standards; and

(B) better understand their child’s educational needs, where their child stands with respect to State standards, how the school is addressing the child’s education needs, and how they can work with their child to increase the child’s academic achievement;

(5) participate in the decisionmaking processes at the school, school district, and State levels;

(6) understand and benefit from the provisions of other Federal education programs; and

(7) public school school choice options available in the local community, including magnet schools, charter schools, and alternative schools;

(8) be designed to meet the specific needs of families that experience significant isolation from available sources of information and support; and

(9) report annually to the Secretary regarding measurable goals, including the percentage of students who receive assistance, by grant or contract, for the establishment of the family information center assisted under this section;

(10) be designed to meet the specific needs of families that experience significant isolation from available sources of information and support; and

(11) report annually to the Secretary regarding measurable goals, including the percentage of students who receive assistance, by grant or contract, for the establishment of the family information center assisted under this section.

“(d) DISTRIBUTION OF FUNDS.—

(1) ALLOCATION OF FUNDS.—The Secretary shall make at least 2 awards of assistance under this section to a local nonprofit parent organization in each State, unless the Secretary does not receive at least 2 applications from such organizations in a State of sufficient quality to warrant providing the assistance in the State.

(2) SELECTION REQUIREMENT FOR LOCAL FAMILY INFORMATION CENTERS.—

(A) IN GENERAL.—The Secretary shall select local nonprofit parent organizations in a State to receive assistance under this section in a manner that ensures the provision of the most effective assistance to low-income parents of students in schools assisted under part A.

(B) PRIORITY.—The Secretary shall give priority to—

(i) non-profit parent organizations that are located in rural and urban areas in the State, and

(ii) areas with high school dropout rates, high percentages of limited English proficient students, or schools identified for school improvement or corrective action under section 1116(c).

“SEC. 1404. TECHNICAL ASSISTANCE.

“The Secretary shall provide technical assistance, by grant or contract, for the establishment, development, and coordination of effective in improving home-school communication, student achievement, student and school performance, and parental involvement in school planning, review, and improvement; and

“SEC. 1405. REPORTS.

“(a) INFORMATION.—Each organization or consortium receiving funds under this part shall submit to the Secretary, on an annual basis, information concerning the parental information and resource centers assisted under this part, to include—

(i) the number of parents (including the number of minority and limited English proficient parents) who receive information and training;

(ii) the types and modes of training, information, and support provided under this part;

(iii) the strategies used to reach and serve parents of minority and limited English proficient children, children with limited literacy skills, and other parents in need of the services provided under this part.

“(b) DISSEMINATION.—The Secretary shall disseminate, widely to the public and to Congress, the information that each organization or consortium submits under subsection (a) to the Secretary.

“SEC. 1406. GENERAL PROVISIONS.

“Notwithstanding any other provision of this Act designed to improve the achievement of students in the school;

“(a) IN GENERAL.—Title II (20 U.S.C. 6601 et seq.) is amended by striking the title heading and all that follows through the end of part A and inserting the following:

“TITLE III—NATIONAL PRIORITIES WITH PROVEN EFFECTIVENESS

Subtitle A—Qualified Teacher in Every Classroom

Section 301. TEACHER QUALITY.

(a) IN GENERAL.—Title II (20 U.S.C. 6601 et seq.) is amended by striking the title heading and all that follows through the end of part A and inserting the following:
The purposes of this part are the following:

(1) To improve student achievement in order to help every student meet State content and student performance standards.

(2) To support State and local efforts to recruit qualified teachers to address teacher shortages, particularly in communities with the greatest need.

(3) To ensure that underqualified and inexperienced teachers do not teach higher percentages of low-income students and minority students than experienced teachers.

SEC. 2002. DEFINITIONS.

'This part:

(1) BEGINNING TEACHER.—The term ‘beginning teacher’ means a teacher who has taught for 3 years or less.

(2) CORE ACADEMIC SUBJECTS.—The term ‘core academic subjects’ means—

(A) mathematics;

(B) science;

(C) reading (or language arts) and English;

(D) social studies (consisting of history, civics, government, geography, and economics);

(E) foreign languages; and

(F) fine arts (consisting of music, dance, drama, and the visual arts).

(3) COVERED RECRUITMENT.—The term ‘covered recruitment’ means activities described in section 202(b).

(4) FULLY QUALIFIED.—

(A) In general.—The term ‘fully qualified’, used with respect to a teacher, means a teacher who—

(i) is certified or licensed and has demonstrated the academic subject knowledge, teaching knowledge, and teaching skills necessary in the academic subject in which the teacher teaches, according to the standards described in subparagraph (B) or (C), as appropriate; and

(ii) shall not be a teacher for whom State certification or licensing requirements have been waived or who is teaching under an emergency; or

(B) meets the standards of the National Board for Professional Teaching Standards.

(B) ELEMENTARY SCHOOL INSTRUCTIONAL STAFF.—For purposes of complying with subparagraph (A)(i), each elementary school teacher (other than a middle school teacher) in the State shall, at a minimum—

(i) have State certification or a State license to teach (which may include certification or licensing obtained through alternative routes); and

(ii) hold a bachelor’s degree and demonstrate academic subject knowledge, teaching knowledge, and teaching skills required to teach effectively in reading, writing, mathematics, social studies, science, and other subjects.

(C) MIDDLE SCHOOL AND SECONDARY SCHOOL INSTRUCTIONAL STAFF.—For purposes of complying with subparagraph (A)(i), each middle school or secondary school teacher in the State shall, at a minimum—

(i) have State certification or a State license to teach (which may include certification or licensing obtained through alternative routes); and

(ii) hold a bachelor’s degree or higher degree and demonstrate academic subject knowledge and competence in all academic subjects in which the teacher teaches through—

(1) achievement of a high level of performance on rigorous academic subject tests;

(2) completion of an academic major (or courses totaling an equivalent number of credit hours) in each of the academic subjects in which the teacher teaches; or

(3) for a teacher hired prior to the date of enactment of the Educational Opportunities Act, completion of appropriate coursework for mastery of such academic subjects.

(5) HIGH-POVERTY.—The term ‘high-poverty’, used with respect to a school, means a school that serves a high number or percentage of children from families with incomes below the poverty line, as determined by the State in which the school is located.

(6) LOW-PERFORMING.—The term ‘low-performing’ means activities described in section 2018 to attract highly qualified teachers, including beginning teachers who—

(A) is a highly competent classroom teacher who is formally selected and trained to teach effectively with beginning teachers (including corps members described in section 2018);

(B) is full-time, and is assigned and qualified to teach in the area or grade level in which a beginning teacher (including a corps member described in section 2018), to whom the teacher provides mentoring, intends to teach;

(C) has been consistently effective in helping diverse groups of students make substantial achievement gains; and

(D) has been selected to provide mentoring through a peer review process that uses, as the primary selection criterion for the process, the teacher’s ability to help students achieve academic gains.

(7) INSTRUCTIONAL INDUCTION PROCESS.—The term ‘instructional induction process’ means—

(A) an individualized plan for beginning teachers that—

(i) is designed to help the teachers continue to improve their practice of teaching and to develop their instructional skills; and

(ii) as part of a multiyear, development and induction process;

(B) training and induction programs for teachers, by offering incentives for additional qualified individuals to go into teaching, by reducing out-of-field placement of teachers, and by reducing the number of teachers with emergency credentials; and

(C) the designation of mentors who act as a support system for the beginning teacher and who serve as a role model and mentor to ensure that underqualified and inexperienced teachers do not teach higher percentages of low-income students and minority students than experienced teachers.

(8) INSTITUTION OF HIGHER EDUCATION.—The term ‘institute of higher education’ means a public or private institution of higher education.

(9) MENTOR.—The term ‘mentor’ means—

(A) a highly competent classroom teacher who is formally selected and trained to teach effectively with beginning teachers (including corps members described in section 2018); and

(B) is full-time, and is assigned and qualified to teach in the area or grade level in which a beginning teacher (including a corps member described in section 2018), to whom the teacher provides mentoring, intends to teach.

(10) MENTOR TEACHER.—The term ‘mentor teacher’ means a fully qualified teacher who—

(A) is a highly competent classroom teacher who is formally selected and trained to teach effectively with beginning teachers (including corps members described in section 2018); and

(B) is full-time, and is assigned and qualified to teach in the area or grade level in which a beginning teacher (including a corps member described in section 2018), to whom the teacher provides mentoring, intends to teach.

(11) MENTORING.—The term ‘mentoring’ means activities described in section 2018 to attract highly qualified teachers, including beginning teachers who—

(A) is a highly competent classroom teacher who is formally selected and trained to teach effectively with beginning teachers (including corps members described in section 2018); and

(B) is full-time, and is assigned and qualified to teach in the area or grade level in which a beginning teacher (including a corps member described in section 2018), to whom the teacher provides mentoring, intends to teach.

(12) PROFESSIONAL DEVELOPMENT.—The term ‘professional development’ means activity described in section 2015(a)(1).

(13) RECRUITMENT ACTIVITIES.—The term ‘recruitment activities’ means activities carried out through a teacher corps program as described in section 2018 to attract highly qualified individuals, including individuals taking nontraditional routes to teaching, to enter teaching and support beginning teachers during necessary certification and licensure activities.

(14) RECRUITMENT PARTNERSHIP.—The term ‘recruitment partnership’ means a partnership described in section 2015(b)(2).

SEC. 2003. AUTHORIZATION OF APPROPRIATIONS.

‘There are authorized to be appropriated to carry out this part—

(A) $2,000,000,000 for fiscal year 2001, of which—

(i) $1,730,000,000 shall be available to carry out subpart 1; and

(ii) $270,000,000 shall be made available to carry out subpart 2, of which—

(1) $120,000,000 shall be made available to carry out chapter 1 of subpart 2; and

(2) $50,000,000 shall be made available to carry out chapter 4 of subpart 2; and

(B) $25,000,000 shall be made available to carry out chapter 3 of subpart 2; and

(C) $75,000,000 shall be made available to carry out chapter 4 of subpart 2; and

(D) such sums as may be necessary for each of fiscal years 2002 through 2005.'
Section 2017(c), for any fiscal year for which the ap-
propriation for this subpart is greater than $300,000,000, whichever is greater) shall be used for the State agency for higher edu-
cation of the State to ensure that grants described in paragraph (2); and

(ii) the Secretary shall certify that the grants described in paragraph (2) meet the following require-
ments:

(iii) the grants described in paragraph (2) are used for the administration of the Educational Agencies
...
and the State agency for higher education shall jointly ensure that the total amount of funds that the agencies receive under this subpart and that the agencies use for activities described in paragraph (A) is at least as great as the allotment the State would have received if that appropriation had been $300,000,000.

(2) INTERDISCIPLINARY ACTIVITIES.—A State may use funds received under this subpart for activities that focus on more than 1 core academic subject, and apply the funds toward meeting the requirements of paragraph (1), if the activities include a strong focus on improving instruction in mathematics or science.

(g) LOCAL EDUCATIONAL AGENCIES. — Except as provided in section 2017(c), each State educational agency that receives funds under this subpart and the State agency for higher education shall jointly ensure that any portion of the funds that exceeds the amount required by paragraph (1) to be spent on activities described in paragraph (1)(A) is used to provide—

(A) professional development and mentoring in 1 or more of the core academic subjects that is aligned with State content and student achievement standards; and

(B) recruitment activities involving teachers of 1 or more of the core academic subjects.

SEC. 2016. LOCAL APPLICATIONS.

(a) ACTIVITIES. — Each State educational agency that receives a grant described in section 2011 shall use the funds made available under section 2013(a)(1) to carry out statewide strategies and activities to improve teacher quality, including—

(1) establishing, expanding, or improving alternative routes to State certification or licensing of teachers, for highly qualified individuals with a baccalaureate degree, mid-career professionals from other occupations, or paraprofessionals, that are at least as rigorous as the State’s standards for initial certification or licensing of teachers;

(2) developing or improving evaluation systems to evaluate the effectiveness of professional development and mentoring and recruitment activities in improving teacher quality, skills, and content knowledge, and the impact of professional development and mentoring and recruitment activities on increasing student academic achievement and student performance with performance measures and assessments that objectively measure student achievement against State performance standards;

(3) funding projects to promote reciprocal teacher certification or licensing or interchange between or among States;

(4) providing assistance to local educational agencies to reduce out-of-field placements and the use of emergency credentials;

(5) supporting certification by the National Board for Professional Teaching Standards for those who are teaching or will teach in high-poverty schools;

(6) providing assistance to local educational agencies in implementing effective programs of recruitment activities, and professional development and mentoring, including supporting efforts to encourage and train teachers to become mentor teachers;

(7) increasing the rigor and quality of State certification and licensure tests for individuals entering the field of teaching, including subject matter tests for elementary, middle, and high school teachers;

(8) implementing teacher recognition programs.

(b) ELIGIBILITY. — A State that receives a grant under this subpart and a grant under section 202 of the Higher Education Act of 1965 shall coordinate the activities carried out under this section and the activities carried out under that section 202.

SEC. 2017. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) GRANTS FOR PROFESSIONAL DEVELOPMENT AND MENTORING ACTIVITIES. —

(1) IN GENERAL.—The State educational agency of a State that receives a grant described in this section shall use the funds made available under section 2017(a)(2) and any funds made available under section 2013(a)(3)(B) to make grants to eligible local educational agencies, from allocations made under paragraph (2), to carry out activities that meet requirements described in section 2017(a) (except as provided in section 2017(c)).

(2) ELIGIBILITY.—The State educational agency shall allocate to each eligible local educational agency the sum of—

(A) an amount that bears the same relationship to 20 percent of the funds described in paragraph (1) as the number of individuals enrolled in public and private nonprofit elementary schools and secondary schools in the geographic area served by the agency bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State; and

(B) an amount that bears the same relationship to 80 percent of the funds as the number of individuals age 5 through 17 from families with incomes below the poverty line that are served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined.

(b) CONTENTS RELATING TO PROFESSIONAL DEVELOPMENT AND MENTORING ACTIVITIES. — The local educational agency that receives assistance under this subsection shall use the funds received under this subpart for activities that focus on more than 1 core academic subject and that the agencies use for activities described in subsection (a) and that meet requirements described in subsection (a) shall include, at a minimum, the following:

(1) A description of how the local educational agency intends to use the funds provided through the grant to carry out activities that meet requirements described in section 2017(a).

(2) An assurance that the local educational agency will target the funds to high-poverty, low-performing schools served by the local educational agency that—

(A) have the lowest proportions of qualified teachers;

(B) are identified for school improvement and corrective action under section 1116; or

(C) are identified for school improvement in accordance with other measures of school quality as determined and documented by the local educational agency.

(3) A description of how the local educational agency will coordinate professional development and mentoring activities described in section 2011(a) with professional development and mentoring activities provided through other Federal, State, and local programs, including programs authorized under—

(A) titles I, IV, and V, and part A of title VII; and

(B) where applicable, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, and title II of the Higher Education Act of 1965.

(4) A description of how the local educational agency will integrate funds received to carry out activities described in section 2017(a) with funds received under title V that are used for professional development and recruitment activities described in section 2017(b).

(5) A description of how the local educational agency will coordinate professional development and mentoring activities described in section 2011(a) with professional development and mentoring activities that—

(A) train teachers, paraprofessionals, counselors, pupil services personnel, administrators, and other school staff, including school library media specialists, in how to use technology to improve learning and teaching; and

(B) take into special consideration the different learning needs for, and exposures to, technology for all students, including females, students with disabilities, students who speak limited English proficiency, and students who have economic and educational disadvantages.

(6) A description of how the local educational agency will coordinate professional development and mentoring activities described in section 2011(a) with professional development and mentoring activities that—

(A) train teachers, paraprofessionals, counselors, pupil services personnel, administrators, and other school staff, including school library media specialists, in how to use technology to improve learning and teaching; and

(B) take into special consideration the different learning needs for, and exposures to, technology for all students, including females, students with disabilities, students who speak limited English proficiency, and students who have economic and educational disadvantages.
(6) A description of how the professional development and mentoring activities described in section 2017(a) will address the ongoing professional development and mentoring needs of the paraprofessionals, counselors, pupil services personnel, administrators, and other school staff, including school library media specialists.

(7) A description of how the professional development and mentoring activities described in section 2017(a) will have a substantial, measurable, and positive impact on student achievement, as determined by the extent to which the grant will use the funds made available through the grant to carry out activities (and only activities that—

(i) are professional development activities (as defined in section 2002(d)(2)(A) that—

(A) improve teacher knowledge of—

1 or more of the core academic subjects;

(B) effective instructional strategies, methods, and skills for improving student achievement in core academic subjects, including strategies for identifying and eliminating gender and racial bias;

(iii) the use of data and assessments to inform teachers about and thereby help teachers to improve classroom practice; and

(iv) innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies that integrate academic and technical skills (such as computer and other technology, service learning), methodologies for interdisciplinary team teaching, and other alternative assessment strategies, such as strategies for experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects.

(ii) provide teachers and paraprofessionals (and other staff as appropriate) with information on recent research findings on how children learn best and ways to support staff development on research-based instructional strategies for the teaching of reading;

(i) replicate effective instructional practices that involve collaborative groups of teachers and administrators from the same school or district, using strategies such as—

(ii) provision of dedicated time for collaborative lesson planning and curriculum development meetings;

(iii) provision of collaborative professional development experiences for veteran teachers based on the core academic subjects of the National Board for Professional Teaching Standards;

(iv) consultation with exemplary teachers;

(v) provision of short-term and long-term visits to classrooms and schools;

(vi) participation of teams of teachers in summer or other extended immersion activities that are focused on preparing teachers to enable all students to meet high standards in 1 or more of the core academic subjects; and

(vii) establishment and maintenance of local professional networks that provide a forum for interaction among teachers and administrators, and that allow for the exchange of information on advances in content knowledge and teaching skills;

(iv) provide for the participation of paraprofessionals, pupil services personnel, and other school staff;

(v) include strategies for fostering meaningful parental involvement and relations with parents so that parents become effective collaborators in their children's education, for improving classroom management and discipline, and for incorporating technology into a curriculum that promotes both; and

(vii) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student achievement, with performance evaluations used to improve the quality of activities described in this paragraph;

(8) A description of how the local educational agency will address the needs of teachers of students with disabilities, students with limited English proficiency, and other students with special needs.

(9) A description of how the local educational agency will provide training to teachers to enable teachers to work with parents, involve parents in their child's education, and encourage parents to become collaborators with schools in promoting their child's education.

(10) The assurances and description referred to in section 2023, with respect to professional development and mentoring activities described in section 2017(b).

(11) A description of how the local educational agency will ensure that a corps member who succeeds in the program may, at a minimum, complete a portion of the funds made available through the grant to carry out activities (and only recruitment activities) described in section 2018.

(c) Development and Contents Relating to Recruitment Activities.—If an eligible local educational agency (as defined in section 2015(b)) seeks a grant under section 2015(b) to carry out activities described in section 2017(b), the application shall—

(i) provide a description of how the local educational agency—

(A) is eligible for the local educational agency grant program;

(B) proposes to carry out activities described in subsection (c), each local educational agency receiving a grant under section 2015(a) shall use the funds made available through the grant to carry out activities (and only activities that—

(i) are professional development activities (as defined in section 2002(12)(A) that—

(iii) ensure that a corps member who succeeds in the program may, at a minimum, complete a portion of the funds made available through the grant to carry out activities (and only recruitment activities) described in section 2018.

(d) CONTENTS RELATING TO COVERED RECRUITMENT ACTIVITIES.—Each recruitment partnership receiving a grant under chapter 2 shall broadly recruit and screen for a teacher corps a highly qualified pool of candidates who demonstrate the potential to become effective teachers. Each candidate shall meet—

(1) Recruitment.—A recruitment partnership that receives a grant under section 2015(b) shall broadly recruit and screen for a teacher corps a highly qualified pool of candidates who demonstrate the potential to become effective teachers. Each candidate shall meet—

(a) Teacher Corps Program Requirements.—

(1) Recruitment.—A recruitment partnership that receives a grant under chapter 2 shall broadly recruit and screen for a teacher corps a highly qualified pool of candidates who demonstrate the potential to become effective teachers. Each candidate shall meet—

(2) Required Curriculum and Placement.—Members of the recruitment partnership shall work together to plan and develop a program that includes—

(1) improving preparation coursework to include a preservice training program (incorporating innovative approaches to preservice training, such as distance learning), for a period not to exceed 1 year, that provides corps members with the skills and knowledge necessary to become effective teachers, by—

(ii) requiring completed course work in bullying, the impact of technology on learning, and child development, effective teaching strategies, assessments, and classroom management, and in the pedagogy related to the academic subjects in which a corps member intends to teach;

(iii) providing extensive preparation in the pedagogy of reading to corps members, including preparation components that focus on—

(2) including the psychological understanding of reading, and human growth and development;

(iii) training in the use of technology as a tool to enhance a corps member's
effectiveness as a teacher and improve the achievement of the corps member’s students; and

(iv) focusing on the teaching skills and knowledge necessary for students to enable all students to meet the State’s highest challenging content and student performance standards;

(3) for the first year for which the partnership receives assistance under this subpart, shall be not less than 10 percent; and

(2) for the second such year, shall be not less than 20 percent;

(ii) the quality of the program proposed by the recruitment partnership, in a teaching in-

(iii) for the third such year, shall be not less than 30 percent;

v) for the fourth such year, shall be not less than 40 percent; and

(B) every mentor teacher will be provided

(iii) for the fourth such year, shall be not less than 50 percent.

recruitments for beginning teachers.

requirements of title II of the Higher Edu-

5 percent for the expenses of the agency in

The State agency for higher education shall use the following criteria to select among applications received on a competitive basis, using a peer review process.

(3) AWARD PROCESS AND BASIS.—The State agency for higher education shall make the grant to a partnership in a competitive basis, using a peer review process.

(4) PRIORITY.—In making the grants, the State agency for higher education shall give priority to partnerships submitting applications for projects that focus on mentoring programs for beginning teachers.

(5) CONSIDERATIONS.—In making such a grant to a partnership, the State agency for higher education shall consider—

(A) the need of the local educational agency involved for the professional development of the corps members; and

(B) the quality of the program proposed in the application and the likelihood of success of the program in improving classroom instruction and student academic achievement; and

(C) the extent to which the Partnership is effective in linking the professional development of the corps members with the classroom needs.

The Secretary may take into account the extent to which the Partnership is effective in linking the professional development of the corps members with the classroom needs.
(\textit{c}) such other criteria as the agency finds to be appropriate.

\(\text{(c)}\) AGREEMENTS.—

(\textit{1)} IN GENERAL.—No partnership may receive funds under this section unless the institution of higher education or nonprofit organization involved enters into a written agreement with at least 1 eligible local education agency (as defined in section 2015(b)(2)) to provide professional development and mentoring for elementary and secondary school teachers in the schools served by that agency in the core academic subjects.

(\textit{2)} EFFECTS.—Each such agreement shall identify specific measurable annual goals concerning the professional development and mentoring that the partnership will provide to enable the teachers to prepare all students to meet challenging State and local content and student performance standards.

(\textit{3)} JOINT EFFORTS WITHIN INSTITUTIONS OF HIGHER EDUCATION.—Each professional development and mentoring activity assisted under this section by a partnership containing an institution of higher education shall involve the joint effort of the institution of higher education’s school or department of education and the schools or departments of the institution in the specific disciplines in which the professional development and mentoring will be provided in section 2015(b)(2).

(\textit{4)} USES OF FUNDS.—A partnership that receives funds under this section shall use the funds for activities (and only for activities) that consist of—

(\textit{A}) mentoring and coaching by trained mentor teachers that lasts at least 2 years;

(\textit{B}) team teaching with veteran teachers who have a consistent record of helping their students make substantial academic gains;

(\textit{C}) provision of time for observation and consultation with, veteran teachers; and

(\textit{D}) provision of additional time for preparation.

(\textit{e}) PROVISION OF SERVICES.—A partnership that receives funds under this section shall use the funds for activities (and only for activities) that consist of—

(\textit{1)} professional development and mentoring in the core academic subjects, aligned with State or local content standards, for teachers serving in a school, school district, or region, where appropriate, administrators and paraprofessionals;

(\textit{2)} research-based professional development programs to assist beginning teachers, which may include—

(\textit{A}) mentoring and coaching by trained mentor teachers who have a consistent record of helping their students make substantial academic gains;

(\textit{B}) provision of additional time for preparation;

(\textit{C}) provision of technical assistance to school and agency staff for planning, implementing, and evaluating professional development programs;

(\textit{D}) provision of training for teachers to help the teachers develop the skills necessary to work most effectively with partners; and

(\textit{E}) provision of training to address areas of teacher and administrator shortages.

(\textit{f}) OTHER.—Any partnership that carries out professional development and mentoring activities under this section shall coordinate the activities with activities carried out under title II of the Higher Education Act of 1965, if a local educational agency or institution of higher education in the partnership is participating in programs funded under that title.

(\textit{g}) ANNUAL REPORTS.—

(\textit{1)} IN GENERAL.—Beginning with fiscal year 2002, each partnership that receives a grant under this section shall provide to the agency an annual report on the progress of the partnership on the performance measures described in subsection (a)(2).

(\textit{2)} CONTENTS.—Each such report shall—

(\textit{A}) include a copy of each written agreement required by subsection (c) that is entered into by the partnership; and

(\textit{B}) describe how the members of the partnership will work most effectively to achieve the specific goals set out in the agreement, and the results of that collaboration.

(\textit{3)} REPORT TO SECRETARY.—

(\textit{a}) ASSURANCES.—Each State application submitted under section 2012 shall contain assurances described in paragraphs (1) through (iii) of subparagraph (A) that would otherwise be available to the State under section 2013(a)(1) for the administration of this subpart;

(\textit{B}) WITHHOLDING.—If a State fails to meet the requirements described in subsection (a)(2) for a fiscal year in which the requirements apply—

(\textit{i}) the Secretary shall withhold, for the following fiscal year, a portion of the funds that would otherwise be available to the State under subsection (a)(2) for the administration of this subpart; and

(\textit{ii}) the State shall be subject to such other penalties as provided by law for a violation of this Act.

(\textit{b}) COORDINATION.—Each State educational agency and school in the State that is served under this subpart shall describe how the State educational agency and school in the State will take steps to comply with the requirements in this section.

(\textit{c}) AUTHORITY.—

(\textit{1)} IN GENERAL.—Each State that receives funds under this subpart shall—

(\textit{A}) develop a plan for the coordination of the core academic programs in high-poverty schools served by the local educational agency that is at least as well qualified, in terms of experience and credentials, as the instructional staff in schools served by the local educational agency that are not high-poverty schools;

(\textit{B}) prepare and submit to the Committee on Education and Labor of the Senate a report describing the results of the study.

(\textit{2)} CONTENTS.—Each State application submitted under section 2012 shall contain assurances that—

(\textit{A}) the agency will not hire a teacher with funds made available to the agency under this subpart, unless the teacher is a fully qualified teacher;

(\textit{B}) the local educational agency and schools served by the agency will work to ensure, through voluntary agreements and incentive programs, that elementary school and secondary school teachers in high-poverty schools served by the local educational agency will be at least as well qualified, in terms of experience and credentials, as the instructional staff in schools served by the local educational agency that are not high-poverty schools;

(\textit{C}) no teacher who receives certification from the National Board for Professional Teaching Standards will be considered fully qualified to teach, in the academic subjects in which the teacher is certified, in high-poverty schools served by the local educational agency and community served by the local educational agency; and

(\textit{D}) the agency will—

(\textit{a}) make available, on request and in an understandable and uniform format, to any parent of a student attending any school served by the local educational agency, information regarding the professional qualifications of the student’s classroom teachers with regard to—

(\textit{i}) whether each teacher has met State certification or licensing criteria for the academic subjects and grade level in which the teacher teaches the student;

(\textit{ii}) whether the teacher is teaching with emergency or temporary certification or State certification or licensing standard has been waived for the teacher; and

(\textit{iii}) the academic qualifications of the teacher in the academic subjects and grade levels in which the teacher teaches the student; and

(\textit{B}) inform parents that the parents are entitled to receive the information upon request.

(\textit{3)} LOCAL CONTINUATION OF FUNDING.—

(\textit{a}) AGREEMENTS.—If a local educational agency applies for funds under this subpart for a 4th or subsequent fiscal year (including applying for funds as part of a partnership), the agency may receive the funds for that fiscal year only if the State determines that the agency has demonstrated that the agency, in carrying out activities under this subpart during the past fiscal year, has met annual numerical performance objectives for—

(\textit{A}) salaries and wages for the principal or the highest paid professional staff for all groups described in section 1111(b)(2); and

(\textit{B}) increased participation in sustained professional development and mentoring programs.

(\textit{b}) EFFECTS.—Each local application submitted under section 2012 shall contain assurances that—

(\textit{A}) the agency will—

(\textit{a}) include a copy of each written agreement required by subsection (c) that is entered into by the partnership; and

(\textit{b}) describe how the members of the partnership will work most effectively to achieve the specific goals set out in the agreement, and the results of that collaboration.

(\textit{B}) conduct a study of the progress of the States in increasing the percentage of teachers who are fully qualified teachers for fiscal years 2001 through 2003; and

(\textit{2)} prepare and submit to the Committee on Education and Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing the results of the study.

(\textit{c}) GENERAL ACCOUNTING OFFICE.—Not later than 4 months after September Compromise General of the United States shall—

(\textit{1)} conduct a study of the progress of the States in increasing the percentage of teachers who are fully qualified teachers for fiscal years 2001 through 2003; and

(\textit{2)} prepare and submit to the Committee on Education and Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing the results of the study.
“(4) reduced the number of teachers who are not certified or licensed, and the number who are out-of-field teachers, for the agency.

“(b) SCHOOLS.—If a local educational agency under this subpart operates on behalf of a school for a 4th or subsequent fiscal year (including applying for funds as part of a partnership), the agency may receive the funds for the school for that fiscal year only if the State determines that the school has demonstrated that the school, in carrying out activities under this subpart during the past fiscal year, has met the requirements of paragraphs (1) through (4) of subsection (a).

“(c) RECRUITMENT PARTNERSHIPS.—

“(1) if not more than 90 percent of the graduates of a teacher corps program assisted under this subpart for a fiscal year

“(2) WAIVER.—The State in which the partnership is located may waive the requirement described in paragraph (1) for a recruitment partnership serving a school district that has special circumstances, such as a district with a small number of corps members.

“SEC. 2025. LOCAL REPORTS.

“(a) General.—Each local educational agency that receives funds under this subpart (including funds received through a partnership) shall prepare, make publicly available, and send to the Secretary of Education, every year, beginning in fiscal year 2002, a report on the activities of the agency under this subpart, in such form and containing such information as the State educational agency may reasonably require.

“(b) CONTENTS.—The report shall contain, at a minimum:

“(1) information on progress throughout the schools served by the local educational agency on the performance measures described in section 2024(a)(2) and goals described in paragraphs (3) and (4) of section 2024(b);

“(2) information on progress throughout the schools served by the local educational agency toward achieving the objectives of, and carrying out the activities described in, this subpart;

“(3) data on the progress described in paragraph (1) disaggregated by the school poverty level, as defined by the State; and

“(4) a description of the methodology used to gather the information and data described in paragraphs (1) and (2).

“Subpart 2—National Activities for the Improvement of Teaching and School Leadership

“Chapter 1—National Activities and Clearinghouse

“SEC. 2031. PROGRAM AUTHORIZED.

“(a) IN GENERAL.—The Secretary is authorized to make grants to, and to enter into cooperative agreements with, States, local educational agencies, educational service agencies, State educational agencies, and other public and private nonprofit agencies, organizations, and institutions to carry out subpart (b).

“(b) ACTIVITIES.—In making the grants, and entering into the contracts and cooperative agreements, the Secretary—

“(1) may support activities of national significance, or expansion, of programs that recruit talented individuals to become principals, including such programs that employ alternative routes to State certification or licensing that are at least as rigorous as the State’s standards for initial certification or licensing of teachers, in schools served by high-poverty local educational agencies; and

“(2) may support collaborative efforts by States, or consortia of States, to review and measure the quality, rigor, and alignment of State standards and assessments;

“(3) may support collaborative efforts by States, or consortia of States, to review and measure the quality and rigor of State standards for entry into the field of teaching, including the alignment of such standards with State standards for students in elementary school and secondary school, and the alignment of the performance-based assessments with State standards for entry into the field of teaching;

“(4) shall annually submit to Congress a report containing the results of the evaluation to Congress; and

“(5) shall annually make available to the public a report on the information contained in the State reports described in section 2032.

“SEC. 2032. EISENHOWER NATIONAL CLEARINGHOUSE FOR MATHEMATICS AND SCIENCE EDUCATION.

“(a) ESTABLISHMENT OF CLEARINGHOUSE.—The Secretary shall establish an entity to establish and operate an Eisenhower National Clearinghouse for Mathematics and Science Education (referred to in this section as the ‘Clearinghouse’), and give priority to maintaining such information and data as the Secretary may reasonably require.

“(b) AUTHORIZED ACTIVITIES.—

“(1) APPLICATION AND AWARD BASIS.—

“(A) IN GENERAL.—An entity desiring to establish and operate the Clearinghouse shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(B) PEER REVIEW.—The Secretary shall establish a peer review panel to make recommendations on the recipient of the award for the Clearinghouse.

“(C) BASIS.—The Secretary shall make the award for the Clearinghouse on the basis of merit.

“(2) DURATION.—The Secretary shall award the grant or contract for the Clearinghouse for a period of 5 years.

“(3) ACTIVITIES.—The award recipient shall use the award funds to—

“(A) maintain a permanent collection of at least 500 of the best-known and current instructional materials and programs for elementary and secondary schools as determined by the Secretary, including such materials and programs that have been identified as promising or exemplary, through a systematic approach as determined by the Secretary; and

“(B) disseminate the materials and programs described in subparagraph (A) to the public, State educational agencies, local educational agencies, and schools (particularly high-poverty local educational agencies), including dissemination through the maintenance of an interactive national electronic information management and retrieval system accessible through the World Wide Web and other advanced communications technologies;
"(C) coordinate activities with entities operating other databases containing mathematics and science curriculum and instructional materials, including Federal, non-Federal, and, where feasible, international databases;

"(D) using not more than 10 percent of the amount awarded under this section for any fiscal year, the Department of Defense to carry out Hometown Teacher programs and other programs in different geographic regions of the Nation.

"SEC. 2054. APPLICATION.

"The purpose of this chapter is to support efforts of high-need local educational agencies to develop and implement comprehensive approaches to recruiting and retaining highly qualified teachers, including recruiting such teacher candidates from within the core academic subjects in which the teacher candidates are motivated to teach.

"The term ‘high-need local educational agency’ means a local educational agency that serves an elementary school or secondary school located in an area in which there is--

"(1) a high percentage (as determined by the State in which the agency is located) of individuals from families with incomes below the poverty line; or

"(2) a high percentage (as determined by the State in which the agency is located) of secondary school teachers not teaching in the core academic subjects in which the teachers were trained to teach; or

"(3) a high percentage (as determined by the State in which the agency is located) of students in contact with other institutions, agencies, or organizations that would train, place, and support the individuals;

"(3) recruiting program participants, including informing individuals who are potential participants of opportunities available under the program and putting the individuals in contact with clearinghouse or other clearinghouses, agencies, or organizations that would train, place, and support the individuals;

"(4) providing training stipends and other financial incentives for program participants, such as paying for moving expenses, not to exceed $5,000, in the aggregate, per participant; and

"(5) providing post-placement induction or support activities for program participants.

"To the extent practicable, the Secretary shall make awards under this chapter that support programs in different geographic regions of the Nation.

"Chapter 3—Hometown Teachers

"SEC. 2051. PURPOSE.

"The purpose of this chapter is to support efforts of high-need local educational agencies to develop and implement comprehensive approaches to recruiting and retaining highly qualified teachers, including recruiting such teacher candidates from within the core academic subjects in which the teacher candidates are motivated to teach.

"The term ‘high-need local educational agency’ means a local educational agency that serves an elementary school or secondary school located in an area in which there is--

"(1) a high percentage (as determined by the State in which the agency is located) of individuals from families with incomes below the poverty line; or

"(2) a high percentage (as determined by the State in which the agency is located) of secondary school teachers not teaching in the core academic subjects in which the teachers were trained to teach; or

"(3) a high percentage (as determined by the State in which the agency is located) of students in contact with other institutions, agencies, or organizations that would train, place, and support the individuals;

"(3) recruiting program participants, including informing individuals who are potential participants of opportunities available under the program and putting the individuals in contact with clearinghouse or other clearinghouses, agencies, or organizations that would train, place, and support the individuals;

"(4) providing training stipends and other financial incentives for program participants, such as paying for moving expenses, not to exceed $5,000, in the aggregate, per participant; and

"(5) providing post-placement induction or support activities for program participants.

"To the extent practicable, the Secretary shall make awards under this chapter that support programs in different geographic regions of the Nation.
2003 shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the local educational agency, highlighting the agency’s methods for teachers, such as the agency’s projected shortage of qualified teachers and the percentage of teachers serving the agency who lack certification or licensure or who are teaching out of field;

(2) a description of a Hometown Teacher program that the local educational agency plans to implement with the funds made available through the grant, including a description of—

(A) strategies the agency will use to—

(i) hire qualified secondary and middle school students in schools served by the local educational agency to consider pursuing careers in the teaching profession; and

(ii) provide support at the undergraduate level to those students who intend to become teachers; and

(B) the agency’s plans to streamline the hiring timelines in the hiring policies and practices of the agency for participants in the Hometown Teacher program;

(3) a description of the short-term strategies the agency will use, if any, to reduce the agency’s teacher attrition rate, including providing mentoring programs and making efforts to raise teacher salaries and creating more desirable working conditions for teachers;

(4) a description of the agency’s strategy for ensuring that all secondary school teachers and middle school teachers in the school district are fully certified or licensed in an academic subject and are teaching the majority of the classes in the subject in which the teachers are certified or licensed;

(5) a description of the short-term strategies the agency will use, if any, to address the agency’s teacher shortage problem, including the strategies the agency will use to ensure that the teachers that the local educational agency is targeting for employment are fully certified or licensed;

(6) a description of the agency’s long-term plan for ensuring that the agency’s teachers have opportunities for sustained, high-quality professional development;

(7) a description of the ways in which the activities proposed to be carried out through the grant are part of the agency’s overall plan to address the quality of teaching and student achievement;

(8) a description of how the agency will collaborate, as needed, with other institutions, organizations, and agencies to develop and implement the strategies the agency proposes in the application, including evidence of the commitment of the institutions, agencies, or organizations to the agency’s activities;

(9) a description of the strategies the agency will use to coordinate activities funded under this chapter with activities funded through other Federal programs that address teacher shortages, including programs carried out through grants to professional agencies under title I of this title, including chapter 2, if the applicant receives funds from the programs;

(10) a description of how the agency will evaluate the progress and effectiveness of the Hometown Teacher program, including a description of—

(A) the agency’s goals and objectives for the program; and

(B) the performance indicators that the agency will use to measure the program’s effectiveness; and

(C) any measurable outcome measures, such as increased percentages of fully certified or licensed teachers, that the agency will use to determine the program’s effectiveness; and

(11) an assurance that the agency will provide to the Secretary such information as the Secretary believes to be necessary to determine the overall effectiveness of programs carried out under this chapter.

SEC. 2055. PRIORITY.

In awarding grants under this chapter, the Secretary shall give priority to agencies submitting applications that—

(1) focus on increasing the percentage of qualified teachers in certain high-need fields, such as mathematics, science, and bilingual education; and

(2) focus on recruiting qualified teachers for communities, such as urban and rural communities.

SEC. 2056. USE OF FUNDS.

(1) MANDATORY USE OF FUNDS.—A local educational agency that receives a grant under this chapter shall use the funds made available through the grant to develop and implement long-term strategies to address the agency’s teacher shortage, including carrying out Hometown Teacher programs such as the programs described in section 2051.

(2) PERMISSIBLE USE OF FUNDS.—A local educational agency that receives a grant under this chapter shall use the funds made available through the grant to—

(1) develop and implement strategies to reduce the local educational agency’s teacher attrition rate, including providing mentoring programs, increasing teacher salaries, and creating more desirable working conditions for teachers; and

(2) develop and implement short-term strategies to address the agency’s teacher shortage, including providing scholarships to undergraduates who agree to teach in the school district served by the agency for a certain number of years, providing signing bonuses for teachers, and implementing streamlined hiring practices.

(3) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this chapter shall be used to supplement, and shall not supplant, State and local funds expended to carry out programs and activities authorized under this chapter.

SEC. 2057. SERVICE REQUIREMENTS.

(1) IN GENERAL.—The Secretary shall establish such rules as the Secretary determines to be necessary to ensure that a recipient of a scholarship under this chapter who completes a teacher education program subsequently—

(1) teaches in a school district served by a high-need local educational agency, for a period of time equivalent to the period for which the recipient received the scholarship; or

(2) repays the amount of the funds provided through the scholarship.

(2) USE OF REPAID FUNDS.—The Secretary shall deposit any such repaid funds in an account, and use the funds to carry out additional activities under this chapter.

Chapter 4—Early Childhood Educator Professional Development

SEC. 2061. PURPOSE.

In support of the national effort to attain the first of America’s Education Goals, the purpose of this chapter is to enhance the first of America’s Education Goals, the purpose of this chapter is to enhance the quality of education for young children, particularly disadvantaged children, and to prevent them from encountering reading difficulties once in school, by improving the knowledge and skills of early childhood educators who work in communities that have high concentrations of children living in poverty.

SEC. 2062. PROGRAM AUTHORIZED.

(1) GRANTS TO PARTNERSHIPS.—The Secretary shall carry out the purpose of this chapter by awarding grants, on a competitive basis, to partnerships consisting of—

(A) one or more institutions of higher education that provide professional development programs and activities authorized under this chapter who work with children from low-income families in high-need communities; or

(B) another public or private, nonprofit entity that provides such professional development;

(2) one or more public agencies including local educational agencies, State educational agencies, State human services agencies, and State and local agencies administering programs under the Child Care and Development Block Grant Act of 1990, local educational agencies, or private, nonprofit organizations; and

(3) to the extent feasible, an entity with demonstrated experience in providing violence prevention education training to educators in early childhood education programs.

(2) PRIORITY.—In awarding grants under this chapter, the Secretary shall give priority to partnerships that include 1 or more local educational agencies which operate early childhood education programs for children from low-income families in high-need communities.

(3) DURATION AND NUMBER OF GRANTS.—

(1) DURATION.—Each grant under this chapter shall be awarded for not more than 4 years.

(2) NUMBER.—No partnership may receive more than 1 grant under this chapter.

SEC. 2063. APPLICATIONS.

(1) APPLICATIONS REQUIRED.—Any partnership that desires to receive a grant under this chapter shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) CONTENTS.—Each such application shall include—

(A) a description of the high-need community to be served by the project, including such demographic and socioeconomic information as the Secretary may request;

(B) information on the quality of the early childhood educator professional development program currently conducted by the institutions of higher education or other provider in the partnership;

(C) the results of the assessment that the entities in the partnership have undertaken to determine the professional development needs of the early childhood educators to be served by the partnership and in the broader community, and a description of how the proposed project will address those needs;

(D) a description of how the proposed project will be carried out, including—

(i) how individuals will be selected to participate;

(ii) the types of research-based professional development activities that will be carried out;

(iii) how research on effective professional development and on adult learning will be used to design and deliver project activities;

(iv) how the project will coordinate with and build on, and will not supplant or duplicate, early childhood education professional development activities that exist in the community and the state;

(V) how the project will train early childhood educators to provide services that are based on developmentally appropriate practices, including the best evidence on child, language, and literacy development and on early childhood pedagogy;

(w) how the project will train early childhood educators to meet the diverse educational needs of children in the community, including children who have limited English
proficiency, disabilities, or other special needs; and
"
"(G) how the project will train early childhood educators in identifying and preventing behavioral problems or violent behavior in children;
"
"(5) a description of—
"
"(A) the specific objectives that the partnership will achieve through the project, and how the partnership will measure progress toward attainment of those objectives; and
"
"(B) how the objectives and the measurement activities align with the performance indicators established by the Secretary under section 2066(a);
"
"(6) a description of the partnership’s plan for institutionalizing the activities carried out under the project, so that the activities continue once Federal funding ceases;
"
"(7) an assurance that, where applicable, the project will provide appropriate professional development to volunteer staff, as well as to paid staff; and
"
"(8) an assurance that, in developing its application and in carrying out its project, the partnership has consulted with, and will consult with, relevant agencies and early childhood educator organizations described in section 2062(a)(2) that are not members of the partnership.
"
"SEC. 2064. SELECTION OF GRANTEES.
"
"(a) The Secretary shall select partnerships to receive funding on the basis of the community’s need for assistance and the quality of the applications.
"
"(b) GEOGRAPHIC DISTRIBUTION. In selecting partnerships, the Secretary shall seek to ensure that communities in different regions of the Nation, as well as both urban and rural communities, are served.
"
"SEC. 2065. USES OF FUNDS.
"
"(a) IN GENERAL.—Each partnership receiving a grant under this chapter shall use the grant to undertake activities that will improve the knowledge and skills of early childhood educators who are working in early childhood programs that are located in high-need communities and serve concentrations of children from low-income families.
"
"(b) ALLOWABLE ACTIVITIES.—Such activities may include—
"
"(1) professional development for individuals working as early childhood educators, particularly to familiarize those individuals with the application of recent research on child health, language, and literacy development and on early childhood pedagogy;
"
"(2) professional development for early childhood educators in working with parents, including current research on child, language, and literacy development and parent involvement, so that the educators can prepare their children to succeed in school;
"
"(3) professional development for early childhood educators to work with children who have limited English proficiency, disabilities, and other special needs;
"
"(4) professional development to train early childhood educators in identifying and preventing behavioral problems or violent behavior in children;
"
"(5) activities that assist and support early childhood educators during their first three years in the field;
"
"(6) development and implementation of early childhood educator professional development programs that make use of distance learning and other technologies;
"
"(7) purposes of administration and development activities related to the selection and use of research-based diagnostic assessments to improve teaching and learning; and
"
"(8) an assurance that, for each year in which the activities under this chapter relating to accountability. (8) based diagnostic assessments to improve
"
"(9) an assurance that, where applicable, the project will provide appropriate professional development to volunteer staff, as well as to paid staff; and
"
"(10) an assurance that, in developing its application and in carrying out its project, the partnership has consulted with, and will consult with, relevant agencies and early childhood educator organizations described in section 2062(a)(2) that are not members of the partnership.
"
"SEC. 2066. ACCOUNTABILITY.
"
"(a) PERFORMANCE INDICATORS.—Simultaneously with the publication of any application notice for grants under this chapter, the Secretary shall announce performance indicators for this chapter, which shall be designed to measure—
"
"(1) the quality and assessability of the professional development provided;
"
"(2) the impact of that professional development on the early childhood education provided by the individuals who are trained; and
"
"(3) such other measures of program impact as the Secretary determines appropriate.
"
"(b) ANNUAL REPORTS; TERMINATION. —
"
"(1) ANNUAL REPORTS.—Each partnership receiving a grant under this chapter shall report annually to the Secretary on the partnership’s progress against the performance indicators.
"
"(2) TERMINATION. —The Secretary may terminate a grant under this chapter at any time if the Secretary determines that the partnership is not making satisfactory progress against the indicators.
"
"SEC. 2067. COST-SHARING.
"
"(a) IN GENERAL.—Each partnership shall provide, from other sources, which may include other Federal sources, at least 20 percent of the project cost in each year.
"
"(b) ACCEPTABLE CONTRIBUTIONS.—A partnership may meet the requirement of subsection (a) through cash or in-kind contributions, fairly valued.
"
"(c) WAIVERS.—The Secretary may waive or modify the requirements of subsection (a) in cases of demonstrated financial hardship.
"
"SEC. 2068. FEDERAL COORDINATION.
"
"The Secretary and the Secretary of Health and Human Services shall coordinate activities under this chapter and other early childhood programs administered by the two Secretaries.
"
"SEC. 2069. DEFINITIONS.
"
"In this chapter:
"
"(1) HIGH-NEED COMMUNITY.—(A) IN GENERAL.—The term ‘high-need community’ means—
"
"(i) a municipality, or a portion of a municipality, in which less than 10 percent of the children are from low-income families; or
"
"(ii) a municipality that is one of the 10 percent of municipalities within the State having the greatest numbers of such children.
"
"(B) DETERMINATION.—In determining which communities are described in subparagraph (a)(1), the Secretary determines are most accurate and appropriate.
"
"(2) LOW-INCOME FAMILY.—The term ‘low-income family’ means a family with an income below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 672(d) of the Community Services Block Grant Act) applicable to a family of the size involved for the most recent fiscal year for which satisfactory data are available.
"
"(3) EARLY CHILDHOOD EDUCATOR.—The term ‘early childhood educator’ means a person who provides care and education to children at any age from birth through kindergarten.
"
"(4) CONFORMING AMENDMENT.—The Troopeto-Teachers Program Act of 1999 (20 U.S.C. 9901 et seq.) is repealed.

Subtitle B—Safe, Healthy Schools and Communities

CHAPTER 1—GRANTS FOR SCHOOL RENOVATION

SEC. 311. GRANTS FOR SCHOOL RENOVATION.

Title X (20 U.S.C. 8001 et seq.) is amended by adding at the end the following:

"PART I—SCHOOL RENOVATION

"SEC. 10995. GRANTS FOR SCHOOL RENOVATION.
"
"(a) IN GENERAL.—
"
"(1) ALLOCATION OF FUNDS.—Of the amount appropriated for each fiscal year under subsection (k), the Secretary of Education shall allocate—
"
"(A) 6.0 percent of such amount for grants to impacted local educational agencies (as defined in paragraph (1) of section 2066(a)) for school repair, renovation, and construction;
"
"(B) 0.25 percent of such amount for grants to outlying areas for school repair and renovation in high-need schools and communities,
"
"(C) 2 percent of such amount for grants to public entities, private nonprofit entities, and consortia of such entities, for use in accordance with subpart 2 of part C of this title X;
"
"(D) the remainder to State educational agencies in proportion to the amount each State receives under section 1001 of this title for fiscal year 2001, except that no State shall receive less than 0.5 percent of the amount allocated under this subparagraph.
"
"(2) DETERMINATION OF GRANT AMOUNT.—
"
"(A) DETERMINATION OF WEIGHTED STUDENT UNITS.—For purposes of computing the grant amounts under paragraph (1)(A) for fiscal year 2001, the Secretary shall determine the results obtained by the computation made under section 8003 with respect to children described in subsection (a)(1)(C) of such section and computed under section (a)(2)(B) of such section for such year—
"
"(i) for each impacted local educational agency that receives funds under this section; and
"
"(ii) for all such agencies together.
"
"(B) COMPUTATION OF PAYMENT.—For fiscal year 2002, the Secretary shall calculate the amount of a grant to an impacted local educational agency by—
"
"(i) dividing the amount described in paragraph (1)(A) by the results of the computation described in subparagraph (A)(i); and
"
"(ii) multiplying the number derived under clause (i) by the results of the computation described in subparagraph (A)(i) for such agency; and
"
"(3) DEFINITION.—For purposes of this section, the term ‘impacted local educational agency’ means, for fiscal year 2001—
"
"(A) a local educational agency that receives a basic support payment under section 8003(b) for such fiscal year; and
"
"(B) with respect to which the number of children determined under section 8003(a)(1)(C) for the preceding school year constitutes at least 50 percent of the total student enrollment in the schools of the agency during such school year;
"
"(4) WITHIN-STATE ALLOCATIONS.—
"
"(1) ADMINISTRATIVE COSTS.—
"
"(A) STATE EDUCATIONAL AGENCY ADMINISTRATION—Except as provided in subparagraph (B), each State educational agency may reserve not more than 1 percent of its allocation under subsection (a)(1)(D) for the purpose of administration and distribution of grants under this subsection.
"
"(B) STATE ENTITY ADMINISTRATION.—If the State educational agency transfers funds to any State entity described in paragraph (1)(B) of section 2001(a), the agency shall transfer to such entity 0.75 of the amount reserved under this paragraph.
for the purpose of administering the distribution of grants under this subsection.

"(2) RESERVATION FOR COMPETITIVE SCHOOL REPAIR AND RENOVATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

"(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(1)(D), the State educational agency shall distribute 75 percent of such funds to local educational agencies or, if such State educational agency is not responsible for the financing of education and the local educational agency shall transfer such funds to the State entity responsible for the financing of education and the State educational agency will maintain, in good condition, any facility whose repair or renovation is assisted under this section.

"(B) POSSIBLE MATCHING REQUIREMENT.—

"(i) IN GENERAL.—A State educational agency or State entity may require local educational agencies to match funds awarded under this subsection.

"(ii) MATCH AMOUNT.—The amount of a match described in clause (i) may be established to take into account the relative poverty of the population served by the local educational agency.

"(3) RESERVATION FOR COMPETITIVE IDEA OR TECHNOLOGY GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

"(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(1)(D), the State educational agency shall distribute 25 percent of such funds through competitive grant processes, to be used for the following:

"(i) To carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(ii) For technology activities that are carried out in connection with school repair and renovation, including:

"(D) acquiring connectivity linkages and resources; and

"(IV) acquiring microwave, fiber optics, cable, and satellite transmission equipment.

"(B) CRITERIA FOR AWARDING IDEA GRANTS.—In awarding competitive grants under subparagraph (A) to be used to carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), a State educational agency shall take into account the following criteria:

"(i) The need of a local educational agency for additional funds for a student whose individually allocable cost for expenses related to the Individuals with Disabilities Education Act substantially exceeds the State average per-pupil expenditure (as defined in section 612(a)(16)).

"(ii) The need of a local educational agency for additional funds for special education and related services under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.).

"(iii) The need of a local educational agency for additional funds for assistive technology devices (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401) or assistive technology services (as so defined) for children being served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(iv) The need of a local educational agency for additional funds for activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) in order for children with disabilities to make progress toward meeting the performance goals and indicators established by the State under section 612(a)(16) of such Act (20 U.S.C. 1412).

"(C) CRITERIA FOR AWARDING TECHNOLOGY GRANTS.—In awarding competitive IDEA grants under subparagraph (A) to be used for technology activities that are carried out in connection with school repair and renovation, a competitive grant process established under this subparagraph shall take into account the need of a local educational agency for additional funds for such activities, including the need for the activities described in subclauses (I) through (IV) of subparagraph (A)(ii).

"(D) POSSIBLE MATCHING REQUIREMENT.—

"(i) IN GENERAL.—A State educational agency or State entity may require local educational agencies to match funds awarded under this subsection.

"(ii) MATCH AMOUNT.—The amount of a match described in clause (i) may be established to take into account the relative poverty of the population served by the local educational agency.

"(4) IMPERMISSIBLE USES OF FUNDS.—No funds received under this section may be used for—

"(A) Payment of maintenance costs in connection with any projects constructed in whole or in part with Federal funds provided under this section;

"(B) The construction of new facilities, except for facilities for an impacted local educational agency (as defined in subsection (a)(3)); or

"(C) Stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

"(5) CHARTER SCHOOLS.—A public charter school that constitutes a local educational agency under State law shall be eligible for funds received under this section on the same terms and conditions as any other local educational agency (as defined in section 1400(I)(8)).

"(6) SUPPLEMENT, NOT SUPPLANT.—Excluding purposes described in paragraphs (B) and (C) of paragraph (1), a local educational agency shall use Federal funds subject to this subsection only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for school repair and renovation.

"(7) SPECIAL RULE.—Each local educational agency that receives funds under this section shall ensure that, if it carries out repair or renovation through a contract, any such contract process ensures the maximum number of qualified bidders, including small, minority, and women-owned businesses, through full and open competition.

"(8) PUBLIC COMMENT.—Each local educational agency receiving funds under paragraph (2) or (3) of subsection (b)—

"(A) shall provide parents, educators, and all other interested members of the community the opportunity to consult on the use of funds received under such paragraph;

"(B) shall provide the public with adequate and current notice of the opportunity described in paragraph (1) in a widely read and distributed medium; and

"(C) shall report to the Secretary on activities pursuant to paragraphs (2) and (3) of subsection (b).
“(3) shall provide the opportunity described in paragraph (1) in accordance with any applicable State and local law specifying how the comments may be received and how the comments may be reviewed by any member of the public.

“(f) Reporting.—

“(1) LOCAL REPORTING.—Each local educational agency receiving funds under subsection (a)(1)(D) shall submit a report to the State educational agency, at such time as the State educational agency may require, describing the use of such funds for school repair and renovation, including the activities described in subclauses (I) through (IV) of subsection (a)(3));

“(A) school repair and renovation (and construction, in the case of an impacted local educational agency (as defined in subsection (a)(3)));

“(B) activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); and

“(C) technology activities that are carried out in connection with school repair and renovation, including the activities described in subclauses (I) through (IV) of subsection (a)(3));

“(2) STATE REPORTING.—Each State educational agency shall submit to the Secretary of Education, not later than December 31, 2003, a report on the use of funds received under subsection (a)(1)(D) by local educational agencies for—

“(A) school repair and renovation (and construction, in the case of an impacted local educational agency (as defined in subsection (a)(3)));

“(B) activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); and

“(C) technology activities that are carried out in connection with school repair and renovation, including the activities described in subclauses (I) through (IV) of subsection (a)(3));

“(3) ADDITIONAL REPORTS.—Each entity receiving funds under subsection (a)(1)(A) of (B) shall submit to the Secretary, not later than December 31, 2003, a report on its uses of funds under this section, in such form and containing such information as the Secretary may require.

“(g) Applicability of Part B of IDEA.—If a local educational agency uses funds received for the purpose of school repair or renovation, including the activities described in subclauses (I) through (IV) of subsection (a)(3)), then such funds may not be included in such form and containing such information as the Secretary may require.

“(h) Appropriability of Part B of IDEA.—If a local educational agency uses funds received for the purpose of school repair or renovation, including the activities described in subclauses (I) through (IV) of subsection (a)(3)), then such funds may not be included in such form and containing such information as the Secretary may require.

“(i) Participation of Private Schools.—

“(1) IN GENERAL.—Section 6062 shall apply to subsection (b)(2) in the same manner as it applies to activities under title VI, except that—

“(A) such section shall not apply with respect to the title to any real property or contractual arrangements with assistance provided under this section;

“(B) the term ‘services’ as used in section 6062 with respect to funds under this section shall be provided only to private, nonprofit, elementary or secondary schools with a rate of child poverty of at least 40 percent and may include for purposes of subsection (b)(2) only—

“(i) modifications of school facilities necessary to meet the standards applicable to public schools under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(ii) modifications of school facilities necessary to meet the standards applicable to public schools under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

“(iii) asbestos abatement or removal from school facilities; and

“(C) notwithstanding the requirements of section 6062(b), expenditures for services provided using funds made available under subsection (b)(2) shall be considered equal for purposes of expenditure limits if the per-pupil expenditures for services described in subparagraph (B) for students enrolled in private nonprofit elementary and secondary schools with a rate of child poverty of at least 40 percent are consistent with the per-pupil expenditures under this section for children enrolled in the public schools in the school district of the local educational agency receiving funds under this section.

“(2) Remaining Funds.—If the expenditure for services described in paragraph (1)(B) is less than the amount calculated under paragraph (1)(C) because of insufficient need for such services, the remaining funds shall be available to the local educational agency for renovation, including the activities described in subclauses (I) through (IV) of subsection (a)(3));

“(3) Application.—If any provision of this section, or the application thereof, to any person or circumstances is judicially determined to exceed the applicability of the remainder of the section and the application to other persons or circumstances shall not be affected thereby.

“(j) Definitions.—For purposes of this section:

“(1) Charter School.—The term ‘charter school’ has the meaning given such term in section 10301(1).

“(2) Poor Children and Child Poverty.—The terms ‘poor children’ and ‘child poverty’ refer to individuals of low, inclusive, who are from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant (42 U.S.C. 9902(2))) applicable to a family of the size involved for the most recent fiscal year for which data satisfactory to the Secretary are available.

“(3) Rural Local Educational Agency.—The term ‘rural local educational agency’ means a local educational agency that the State determines is located in a rural area using objective data and a commonly employed definition of the term ‘rural’.

“(4) State.—The term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

“(5) Authorization of Appropriations.—There is authorized to be appropriated an amount not to exceed $1,600,000,000 for each fiscal year 2002 through 2006.

“CHAPTER 2—SCHOOL CONSTRUCTION

“SEC. 321. SHORT TITLE.

“This chapter may be cited as the ‘America’s Better Classrooms Act of 2001’.

“SEC. 322. EXPANSION OF INCENTIVES FOR PUBLIC SCHOOLS.

“(a) In General.—Section 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subchapter:
(D) December 15. 

Such term includes the last day on which the bond is outstanding.

(e) OTHER DEFINITIONS.—For purposes of this section—

(1) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning provided in section 6852(b) of the Elementary and Secondary Education Act of 1965. Such term includes the local educational agency that serves the District of Columbia, but does not include any other State agency.

(2) BOND.—The term 'bond' includes any obligation.

(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

(4) PUBLIC SCHOOL FACILITY.—The term 'public school facility' shall not include—

(A) any stadium or other facility primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public, or

(B) any facility which is not owned by a State or local government or any agency or instrumentality of a State or local government.

(f) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

(g) REGULATED INVESTMENT COMPANIES.—If any qualified public school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be treated as includible in the gross income of shareholders of such company under procedures prescribed by the Secretary.

(h) REGULATION.—Under regulations prescribed by the Secretary—

(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified public school modernization bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

(2) CREDITS MAY BE STRIPPED.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified public school modernization bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

(i) TREATMENT FOR ESTABLISHED TAX PURPOSES.—For purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified public school modernization bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

(j) CREDIT MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and resale agreements.

(k) REPORTING.—Receipts of public school modernization bonds shall be reported in the reports required under section 149(e).

(l) TERMINATION.—This section shall not apply to any bond issued after September 30, 2006.

SEC. 1400G. QUALIFIED SCHOOL CONSTRUCTION BONDS.

(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—For purposes of this subchapter, the term 'qualified school construction bond' means any bond issued as part of an issue if—

(1) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue.

(2) the qualified school construction bond is issued by a State or local government within the jurisdiction of which such school is located,

(3) the issuer designates such bond for purposes of this section to be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue does not exceed 15 years,

(4) if such issuer is a large local educational agency (as defined in subsection (b) and 6655, the credit allowed by this section shall be allowed to the person who has attained age 5 but not age 18 for the most recent fiscal year ending before such calendar year. The limitation amount allocated to a State under the preceding sentence shall be allocated by the Secretary to issuers within such State and such allocations may be made only if there is an approved State application.

(5) MINIMUM ALLOCATIONS TO STATES.—

(A) IN GENERAL.—The Secretary shall adjust the allocations under this subsection for any fiscal year, so that the minimum percentage described in section 1400J shall apply to each State. Such adjustment shall be based on—

(i) the results of a recent publicly-available survey undertaken by the State with the involvement of local education officials, numbers of the public school students (for school construction and management) of such State's needs for public school facilities, including descriptions of—

(1) health and safety problems at such facilities,

(2) the capacity of public schools in the State to house projected enrollments, and

(3) the extent to which the public schools in the State offer the physical infrastructure needed to provide a high-quality education to all students, and

(B) ALLOCATION FORMULA.—For purposes of this section to address the needs identified under subparagraph (A), including a description of

(1) ensure that the needs of both rural and urban areas will be recognized,

(2) give highest priority to local educational agencies with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

(3) ensure that its allocation under this subsection is used on a first-come, first-served basis, and not supplant, the amount of school construction, rehabilitation, and repair in the State that would have occurred in the absence of such funding.

Any allocation under paragraph (1) by a State shall be binding if such State reasonably determined that the allocation was in accordance with the plan approved under this paragraph.

(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among local educational agencies based on the percentage of the State's need for public school construction, rehabilitation, and repair in the State that would have occurred in the absence of such funding.

(3) LOCAL EDUCATIONAL AGENCY.—For purposes of this section, the term 'local educational agency' means—

(A) any educational agency if such agency is located in a State and such State is approved by the Secretary of Education and which includes—

(i) the capacity of public schools in the State to house projected enrollments, and

(ii) the extent to which the public schools in the State offer the physical infrastructure needed to provide a high-quality education to all students, and

(iii) the extent to which the public schools in the State offer the physical infrastructure needed to provide a high-quality education to all students, and

(iv) ensure that the needs of both rural and urban areas will be recognized,

(v) give highest priority to local educational agencies with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

(vi) ensure that its allocation under this subsection is used on a first-come, first-served basis, and not supplant, the amount of school construction, rehabilitation, and repair in the State that would have occurred in the absence of such funding.

Any allocation under paragraph (1) by a State shall be binding if such State reasonably determined that the allocation was in accordance with the plan approved under this paragraph.

(3) ALLOCATION OF UNUSED LIMITATION TO OTHER STATES.—

(4) LARGE LOCAL EDUCATIONAL AGENCY.—For purposes of this section, the term 'large local educational agency' means—

(1) the aggregate amount face for a calendar year (or for any period of a calendar year which is less than a calendar year) shall not exceed $7,000,000,000, and

(2) the aggregate amount face for a calendar year which is less than a calendar year shall be allocated among large local educational agencies in such State on the basis of the respective amounts each such agency received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

(5) ALLOCATIONS TO CERTAIN POSSESSIONS.—

(1) IN GENERAL.—No less than an amount equal to such State's minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

(2) MINIMUM PERCENTAGE.—A State's minimum percentage for any calendar year is the minimum percentage described in section 121d(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

(6) ALLOCATIONS TO CERTAIN POSSESSIONS.—

(1) IN GENERAL.—No less than an amount equal to such State's minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

(2) MINIMUM PERCENTAGE.—A State's minimum percentage for any calendar year is the minimum percentage described in section 121d(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

(6) ALLOCATIONS TO CERTAIN POSSESSIONS.—

(1) IN GENERAL.—No less than an amount equal to such State's minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

(2) MINIMUM PERCENTAGE.—A State's minimum percentage for any calendar year is the minimum percentage described in section 121d(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

(6) ALLOCATIONS TO CERTAIN POSSESSIONS.—

(1) IN GENERAL.—No less than an amount equal to such State's minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

(2) MINIMUM PERCENTAGE.—A State's minimum percentage for any calendar year is the minimum percentage described in section 121d(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

(6) ALLOCATIONS TO CERTAIN POSSESSIONS.—

(1) IN GENERAL.—No less than an amount equal to such State's minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

(2) MINIMUM PERCENTAGE.—A State's minimum percentage for any calendar year is the minimum percentage described in section 121d(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

(6) ALLOCATIONS TO CERTAIN POSSESSIONS.—

(1) IN GENERAL.—No less than an amount equal to such State's minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

(2) MINIMUM PERCENTAGE.—A State's minimum percentage for any calendar year is the minimum percentage described in section 121d(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.
“(A) among the 100 local educational agencies with the largest numbers of children aged 5 through 17 from families living below the poverty level, as determined by the Secretary; and in particular need of assistance, based on a low level of resources for school construction, a high level of enrollment growth, or other such factors as the Secretary deems appropriate.

(5) APPROVED LOCAL APPLICATION.—For purposes of paragraph (1), the term ‘approved local application’ means an application which is approved by the Secretary of Education and which includes—

(A) the results of a recent publicly-available survey (undertaken by the local educational agency or the State with the involvement of school officials, members of the public, and experts in school construction and management) of such agency’s needs for public school facilities, including descriptions of—

(i) the overall condition of the local educational agency’s school facilities, including health and safety problems,

(ii) the capacity of the agency’s schools to house projected enrollments, and

(iii) the extent to which the agency’s schools offer the physical infrastructure needed to provide a high-quality education to all students,

(B) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), and

(C) a description of how the local educational agency will use its allocation under this subsection for purposes of subparagraph (A), and

(6) SPECIAL RULES RELATING TO ARBITRAGE.—

(1) IN GENERAL.—A bond shall not be treated as having been issued in the qualified zone academy (including state-of-the-art technology and vocational equipment),

(ii) technical assistance in developing curriculum and instruction for low-performing teachers in order to promote appropriate market driven technology in the classroom,

(iii) services of employees as volunteer mentors,

(iv) internships, field trips, or other educational opportunities outside the academy for students,

(v) any other property or service specified by the local educational agency,

(3) QUALIFIED ZONE ACADEMY.—The term ‘qualified zone academy’ means any public school (or academic program within a public school) which is established by and operated under the supervision of a local educational agency to provide education (as of the date of issuance of the issue) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the School Lunch Program established under the National School Lunch Act.

(4) QUALIFIED PURPOSE.—The term ‘qualified purpose’ means, with respect to any qualified zone academy—

(A) constructing, rehabilitating, or repairing the public school facility in which the academy is established,

(B) acquiring the land on which such facility is to be constructed with part of the proceeds of such issue,

(C) providing equipment for use at such academy,

(D) developing course materials for education to be provided at such academy, and

(E) training teachers and other school personnel in such academy.

(5) LIMITATIONS ON AMOUNT OF BONDS DESIGNATED.—

(1) IN GENERAL.—There is a national zone academy bond limitation for each calendar year. Such limitation shall be—

(A) $400,000,000 for 1999,

(B) $400,000,000 for 2000,

(C) $400,000,000 for 2001,

(D) $1,400,000,000 for 2002,

(E) $1,400,000,000 for 2003, and

(F) except as provided in paragraph (3), zero after 2003.

(2) ALLOCATION OF LIMITATION.—

(A) ALLOCATION AMONG STATES.—

(i) 1999, 2000, and 2001 LIMITATIONS.—The national zone academy bond limitations for calendar years 1999, 2000, and 2001 shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget).

(ii) LIMITATION AFTER 2001.—The national zone academy bond limitation for any calendar year after 2001 shall be allocated by the Secretary among the States in proportion to the respective amounts each such State received for Basic Grants under subpart A of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

(3) ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.—The limitation amount allocated to a State under subparagraph (A) shall be allocated by the State to qualified zone academies within such State.

(C) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be issued under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under subparagraph (B) for such calendar year.

(5) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

(A) the limitation amount under this subsection for any State, or

(B) the amount of bonds issued during such year which are designated under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under subparagraph (B) for such calendar year.

(6) EARNINGS ON PROCEEDS.—Any earnings on proceeds during the period the proceeds will be spent with due diligence for such purpose.
"(8) REPORTING OF CREDIT ON QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts qualified as gross income under section 1400F(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 1400F(d)(2)).

"(B) CONFORMING AMENDMENTS.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, (subsections (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (J), (K), and (L).

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.

"(c) CONFORMING AMENDMENTS.—

(1) Subchapter U of chapter 1 of such Code is amended by striking part IV, by redesignating section 1397F as section 1397E.

(2) The table of subchapters for chapter 1 of such Code is amended by adding at the end the following new item:

"Subchapter X. Public school modernization provisions."

(3) The table of parts of subchapter U of chapter 1 of such Code is amended by striking the last 2 items and inserting the following item:

"Part IV. Regulations."

"(d) PROVISIONAL DATING.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to obligations issued after December 31, 2001.

(2) REPEAL OF RESTRICTION ON ZONE ACADEMY BOND HOLDERS.—In the case of bonds to which section 1397E of the Internal Revenue Code of 1986 (as in effect before the date of the enactment of this Act) applies, the limitation of such section to eligible taxpayers (as defined in subsection (d)(6) of such section) shall not apply after the date of the enactment of this Act.

SEC. 323. APPLICATION OF CERTAIN LABOR STANDARDS ON CONSTRUCTION PROJECTS TO QUALIFIED PUBLIC SCHOOL MODERNIZATION PROJECTS. Section 439 of the General Education Provisions Act (relating to labor standards) is amended—

(1) by inserting "(a)" before "All laborers and mechanics ."

(2) by adding at the end the following:

"(b)(1) For purposes of this section, the term 'applicable program also includes the qualified zone academy bond provisions enacted under section 226 of the Taxpayer Relief Act of 1997 and the program established by section 522 of the America's Better Classroom Act of 2001.

(2) A State or local government participating in a program described in paragraph (1) shall—

(A) in the awarding of contracts, give priority to contractors with substantial numbers of employees residing in the local education area to be served by the school being constructed or substantially rehabilitated; and

(B) include in the construction contract for such school a requirement that the contractor give priority in hiring new workers to individuals residing in such local education area.

(3) In the case of a program described in paragraph (1), nothing in this subsection or subsection (d) may be construed to deny any tax credit allowed under such program.

If amounts are required to be withheld from contractors to pay wages to which workers are entitled, such amounts shall be treated as expended for construction purposes in determining whether the requirements of such section have been met.

SEC. 324. IMPLEMENTATION AND TRAINING ACTIVITIES RELATING TO CONSTRUCTION OR RECONSTRUCTION OF PUBLIC SCHOOL FACILITIES.

(a) IN GENERAL.—Section 134 of the Workforce Investment Act of 1998 (29 U.S.C. 2864) is amended by adding at the end the following:

"(1) LOCAL EMPLOYMENT AND TRAINING ACTIVITIES RELATING TO CONSTRUCTION OF PUBLIC SCHOOL FACILITIES—

'(1) In general.—In order to provide training services related to the construction or reconstruction of public school facilities receiving funding assistance under an applicable program, each State shall establish a specialized program of training meeting the following requirements:

'(A) The specialized program provides training for jobs in the construction industry;

'(B) The program provides trained workers for projects for the construction or reconstruction of public school facilities receiving funding assistance under an applicable program.

'(C) The program ensures that skilled workers residing in the area to be served by the school being constructed or substantially rehabilitated will be able to avail themselves for the construction or reconstruction work.

'(2) COORDINATION.—The specialized program established under paragraph (1) shall be integrated with other activities under this Act, with the activities carried out under the National Apprenticeship Act of 1937 by the State Apprenticeship Council or the Bureau of Apprenticeship and Training in the Department of Labor, as appropriate, and with activities carried out under the Carl D. Perkins Vocational and Technical Education Act of 1968. Nothing in this subsection shall be construed to require services duplicative of those referred to in the preceding sentence.

'(3) APPLICABLE PROGRAM.—In this section, the term 'applicable program has the meaning given the term in section 439(b) of the General Education Provisions Act (relating to labor standards).

(b) STATE PLAN.—Section 112(b)(17)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2222(b)) is amended—

(1) in clause (iii), by striking "and" at the end;

(2) by redesigning clause (iv) as clause (v) and;

(3) by inserting after clause (iii) the following:

"(v) how the State will establish and carry out the program of training under section 134(f) and".

SEC. 325. INDIAN SCHOOL CONSTRUCTION.

(a) DEFINITIONS.—In this section:

"(1) BUREAU.—The term 'Bureau' means the Bureau of Indian Affairs of the Department of Interior.

"(2) INDIAN.—The term 'Indian' means any individual of any of the Indian tribes designated in accordance with section 1803(a) of title 25, United States Code.

"(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

"(4) TRIBAL SCHOOL.—The term 'tribal school' means an elementary school, secondary school, or dormitory that is operated by a tribal organization or the Bureau for the education of Indian children and that receives Federal financial assistance for its operation under an appropriation for the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 452k) or any qualified tribal school modernization bonds to provide funding for the construction, rehabilitation, or repair of tribal schools, to fund the advance planning and design thereof.

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—To be eligible to issue any qualified tribal school modernization bond under the program under paragraph (1), a tribe shall—

(i) prepare and submit to the Secretary a plan that meets the requirements of subparagraph (B);

(ii) provide for quarterly and final inspection of the project by the Bureau; and

(iii) pledge that the bond or bonds issued by such bond will be used primarily for elementary and secondary educational purposes for no less than the period such bond remains outstanding.

"(B) PLAN OF CONSTRUCTION.—A plan of construction meets the requirements of this subparagraph if such plan includes—

(i) contains a description of the construction to be undertaken with funding provided under a qualified tribal school modernization bond,

(ii) demonstrates that a comprehensive survey has been undertaken concerning the construction needs of the tribal school involved,

(iii) contains assurances that funding under the bond will be used only for the activities described in the plan,

(iv) contains response to the evaluation criteria contained in Instructions and Application for Replacement School Construction, Revision 5, dated February 6, 1999; and

(v) contains any other reasonable and related information determined appropriate by the Secretary.

"(c) PRIORITY.—In determining whether a tribe is eligible to participate in the program under this subsection, the Secretary shall give priority to tribes that, as demonstrated by the relevant plans of construction, will fund projects—

(i) described in the Education Facilities Replacement Construction Priorities List as of the date of the Bureau of Indian Affairs (65 Fed. Reg. 6423-6424);

(ii) described in any subsequent priorities list published in the Federal Register; or

(iii) which meet the criteria for ranking schools as described in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999.

"(d) ADVANCE PLANNING AND DESIGN FUNDING.—A tribe may propose in its plan of construction to receive advance planning and design funding from the tribal school modernization escrow account established under paragraph (4)(c) an amount equal to the amount of such funds received from the escrow account.

"(e) PERMISSIBLE ACTIVITIES.—In addition to the use of funds permitted under paragraph (1), a tribe may use amounts received
through the issuance of a qualified tribal school modernization bond to—
(A) enter into and make payments under contracts with licensed and bonded architects, engineers, and construction firms in order to determine the needs of the tribal school and for the design and engineering of the school;
(B) enter into and make payments under contracts with financial advisors, underwriters, attorneys, trustees, and other professionals who would be able to provide assistance in issuing the escrow bonds; and
(C) carry out other activities determined appropriate by the Secretary.

(4) BOND TRUSTEE.—(A) IN GENERAL.—Notwithstanding any other provision of law, any qualified tribal school modernization bond issued by a tribe under this subsection shall be subject to a trust agreement between the tribe and a trustee.

(B) TRUSTEE.—Any bank or trust company that meets requirements established by the Secretary may be designated as a trustee under subparagraph (A).

(C) CONTENT OF TRUST AGREEMENT.—A trust agreement between the tribe and a trustee under this subsection shall—
(i) act as a repository for the proceeds of the bond;
(ii) make payments to bondholders;
(iii) receive, as a condition of the issuance of such bond from a local financial institution or an independent financial advisor, underwriter, attorney, or trustee as described in paragraph (3);
(iv) invest the funds received pursuant to clause (iii) as provided by such clause; and
(v) hold and invest the funds in a segregated fund or account under the agreement, which fund or account shall be applied solely to the payment of the costs of items described in paragraph (3).

(D) REQUIREMENTS FOR MAKING DIRECT PAYMENTS.—
(i) IN GENERAL.—Notwithstanding any other provision of law, the trustee shall make any payment referred to in subparagraph (C)(v) in accordance with requirements that the tribe prescribe in the trust agreement entered into under subparagraph (C). Before making a payment to a contractor under subparagraph (C)(v), the trustee shall require an inspection of the project by an independent inspecting architect or engineer, to ensure the completion of the project.

(ii) CONTRACTS.—Each contract referred to in paragraph (i) shall specify, or be renegotiated to specify, that payments under the contract shall be made in accordance with this paragraph.

(5) PAYMENTS OF PRINCIPAL AND INTEREST.—
(A) PRINCIPAL.—No principal payments on any qualified tribal school modernization bond shall be required until the final, stated maturity of such bond, which stated maturity shall be within 15 years from the date of issuance. Upon the expiration of such period, the entire outstanding principal under the bond shall be payable and payable.

(B) INTEREST.—In lieu of interest on a qualified tribal school modernization bond there shall be awarded a tax credit under section 1400F of the Internal Revenue Code of 1986.

(6) BOND GUARANTEES.—
(A) IN GENERAL.—Payment of the principal portion of a qualified tribal school modernization bond issued under this subsection shall be guaranteed solely by amounts deposited with the trustee as described in paragraph (4)(C)(iii).

(B) ESTABLISHMENT OF ACCOUNT.—
(i) IN GENERAL.—Notwithstanding any other provision of law, any qualified tribal school modernization bond issued by a tribe under this subsection shall be subject to a trust agreement between the tribe and a trustee.

(ii) PAYMENTS.—The Secretary shall use any amounts deposited in the escrow account under clauses (i) and (iii) to make payments to bondholders and to the trustee appointed and acting pursuant to paragraph (4) to make payments described in paragraph (2)(D).

(iii) TRANSFERS OF EXCESS PROCEEDS.—Excess proceeds held under any trust agreement that are not needed for any of the purposes described in clauses (ii) and (v) of paragraph (4)(C) shall be transferred, from time to time, by the trustee for deposit into the tribal school modernization escrow account.

(7) LIMITATIONS.—
(A) OBLIGATION TO REPLY.—Notwithstanding any other provision of law, the principal portion of any qualified tribal school modernization bond issued under this subsection shall be repaid only to the extent of any escrowed funds furnished under paragraph (4)(C)(v). No qualified tribal school modernization bond issued by a tribe shall be an obligation of, nor shall payment of the principal thereof be guaranteed by, the United States.

(B) LAND AND FACILITIES.—Any land or facilities purchased or improved with amounts derived from qualified tribal school modernization bonds issued under this subsection shall not be mortgaged or used as collateral for such bonds.

(C) SALE OF BONDS.—No qualified tribal school modernization bonds may be sold at a purchase price equal to, in excess of, or at a discount from the par amount thereof.

(8) TREATMENT OF TRUST AGREEMENT BARNES.—Any amount invested in obligations issued by or guaranteed by the United States or in other assets as the Secretary of the Treasury may by regulation allow.

(9) EXPANSION OF INCENTIVES FOR TRIBAL SCHOOLS.—
(A) SEC. 1400J. CREDIT TO HOLDERS OF QUALIFIED TRIBAL SCHOOL MODERNIZATION BONDS.

(i) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—
(A) the sum of the regular tax liability (as determined under this section) with respect to such bond, and the regular tax liability (as determined under this section) with respect to any credit allowance date for a qualified tribal school modernization bond issued under this subsection, and
(B) the outstanding face amount of the bond (as of the date of issue of the bond) with respect to such bond determined under paragraph (b) of this section.

(ii) EXPANSION OF INCENTIVES.—For purposes of clause (i), the applicable credit rate shall be a rate equal to an average market yield (as of the date of issue of the bond) on outstanding long-term corporate obligations (as determined by the Secretary).

(B) SEC. 55. SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be the outstanding face amount of the bond (as of the date of issue of the bond) with respect to such bond determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

(C) LIMITATION BASED ON AMOUNT OF TAX.—
(i) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—
(A) the sum of the regular tax liability (as determined under this section) with respect to such bond, and the regular tax liability (as determined under this section) with respect to any credit allowance date for a qualified tribal school modernization bond issued under this subsection,
(B) the sum of the credits allowable under part IV of subchapter A (other than subparagraph (C) thereof, relating to refundable credits), and
(C) the sum of the credits allowable under part I of subchapter A (other than subparagraph (D) thereof, relating to refundable credits).

(ii) LIMITATION ON AMOUNT OF CREDIT.—
(A) IN GENERAL.—The term ‘qualified tribal school modernization bond’ means, subject to subparagraph (B), any bond issued as part of an issue under section 1400F of the Indian School Construction Act, as in effect on the date of the enactment of this section, if—
(i) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a school facility owned or operated by the tribe and such facility is to be constructed with part of the proceeds of such issue, and
(ii) such issue does not exceed 15 years.

(B) LIMITATION ON AMOUNT OF CREDIT.—
(i) NATIONAL LIMITATION.—There is a national qualified tribal school modernization bond limitation for each calendar year. Such limitation is—
(A) $200,000,000 for 2002,
(B) $200,000,000 for 2003, and
(C) $200,000,000 for 2004.

(ii) ALLOCATION OF LIMITATION.—The national qualified tribal school modernization bond 25% of the annual credit determined with respect to such bond.

(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified tribal school modernization bond is the product of—
(A) the applicable credit rate, multiplied by
(B) the outstanding face amount of the bond.

(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (1), the applicable credit rate shall be the rate determined under clause (v) of paragraph (2) of section 55, over a period of 3 months determined based on the portion of the 3-month period during which the bond is outstanding.

(4) E XEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be the outstanding face amount of the bond (as of the date of issue of the bond) with respect to such bond determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

(1) Subchapter XI—Tribal School Modernization Provisions

‘Sec. 1400J. Credit to holders of qualified tribal school modernization bonds.

‘Sec. 1400J. CREDIT TO HOLDERS OF QUALIFIED TRIBAL SCHOOL MODERNIZATION BONDS.

‘(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified tribal school modernization bond on a credit allowance date, he shall be allowed as a credit against the tax imposed by this chapter for the excess (if any) of the amount determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

‘(b) AMOUNT OF CREDIT.—

(i) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tribal school modernization bond is 25% of the annual credit determined with respect to such bond.

(ii) ANNUAL CREDIT.—The annual credit determined with respect to any qualified tribal school modernization bond is the product of—
(A) the applicable credit rate, multiplied by
(B) the outstanding face amount of the bond.

(iii) APPLICABLE CREDIT RATE.—For purposes of paragraph (ii), the applicable credit rate shall be the rate determined under clause (v) of paragraph (2) of section 55, over a period of 3 months determined based on the portion of the 3-month period during which the bond is outstanding.

(iv) LIMITATION.—The limitation is—
(A) $200,000,000 for 2002,
(B) $200,000,000 for 2003, and
(C) $200,000,000 for 2004.

(v) ALLOCATION OF LIMITATION.—The national qualified tribal school modernization bond limitation is—
(A) $200,000,000 for 2002,
(B) $200,000,000 for 2003, and
(C) $200,000,000 for 2004.'
obligation.

In the case of any such separation, the credit under this section shall be treated as allowed under paragraph (1), if the award to a local educational agency under this section is less than the starting salary for a new fully qualified teacher who is certified within the State, including teachers certified through State or local alternative routes, and who demonstrates the general knowledge, teaching skills, and subject matter knowledge required to teach in his or her content areas, that agency may use funds under this section for:

"(A) help pay the salary of a full- or part-time teacher hired to reduce class size, which may be in combination with other Federal, State, or local funds.

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the general knowledge, teaching skills, and subject matter knowledge required to teach in his or her content areas, that agency may use funds under this section for:

otherwise, the credit allowed by this section shall be treated as a credit allowable under part IV of subchapter A of this chapter.

(b) REPORTING.—Issuers of qualified tribal school modernization bonds shall submit reports similar to the reports required under section 149(e)."

(c) USE OF FUNDS.—

"(1) Purpose, intent, and general use.—The basic purpose and intent of this section is to reduce class size with fully qualified teachers. Each local educational agency that receives funds under this section shall use such funds to carry out effective approaches to reducing class size with fully qualified teachers who are certified within the State, including teachers certified through State or local alternative routes, and who demonstrates the general knowledge, teaching skills, and subject matter knowledge required to teach in his or her content areas, that agency may use funds under this section for:

"(1) Credit treated as allowed under paragraph (1), if the award to a local educational agency under this section is less than the starting salary for a new fully qualified teacher who is certified within the State, including teachers certified through State or local alternative routes, and who demonstrates the general knowledge, teaching skills, and subject matter knowledge required to teach in his or her content areas, that agency may use funds under this section for:

1. Recruiting (including through the use of signing bonuses, and other financial incentives), hiring, and training fully qualified regular and special education teachers (which may include hiring special education teachers to team-teach with regular teachers in classrooms that contain both children with disabilities and non-disabled children) and teaching aides of special needs children who are certified within the State, including teachers certified through State or local alternative routes, have a baccalaureate degree and demonstrate the general knowledge, teaching skills, and subject matter knowledge required to teach in their content areas; and

2. Providing professional development (which may include such activities as those described in section 2210, opportunities for teachers to attend workshops, in-service programs, and other activities, such as those made available during the summer months that provide intensive professional development in partnership with local educational agencies that provide professional development activities that promote retention and mentoring), to teachers, including special education teachers and teachers of special-needs children, in order to meet the needs of all instructional staff have the subject matter knowledge, teaching knowledge, and teaching skills necessary to teach effectively in the content area or the alternative route which they provide instruction, consistent with title II of the Higher Education Act of 1965.

2. Providing professional development (which may include such activities as those described in section 2210, opportunities for teachers to attend workshops, in-service programs, and other activities, such as those made available during the summer months that provide intensive professional development in partnership with local educational agencies that provide professional development activities that promote retention and mentoring), to teachers, including special education teachers and teachers of special-needs children, in order to meet the needs of all instructional staff have the subject matter knowledge, teaching knowledge, and teaching skills necessary to teach effectively in the content area or the alternative route which they provide instruction, consistent with title II of the Higher Education Act of 1965.

"(B) LIMITATION.—

"(1) General.—Except as provided under clause (ii), a local educational agency may use funds under this section for:

"(1) Credit treated as allowed under paragraph (1), if the award to a local educational agency under this section is less than the starting salary for a new fully qualified teacher who is certified within the State, including teachers certified through State or local alternative routes, and who demonstrates the general knowledge, teaching skills, and subject matter knowledge required to teach in his or her content areas, that agency may use funds under this section for:

"(A) help pay the salary of a full- or part-time teacher hired to reduce class size, which may be in combination with other Federal, State, or local funds.

"(A) help pay the salary of a full- or part-time teacher hired to reduce class size, which may be in combination with other Federal, State, or local funds.

"(A) help pay the salary of a full- or part-time teacher hired to reduce class size, which may be in combination with other Federal, State, or local funds.
shall make the award under subsection (b) to improve teacher quality, then the State
under this section to carry out professional
development.
under this section may be used to pay the salary of
teachers who are certified within the State
parents on its progress in reducing class size,
under this section shall publicly report to
ment.
students in each school year, the teacher is certified within
the Department of Education Appropriations
Act, 2000, if that State or local educational agency goal is 20 or fewer
children) may use funds received under this section—
(i) to make further class size reductions in grades kindergarten through 3;
(ii) to reduce class size in other grades; or
(iii) to carry out activities to improve
teacher quality including professional develop-
ment.
If a local educational agency has already reduced
class size in the early grades to 18 or fewer
children) to use funds provided under this section to carry out professional
development activities, including activities to improve teacher quality, then the State
shall award under the authority of subsection (b) to the local educational agency.
(3) SUPPLEMENT NOT SUPPLANT.—Each such agency shall use funds under this sec-
tion not to supplant, and not to supplement, State and local funds that, in the ab-
sence of such funds, would otherwise be spent for activities under this section.
(4) Local funds made available under this section may be used to increase
the salaries or provide benefits, other than participation in professional development and
enrichment programs, to teachers who are not hired under this section. Funds under this
section may be used to pay the salary of teachers hired under section 307 of the De-
partment of Education Appropriations Act, 1999, or under section 310 of the Department
(d) REPORTING.—
(1) IN GENERAL.—Each State receiving funds under this section shall report on ac-
tivities in the State under this section, consistent with subsection (b).
(2) REPORTING TO PARENTS.—Each State and local educational agency receiving funds
under this section shall publicly report to parents on its progress in reducing class size,
increasing the percentage of classes in core academic areas taught by fully qualified
teachers who are certified within the State and demonstrate competency in the content
areas in which they teach, and on the impact that hiring additional highly qualified teach-
ers and reducing class size, has had, if any, on increasing student academic achieve-
ment.
(3) PROVISION OF QUALIFICATION TO PAR-
ents.—Each school receiving funds under this section shall provide to parents, upon request, the professional qualifications of their child’s teacher.
(e) PROFESSIONAL DEVELOPMENT.—If a local educational agency uses funds made available under this section for professional development activities, the agency shall en-
sure for the equitable participation of private primary or elementary and secondary
schools in such activities. Section 6402 shall not apply to other activities under this sec-
in (i) LIMITATION ON ADMINISTRATIVE COSTS.—A local educational agency that re-
cieves funds under this section may use not
more than 3 percent of such funds for local administrative
expenses.
(g) APPLICATION.—Each local educational agency that receives funds under this section
shall carry out in the application required under section 6303 a description of the
agency’s program to reduce class size by hiring additional highly qualified teachers.
(h) NO USE OF FUNDS FOR PAYMENTS TO PAR-
TICULAR TEACHERS.—No funds under this sec-
tion may be used to pay the salary of
a teacher hired with funds under section 307 of the Department of Education Appropriations
Act, 1999, unless the teacher was certified within the State in the school year, the teacher is certified within the State (which may include certification through State or local alternative routes) and demonstrating in the subject areas in which he or she teaches.
(i) NOTIFICATION.—Not later than 30 days after the date of the enactment of this sec-
tion, the Secretary shall provide specific no-
tification to each local educational agency eligible to receive funds under this part re-
garding the flexibility provided under subsection (c)(2)(B)(ii) and the ability to use
such funds to carry out activities described in subsection (c)(2)(A)(iii).
(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—
(1) $2,311,000,000 for fiscal year 2002;
(2) $3,012,015,447 for fiscal year 2003;
(3) $3,706,523,170 for fiscal year 2004; and
(4) $4,011,030,983 for fiscal year 2005.
SEC. 342. READING EXCELLENCE.
Part C of title II (20 U.S.C. 6661 et seq.) is amended—
(1) by inserting after the part heading the fol-
lowing:
‘‘SEC. 325. SHORT TITLE.
‘‘This part may be cited as the ‘‘Reading
Excellence Act.’’’
(2) by redesignating subsections (d) and (e)
as subsections (d) and (e) respectively; and
(3) by striking ‘‘section 2253 shall use’’ in (iii)
and inserting ‘‘section 2253 shall use’’.
SEC. 351. SHORT TITLE.
This chapter may be cited as the ‘‘Training for Technology Act of 2001.’’
SEC. 352. LOCAL APPLICATIONS FOR SCHOOL TECHNOLOGY GRANTS.
Section 3135 (20 U.S.C. 6845) is amended—
(1) in the first sentence, by inserting ‘‘(a) IN GENERAL.—’’ before ‘‘Each local ed-
ucational agency’’;
(2) in subsection (a) (as so redesignated) —
(A) in paragraph (3), by striking ‘‘; and’’ and
inserting a semicolon;
(B) in paragraph (4), by striking the period
and inserting ‘‘; and’’; and
(C) by inserting after paragraph (4) the fol-
lowing:
(5) demonstrate the manner in which the local educational agency will utilize at least 30 percent of the amounts provided to the agency under this subpart in each fiscal year to provide in-service teacher training, or that the agency is using at least 30 percent of its total technology funding available to the agency from all sources (including Fed-
eral, State, and local sources) to provide in-
service teacher training;
(3) by redesigning subsections (d) and (e) as subsections (b) and (c) respectively; and
(4) in subsection (c) (as so redesignated), by striking ‘‘subsection (e)’’ and inserting ‘‘sub-
section (a)’’.
SEC. 353. TEACHER PREPARATION.
Part A of title III (20 U.S.C. 6811 et seq.) is amended by adding at the end the following:
‘‘Subpart 5—Preparing Tomorrow’s Teachers
To Use Technology
‘‘SEC. 3161. PURPOSE; PROGRAM AUTHORITY.
‘‘(a) PURPOSE.—It is the purpose of this subpart to assist consortia of public and pri-
vate entities in carrying out programs that prepare prospective teachers to use technology effectively in their classrooms.
‘‘(b) PROGRAM AUTHORITY.—
‘‘(1) IN GENERAL.—The Secretary is author-
ized, through the Office of Educational Tech-
nology, to award grants, contracts, or coop-
erative agreements on a competitive basis to eligible applicants in order to assist them in developing or redesigning teacher prepara-
tion programs to enable prospective teachers to use technology effectively in their class-
rooms.
‘‘(2) Period of award.—The Secretary may award grants, contracts, or cooperative agreements under this subpart for a period of not more than 5 years."
SEC. 3162. ELIGIBILITY.  
(a) ELIGIBLE APPLICANTS.—In order to receive an award under this subpart, an applicant shall be a consortium that includes—
(1) at least 1 institution of higher education that offers a baccalaureate degree and prepares teachers for their initial entry into teaching;
(2) at least 1 State educational agency or local educational agency; and
(3) 1 or more of the following entities:
(A) one or more of higher education (other than the institution described in paragraph (1));
(B) a school or department of education at an institution of higher education;
(C) a school or college of arts and sciences at an institution of higher education;
(D) a professional association, foundation, museum, for-profit business, public or private nonprofit organization, community-based organization, or other entity with the capacity to contribute to the technology-related reform of teacher preparation programs.
(b) APPLICATION REQUIREMENTS.—In order to receive an award under this subpart, an eligible applicant shall submit an application to the Secretary at such time, and containing such information, as the Secretary may require. Such application shall include—
(1) a description of the proposed project, including how the project would ensure that individuals participating in the project would be prepared to use technology to create learning environments conducive to pre-school learning; and
(2) a description of how the proposed project would be continued once the Federal project has ended.
(c) MATCHING REQUIREMENTS.—
(1) IN GENERAL.—The Federal share of the cost of any project funded under this subpart shall not exceed 50 percent. Except as provided in paragraph (2), the non-Federal share of such project may be in cash or in kind, fairly evaluated, including services.
(2) ACQUISITION OF EQUIPMENT.—Not more than 10 percent of the funds awarded for a project under this subpart may be used to acquire equipment, networking capabilities, or infrastructure to carry out the project.
(d) USE OF FUNDS.—
(a) REQUIRED USES.—A recipient shall use funds under this subpart for—
(1) creating programs that enable prospective teachers to acquire advanced technology to create learning environments conducive to preparing all students, including girls and students who have economic and educational disadvantages, to achieve challenging State and local content and student performance standards; and
(2) evaluating the effectiveness of the project.
(b) PERMISSIBLE USES.—A recipient may use funds under this subpart for activities, described in its application, that carry out the purposes of this subpart, such as—
(1) developing and implementing high-quality teacher preparation programs that enable educators to teach technology;  
(2) integrating a variety of technologies into the classroom in order to expand students’ knowledge;  
(3) evaluating educational technologies and their potential for use in instruction; and
(4) helping students develop their own technological skills and digital learning environments;  
(5) developing alternative teacher development paths that provide elementary schools and secondary schools with well-prepared, technology-proficient educators;  
(6) developing performance-based standards and aligned assessments to measure the capacity of prospective teachers to use technology effectively in their classrooms; and
(7) providing technical assistance to other teacher preparation programs;  
(8) developing and disseminating resources and information in order to assist institutions of higher education to prepare teachers to use technology effectively in their classrooms; and
(9) subject to section 354(c), acquiring equipment, networking capabilities, and infrastructure to carry out the project.
SEC. 3164. AUTHORIZATION OF APPROPRIATIONS.—
For purposes of carrying out this subpart, there is authorized to be appropriated $150,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years.
SEC. 354. PROFESSIONAL DEVELOPMENT.  
Section 3141(b)(2)(A) (20 U.S.C. 6801(b)(2)(A)) is amended—
(1) in clause (i), by striking “and” at the end;
(2) in clause (ii)(V), by adding “and” after the semicolon; and
(3) by adding at the end following—
“(iii) the provision of incentives, including bonus payments, to recognize educators who achieve the National Education Technology Standards, or an information technology certification that is directly related to the curriculum or content area in which the teacher prepares students.”

TITLE V—INDIVIDUALS WITH DISABILITIES EDUCATION ACT  
SEC. 401. FULL FUNDING OF IDEA.  
(a) FULL FUNDING.—In addition to any amounts available through grants from the general fund of the Treasury, there are appropriated to carry out part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), $2,000,000,000 for fiscal year 2003.
(b) SENSE OF THE SENATE.—(1) FINDINGS.—The Senate makes the following findings:
(A) Congress, in enacting Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) (referred to in this subsection as “IDEA”), was enacted in 1975, as many as 4,000,000 children were denied appropriate educational services. Few disabled preschoolers received services. 1,000,000 children with disabilities were excluded from public school. Courts ruled this practice was unconstitutional.
(B) States asked the Federal Government to help them fund educational services to disabled children. Congress responded by enacting IDEA, which requires States to provide appropriate educational services. Few disabled preschoolers received services. 1,000,000 children with disabilities were excluded from public school. Courts ruled this practice was unconstitutional.
(C) States asked the Federal Government to help them fund educational services to disabled children. Congress responded by enacting IDEA, which requires States to provide appropriate educational services. Few disabled preschoolers received services. 1,000,000 children with disabilities were excluded from public school. Courts ruled this practice was unconstitutional.
(D) States asked the Federal Government to help them fund educational services to disabled children. Congress responded by enacting IDEA, which requires States to provide appropriate educational services. Few disabled preschoolers received services. 1,000,000 children with disabilities were excluded from public school. Courts ruled this practice was unconstitutional.
(E) The cost of providing special education has increased significantly for school districts across the country. The Federal Government currently provides about 15 percent of the national average per pupil expenditure for IDEA students.
(F) IDEA will be up for reauthorization for fiscal year 2003.

SEC. 501. INCREASE IN MAXIMUM PELL GRANT.  
(a) FINDINGS.—Congress makes the following findings:
(1) A college education has become increasingly important, not just to the individual beneficiary, but to the nation as a whole. The growth and continued expansion of the nation’s economy is heavily dependent on an educated and highly skilled workforce.
(2) The opportunity to gain a college education is important to the nation as a means to help advance the American ideals of progress and equality.
(3) The Federal Government plays an invaluable role in making student financial aid available to ensure that qualified students are able to attend college, regardless of their financial means. Since the inception of the Pell Grant program in 1973, nearly 80,000,000 grants have helped low- and middle-income students go to college, enrich their lives, and become productive members of society.
(4) Despite these gains, many high school graduates continue on to higher education. This degree of college participation would not exist without the Federal investment in the Pell Grant program. Nearly 25 percent of low- and middle-income students go to college, enrich their lives, and become productive members of society.
(b) Effectiveness of the Pell Grant program is important if college is to remain an achievable part of the American dream.
For purposes of this section, and sections 911, 931, and 933, and the applicable dollar amount for any taxable year shall be determined as follows:

(a) ALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable dollar amount for the adjusted gross income of the taxpayer for the taxable year.

(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph equals the amount which bears the same ratio to the amount which would be so taken into account as—

(A) the excess of—

(i) the taxpayer’s modified adjusted gross income for any taxable year during the period for which a deduction is allowable to the taxpayer, as determined under paragraph (5), over

(ii) $53,000, for a taxable year beginning during the period beginning on January 1, 2016, and ending on December 31, 2020.

(B) $15,000.

(c) QUALIFIED HIGHER EDUCATION EXPENSES.—

(1) IN GENERAL.—The term ‘qualified higher education expenses’ means tuition and fees charged by an educational institution and required for the enrollment or attendance of the individual.

(2) LIMITATION ON TAXABLE YEAR OF DEDUCTION.—

(A) IN GENERAL.—A deduction shall be allowed under subsection (a) for qualified higher education expenses paid during the taxable year only to the extent such expenses are in connection with enrollment at an institution of higher education during the taxable year.

(B) CERTAIN PREPAYMENTS ALLOWED.—Subparagraph (A) shall not apply to qualified higher education expenses paid during the taxable year if such expenses are in connection with an academic term that begins during such taxable year or during the first 3 months of the next taxable year.

(C) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced by the amount of any grant, loan, scholarship, or tuition reduction taken into account under subsection (b) by the sum of the amounts received with respect to such individual for the taxable year as—

(i) a ‘qualified scholarship’ (as defined in section 117) which is not includable in gross income,

(ii) an educational assistance allowance under chapter 31, 32, 34, or 35 of title 38, United States Code, or

(iii) a payment (other than a gift, bequest, devise, or inheritance) within the meaning of section 102(a) for educational expenses, or attributable to enrollment at an eligible educational institution, which is exempt from income taxation by any law of the United States.

(D) DEDUCTION ALLOWED FOR MARRIED INDIVIDUALS FILE SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer’s spouse file a joint return for the taxable year.

(E) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of title 26 or chapter 1 of subchapter A of chapter 1 of the Internal Revenue Code of 1986.

(F) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to carry out this section, including regulations requiring record-keeping and information reporting.

(G) SECT. 221. HIGHER EDUCATION EXPENSES.

(a) DEDUCTION ALLOWED.—Section 62(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended by inserting after paragraph (17) the following:

‘‘(22) Higher education expenses.—’’

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a)(8) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (17) the following:

‘‘(23) Higher education expenses.—’’

(c) CONFORMING AMENDMENT.—The table of sections for part VII of chapter 1 of the Internal Revenue Code of 1986 is amended by adding the following:

‘‘Sec. 222. Higher education expenses.

Sec. 223. Cross-reference.’’

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 2001.

By Mr. DASCHLE (for himself, Mr. BAUCUS, Mr. DORGAN, Mr. REID, Mr. DURBIN, Mr. ROCKEFELLER, Mrs. CLINTON, Mr. KERRY, Mr. SCHUMER, Mr. DODD, and Mr. CONRAD): S. 9. A bill to amend the Internal Revenue Code of 1986 to provide tax relief, and for other purposes; to the Committee on Finance:

WORKING FAMILY TAX RELIEF ACT OF 2001

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

SECTION 1. SHORT TITLE; ETC.

(a) Short Title—This Act may be cited as the “Working Family Tax Relief Act of 2001”.

(b) Amendment of 1986 Code—Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) Table of Contents—The table of contents for this Act as follows:

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<td>601</td>
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<td>601</td>
</tr>
<tr>
<td>403</td>
<td>4</td>
<td>403</td>
</tr>
<tr>
<td>501</td>
<td>5</td>
<td>501</td>
</tr>
</tbody>
</table>

TITLE I—MARRIAGE PENALTY TAX RELIEF

Sec. 101. Optional separate calculations.

Sec. 102. Increase in amount of unified credit against estate and gift taxes.

Sec. 103. Increase in qualified family-owned business interest deduction amount.

TITLE II—ESTATE TAX RELIEF

Sec. 104. Expanding the dependent care tax credit.

Sec. 105. Minimum credit allowed for stay-at-home parents.

Sec. 106. Credit made refundable.

Sec. 107. Incentives for Employer-Provided Child Care

Sec. 108. Allowance of credit for employer expenses for child care assistance.

TITLE III—TAX RELIEF FOR AFFORDABLE HIGHER EDUCATION

Sec. 109. Deduction for higher education expenses.

TITLE IV—TAX RELIEF FOR FAMILY CHOICES IN CHILD CARE

Subtitle A—Dependent Care Tax Credit

Sec. 110. Expanding the dependent care tax credit.

Sec. 111. Minimum credit allowed for stay-at-home parents.

Sec. 112. Credit made refundable.

Subtitle B—Incentives for Employer-Provided Child Care

Sec. 113. Allowance of credit for employer expenses for child care assistance.

TITLE V—TAX RELIEF FOR LONG-TERM CARE GIVERS

Sec. 114. Long-term care tax credit.

TITLE VI—TAX RELIEF FOR WORKING FAMILIES

Sec. 115. Increased earned income tax credit for 2 or more qualifying children.

Sec. 116. Simplification of definition of earned income.

Sec. 117. Simplification of definition of child dependent.

Sec. 118. Other modifications to earned income tax credit.

TITLE VII—TAX RELIEF FOR SELF-EMPLOYED INDIVIDUALS

Sec. 119. Deduction for health insurance costs of self-employed individuals increased.

TITLE VIII—TAX RELIEF FOR EXPANDING PENSION AVAILABILITY

Sec. 120. Nonrefundable credit to certain individuals for elective deferrals and IRA contributions.

Sec. 121. Credit for qualified pension plan contributions of small employers.

Sec. 122. Credit for pension plan startup costs of small employers.

TITLE IX—TAX RELIEF FOR ADOPTIVE FAMILIES

Sec. 123. Expansion of adoption credit.

TITLE I—MARRIAGE PENALTY TAX RELIEF

Sec. 101. Optional separate calculations.

(a) In General.—Subpart B of part II of subchapter A of chapter 61 (relating to income tax returns) is amended by inserting after section 6013 the following new section:

SEC. 6013A. COMBINED RETURN WITH SEPARATE RATES.

“(a) General Rule.—A husband and wife may make a combined return of income taxes under subtitle A under which—

“(1) a separate taxable income is determined for each spouse by applying the rules provided in this section, and

“(2) the tax imposed by section 1 is the aggregate amount resulting from applying the separate rates provided in section 1(c) to each such taxable income.

“(b) Treatment of Income.—For purposes of this section—

“(1) earned income (within the meaning of section 911(d), and any income received as a pension or annuity which arises from an employee-employer relationship, shall be treated as the income of the spouse who rendered the services,

“(2) income from property shall be divided between the spouses in accordance with their respective ownership rights in such property (equally in the case of property held jointly by the spouses), and

“(3) any exclusion from income shall be allowable to the spouse with respect to whom the income would be otherwise includible.

“(c) Treatment of Deductions.—For purposes of this section—

“(1) except as otherwise provided in this subsection, the deductions described in section 62(a) shall be allowed to the spouse treated as having the income to which such deductions relate,

“(2) the deductions allowable by section 151(b) (relating to personal exemptions for taxpayer and spouse) shall be determined by allocating 1 personal exemption to each spouse,

“(3) section 63 shall be applied as if such spouses were not married, except that the election whether or not to itemize deductions shall be made jointly by both spouses and apply to each, and

“(4) each spouse’s share of all other deductions shall be determined by multiplying the aggregate amount thereof by the fraction—

“A the numerator of which is such spouse’s gross income, and

“B the denominator of which is the combined gross incomes of the 2 spouses.

“Any fraction determined under paragraph (4) shall be rounded to the nearest percentage point.

“(d) Treatment of Credits.—For purposes of this section—

“(1) In General.—Except as provided in paragraph (2), each spouse’s share of credits allowed to both spouses shall be determined by multiplying the aggregate amount of the credits by the fraction determined under subsection (c)(4).

“(2) Earned Income Credit.—The earned income credit under section 32 shall be determined as if each spouse were a separate taxpayer, except that—

“(A) the earned income and the modified adjusted gross income of each spouse shall be determined under the rules of subsections (b), (c), and (e), and

“(B) qualifying children shall be allocated between spouses proportionate to the earned income of each spouse (rounded to the nearest whole number),

“(e) Special Rules Regarding Income Limitations.—

“(1) Exclusions and Deductions.—For purposes of making a determination under subsection (d)(1), in no event shall an eligibility limitation for any credit allowable to both spouses be less than twice such limitation applicable to a single individual.

“(2) Special Rules for Alternative Minimum Tax.—If a husband and wife elect the application of this section—

“(i) the tax imposed by section 55 shall be computed separately for each spouse, and

“(ii) for purposes of applying section 55—

“(A) the rules under this section for allocating items of income, deduction, and credit shall apply, and

“(B) the exemption amount for each spouse shall be the amount determined under section 55(d)(1)(B).

“(g) Treatment as Joint Return.—Except as otherwise provided in this paragraph or in the regulations prescribed hereunder, for purposes of this title (other than sections 1 and 63(c)) a combined return under this section shall be treated as a joint return.

“(h) Limitations.—

“(1) Phase-in of Benefit.—

“(A) In General.—In the case of any taxable year beginning before January 1, 2005, if the aggregate amount of section 55 shall in no event be less than the sum of—

“(i) the tax determined after the application of this section, plus

“(ii) the applicable percentage of the excess of—

“(1) the tax determined without the application of this section, over

“(2) the amount determined under clause (1).

“(B) Applicable Percentage.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>For taxable years beginning in:</th>
<th>The applicable percentage is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003 ..................................................</td>
<td>50</td>
</tr>
<tr>
<td>2004 ..................................................</td>
<td>40</td>
</tr>
</tbody>
</table>

“(2) Limitation of Benefit Based on Combined Adjusted Gross Income.—With respect to spouses electing the treatment of this section for any taxable year, the tax under section 1 or 55 shall be increased by an amount which bears the same ratio to the excess of the tax determined without the application of this section or determined after the application of this section as the ratio (but not over 100 percent) of the excess of the combined adjusted gross income of the spouses over $100,000 bears to $50,000.

“(i) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section.

(b) Unmarried Rate Made Applicable.—So much of subsection (c) of section 1 as precedes the table is amended to read as follows:

“(c) Separate or Unmarried Return Rate.—There is hereby imposed on the taxable income of every individual (other than a married individual (as defined in section 7703) filing a return which is not a combined return) under section 63A, a surviving spouse as defined in section 2(a), or a head of household as defined in section 2(b)) a tax determined in accordance with the following table:

<table>
<thead>
<tr>
<th>For taxable years beginning in:</th>
<th>The applicable percentage is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003 ..................................................</td>
<td>50</td>
</tr>
<tr>
<td>2004 ..................................................</td>
<td>40</td>
</tr>
</tbody>
</table>

(c) Penalty For Substantial Understatement of Income From Property.—Section 6662 (relating to imposition of accuracy-related penalty) is amended by adding at the end of subsection (b) the following new paragraph:

“(6) Any substantial understatement of income from property under section 6033A—

and by adding at the end the following new subsection:

“SUBSTANTIAL UNDERSTATEMENT OF INCOME FROM PROPERTY UNDER SECTION 6033A.—For purposes of this section, there is
a substantial understatement of income from property under section 6013A if—

'(1) the spouses electing the treatment of such section for any taxable year transfer property from 1 spouse to the other spouse in such year,

'(2) such transfer results in reduced tax liability under such section, and

'(3) the application of such transfer is the avoidance or evasion of Federal income tax.

(9) if such transfer is to the estate of such deceased spouse.

(b) TRANSFERS.—(A) ESTIMATE OF SECRETARY.—The Secretary for the Treasury shall annually estimate the impact that the enactment of this section has on the income and balances of the trust funds established under sections 201 and 1817 of the Social Security Act (42 U.S.C. 401 and 1395l).

(B) TRANSFER OF FUNDS.—If, under subparagraph (A), the Secretary of the Treasury estimates that the enactment of this section has a negative impact on the income and balances of such trust funds, the Secretary shall transfer from the general fund of the Treasury an amount sufficient to offset such estimated negative impact so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this section.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter A of chapter B of chapter 1 (relating to additional deduction for higher education expenses) is amended by inserting after the item relating to section 25A apply with respect to such individual.

(d) CONFORMING AMENDMENTS.—Section 2057(a)(3)(B) is amended—

'(1) by striking

'‘3675,000’’ both places it appears and inserting ‘‘3750,000’’

'(2) by striking

'‘3675,000’’ in the heading and inserting ‘‘APPLICABLE DEDUCTION AMOUNT’’.

(e) APPLICABLE DEDUCTION AMOUNT.—The amendment made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2001.

TITLE III—TAX RELIEF FOR AFFORDABLE HIGHER EDUCATION

SEC. 201. DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) ALLOWANCE OF DEDUCTION.—For taxable years beginning after December 31, 2001, and before January 1, 2010, the term ‘‘higher education expenses’’ means—

(1) the cost of attendance of a qualified student at an eligible educational institution, and

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 202. INCREASE IN AMOUNT OF UNIFIED CREDIT AGAINST ESTATE AND GIFT TAXES.

(a) IN GENERAL.—The table contained in section 2101(c) (relating to applicable credit amount) is amended as follows:

<table>
<thead>
<tr>
<th>Taxable Year</th>
<th>Applicable Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>2003</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>2004</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>2005</td>
<td>$2,000,000</td>
</tr>
</tbody>
</table>

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2001.

For purposes of the sections referred to in subparagraph (B), adjusted gross income shall be determined without regard to the deduction allowed under this section.

(2) EFFECTIVE DATE.—For purposes of this section—

'(1) the term ‘‘qualified higher education expenses’’ means tuition and fees charged by an educational institution and required for the enrollment and attendance of—

'(i) the taxpayer,

'(ii) the taxpayer’s spouse,

'(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, or

'(iv) any grandchild of the taxpayer, as an eligible student at an institution of higher education,

'(B) ELIGIBLE COURSES.—Amounts paid for qualified higher education expenses of any individual shall be taken into account under subsection (a) only to the extent such expenses—

'(1) are attributable to courses of instruction which credit is toward a baccaulareate degree by an institution of higher education or toward a certificate of required course work at a vocational school, and

'(2) are attributable to any graduate program of such individual.

(3) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include any student activity fees, athletic ticket expenses, activity fees, or other expenses unrelated to a student’s academic course of instruction.

(4) ELIGIBLE STUDENT.—For purposes of subparagraph (A), the term ‘‘eligible student’’ means a student who—

'(1) meets the requirements of section 469(b) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)) in effect on the date of the enactment of this section, and

'(2) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education.

(5) IDENTIFICATION REQUIREMENT.—No deduction shall be allowed under subsection (a) to a taxpayer with respect to an eligible student unless the taxpayer includes the name, age, and taxpayer identification number of such eligible student on the return of tax for the taxable year.

(6) INSTITUTION OF HIGHER EDUCATION.—The term ‘‘institution of higher education’’ means an institution of higher education.

(7) ADEQUATE AID.—(A) As used in this section—

'‘Adequate aid’’ means a grant or other financial aid made available to a qualified student under such other provision.

'(B) In the case of any such student, the term ‘‘qualified student’’ means—

'(i) in the case of such student, a full-time student;

'(ii) in the case of such student, a part-time student;

'(iii) any dependent of the student with respect to whom the student is allowed a deduction under section 151; and

'(iv) any grandchild of the student, as an eligible student at such institution of higher education.

(8) APPLICABLE DEDUCTION AMOUNT.—The applicable deduction amount for any taxable year shall be determined without regard to the deduction allowed under subsection (a) to any eligible student unless the taxpayer includes the name, age, and taxpayer identification number of such eligible student on the return of tax for the taxable year.

'THE REQUIREMENT FOR ADEQUATE AID.—(A) In general.—For purposes of paragraph (1), '‘adequate aid’’ means any grant or other financial aid made available to a qualified student under such other provision.

'(B) In the case of any such student, the term ‘‘qualified student’’ means—

'(i) in the case of such student, a full-time student;

'(ii) in the case of such student, a part-time student;

'(iii) any dependent of the student with respect to whom the student is allowed a deduction under section 151; and

'(iv) any grandchild of the student, as an eligible student at such institution of higher education.

(9) INCREASE IN AMOUNT OF UNIFIED CREDIT AGAINST ESTATE AND GIFT TAXES.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(10) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2001.

APPENDIXES.

APPENDIX A.

APPENDIX B.

APPENDIX C.

APPENDIX D.

APPENDIX E.

APPENDIX F.

APPENDIX G.

APPENDIX H.

APPENDIX I.

APPENDIX J.

APPENDIX K.

APPENDIX L.

APPENDIX M.

APPENDIX N.

APPENDIX O.

APPENDIX P.

APPENDIX Q.

APPENDIX R.

APPENDIX S.

APPENDIX T.

APPENDIX U.

APPENDIX V.

APPENDIX W.

APPENDIX X.

APPENDIX Y.

APPENDIX Z.
“(D) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a) for qualified higher education expenses only to the extent the amount exceeds the amount which would be taken into account under section 135 or 530(d)(2) for the taxable year.

“(2) LIMITATION ON TAXABLE YEAR OF DEEDUCTION.—

“(A) IN GENERAL.—A deduction shall be allowed under subsection (a) for qualified higher education expenses paid during a taxable year if such expenses are in connection with an academic term beginning during such taxable year or during the first 3 months of the next taxable year.

“(3) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (a)) by the sum of the amounts received with respect to such individual for the taxable year as—

“(A) a qualified scholarship which under section 529(c) is includible in gross income,

“(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

“(C) payments (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to enrollment at an eligible educational institution, which is exempt from income taxation by any law of the United States.

“(4) NO DEDUCTION FOR MARRIED INDIVIDUALS—RECORDING RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer’s spouse file a joint return for the taxable year.

“(5) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under section 6018(f) of the Internal Revenue Code of 1986.

“(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring the recordkeeping and information reporting.

“(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (17) the following new paragraph:

“(18) HIGHER EDUCATION EXPENSES.—The deduction allowed by subsection (b) by the taxpayer for a qualifiedscholarship under section 529(c) shall be permitted as a deduction for purposes of section 164(b)(9) only to the extent such expenses are in connection with an academic term beginning during such taxable year or during the first 3 months of the next taxable year.

“(2) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (a)) by the sum of the amounts received with respect to such individual for the taxable year as—

“(A) a qualified scholarship which under section 529(c) is includible in gross income,

“(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

“(C) payments (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to enrollment at an eligible educational institution, which is exempt from income taxation by any law of the United States.

“(4) NO DEDUCTION FOR MARRIED INDIVIDUALS—RECORDING RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer’s spouse file a joint return for the taxable year.

“(5) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under section 6018(f) of the Internal Revenue Code of 1986.

“(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring the recordkeeping and information reporting.

“(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (17) the following new paragraph:

“(18) HIGHER EDUCATION EXPENSES.—The deduction allowed by subsection (b) by the taxpayer for a qualified scholarship under section 529(c) shall be permitted as a deduction for purposes of section 164(b)(9) only to the extent such expenses are in connection with an academic term beginning during such taxable year or during the first 3 months of the next taxable year.

“(2) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (a)) by the sum of the amounts received with respect to such individual for the taxable year as—

“(A) a qualified scholarship which under section 529(c) is includible in gross income,

“(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

“(C) payments (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to enrollment at an eligible educational institution, which is exempt from income taxation by any law of the United States.

“(4) NO DEDUCTION FOR MARRIED INDIVIDUALS—RECORDING RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer’s spouse file a joint return for the taxable year.

“(5) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under section 6018(f) of the Internal Revenue Code of 1986.

“(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring the recordkeeping and information reporting.

“(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (17) the following new paragraph:

“(18) HIGHER EDUCATION EXPENSES.—The deduction allowed by subsection (b) by the taxpayer for a qualified scholarship under section 529(c) shall be permitted as a deduction for purposes of section 164(b)(9) only to the extent such expenses are in connection with an academic term beginning during such taxable year or during the first 3 months of the next taxable year.
“Sec. 35. Expenses for household and dependent care services necessary for gainful employment.

“Sec. 36. Overpayments of tax.”

(12) The table of sections for subpart A of such part IV is amended by striking the item relating to section 21.

(13) The table of sections for chapter 25 is amended by adding after the item relating to section 5 the following new item:

“Sec. 3507A. Advance payment of dependent care credit.”

(14) Section 1324(b)(2) of title 31, United States Code, is amended by striking “or” before “and by inserting before the period at the end “, or from section 35 of such Code”.

(d) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2001.

Subtitle B—Incentives for Employer-Provided Child Care

SEC. 411. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of subpart A of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

“SEC. 45E. EMPLOYER-PROVIdED CHILD CARE CREDIT.

“(a) In General.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is equal to:

“(1) 10 percent of the qualified child care expenditures, and

“(2) 25 percent of the qualified child care resource and referral expenditures, of the employer for such taxable year.

“(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

“(c) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED CHILD CARE EXPENDITURE.—

“(A) In General.—The term ‘qualified child care expenditure’ means any amount paid or incurred—

“(i) to acquire, construct, rehabilitate, or expand property—

“(I) which is to be used as part of a qualified child care facility of the taxpayer, and

“(II) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

“(II) which does not constitute part of the principal residence (within the meaning of section 121) of the taxpayer or any employee of the taxpayer,

“(iii) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of on-the-job compensation to employees with higher levels of child care training,

“(iv) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

“(v) to reimburse an employee for expenses for child care which enables the employee to be gainfully employed including expenses related to—

“(I) day care and before and after school care,

“(II) transportation associated with such care, and

“(III) before and after school and holiday programs including educational and recreational programs and camp programs.

“(B) DECLARED VALUE.—The term ‘qualified child care expenditures’ shall not include expenses in excess of the fair market value of such care.

“(A) In General.—The term ‘qualified child care facility’ means a facility—

“(i) the principal use of which is to provide child care assistance, and

“(ii) which meets the requirements of all applicable laws and regulations of the State for the local area with respect to which the facility is located, including the licensing of the facility as a child care facility.

“(B) SPECIAL RULES.—

“(1) TAX BENEFIT RULE.—The tax for the taxable year shall be increased by paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits so used to reduce tax liability, the carryforwards and carrybacks under section 32 shall be appropriately adjusted.

“(2) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

“(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

“(e) SPECIAL RULES.—For purposes of this section—

“(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

“(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 1561 shall apply.

“(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

“(A) No Double Benefit.—

“(1) REDUCTION IN BASIS.—For purposes of this subsection—

“(A) In General.—If a credit is determined under this section with respect to any property by reason of expenses described in subsections (a) or (b) of section 179, the basis of such property shall be reduced by the amount of the credit so determined.

“(B) CERTAIN DISPOSITIONS.—If, during any taxable year, there is a recapture amount determined with respect to property held by the taxpayer by reason of this section, the basis of such property shall be reduced by an amount equal to such recapture amount. For purposes of the preceding sentence, the term ‘recapture amount’ means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

“(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this subsection.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 39(b) is amended by striking “plus” at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting “plus”, and by adding at the end the following new paragraph:

“(14) the employer-provided child care credit determined under section 45E.”.

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

“(10) NO CARRYBACK OF EMPLOYER-PROVIdED CHILD CARE CREDIT BEFORE JANUARY 1, 2002.—By reason of the unappropriated amount of the credit for any taxable year which is attributable to the credit under section 45E may be carried back
to a taxable year ending before January 1, 2002.”

(3) Subsection (c) of section 196 is amended by striking “and” at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting “, and”, and by adding at the end the following new paragraph:

“(10) the employer-provided child care credit under section 45E.”

(4) The table of sections for part D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

“Sec. 45E. Employer-provided child care credit.”

(5) Section 101(a) is amended by striking “and” at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting “,” and “; and” and by adding at the end the following new paragraph:

“(28) in the case of a facility with respect to which a credit was allowed under section 45E, to the extent provided in section 45E(f)(1).”

(c) Effective Date. —The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE VI—TAX RELIEF FOR LONG-TERM CARE GIVERS

SEC. 501. LONG-TERM CARE TAX CREDIT.

(a) IN GENERAL. —Section 24(a) (relating to allowance of child tax credit) is amended to read as follows:

“(a) ALLOWANCE OF CREDIT. —There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to an amount determined by multiplying the number of qualifying children of the taxpayer, plus

“(1) $3,000 multiplied by the number of applicable individuals with respect to whom the taxpayer is an eligible caregiver for the taxable year.”

(2) ADDITIONAL CREDIT FOR TAXPAYER WITH 3 OR MORE SEPARATE CREDIT AMOUNTS. —So much of section 24(d) as precedes paragraph (1)(A) thereof is amended to read as follows:

“(d) ADDITIONAL CREDIT FOR TAXPAYERS WITH 3 OR MORE SEPARATE CREDIT AMOUNTS. —

“(1) IN GENERAL. —If the sum of the number of qualifying children of the taxpayer and the number of applicable individuals with respect to which a deduction is allowed under section 164(a) is equal to or more than 3 applicable individuals, the taxpayer shall be entitled to a credit which is the sum of

“$3,000 multiplied by the number of qualifying children of the taxpayer, plus

“$2,500 multiplied by the number of applicable individuals with respect to whom the taxpayer is an eligible caregiver for the taxable year.”

(b) Definitions. —Section 24(c) (defining qualifying child) is amended to read as follows:

“(c) DEFINITIONS. —For purposes of this section—

“(1) QUALIFYING CHILD. —

“(A) IN GENERAL. —The term ‘qualifying child’ means any individual if—

“(i) the individual is unable to perform, without substantial assistance from another individual, one of the following activities: eating, transferring, or mobility;

“(ii) the individual has a physical or mental condition that affects the individual’s ability to care for himself or herself;

“(iii) such individual bears a relationship to the taxpayer described in section 24(c)(3)(B).

“(B) EXCEPTION FOR CERTAIN NONCITIZENS. —The term ‘qualifying child’ shall not include any individual who would not be a dependent of the taxpayer if such individual is not a United States citizen or alien who is physically present in the United States for 182 days during any taxable year after the taxable year in which the individual is first treated as a qualifying child by reason of this paragraph.

“(C) APPLICABLE INDIVIDUAL. —

“(A) IN GENERAL. —The term ‘applicable individual’ means any individual who is—

“(i) the taxpayer;

“(ii) the taxpayer’s spouse;

“(iii) the taxpayer’s parent or dependent;

“(iv) the taxpayer’s parent’s parent or dependent;

“(v) an individual who is treated as an eligible caregiver for any taxable year after the taxable year by reason of clause (vi) of subparagraph (A) and who is entitled to a credit for such taxable year under this section; or

“(vi) an individual who is treated as an eligible caregiver for any taxable year after the taxable year by reason of clause (vi) of subparagraph (A) and who is entitled to a credit for such taxable year under this section; or

“(B) ATTESTATION. —In the case of any applicable individual with respect to whom a credit is allowed by reason of clause (iv) or (v) of subparagraph (A), the taxpayer shall be treated as the caregiver of such applicable individual if the taxpayer satisfies the reasonable attestation requirement of section 6213(g)(2)(I).”

(c) Identification Requirements. —

“(1) IN GENERAL. —Section 6213(g)(2)(I) is amended by inserting “or caregiver” after “care”.

“(2) ASSESSMENT. —Section 6213(g)(2)(I) is amended by inserting “or caregiver” after “care”.

(d) Effective Date. —The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE VII—TAX RELIEF FOR WORKING FAMILIES

SEC. 601. INCREASED EARNED INCOME TAX CREDIT FOR 2 OR MORE QUALIFYING CHILDREN.

(a) IN GENERAL. —The table in section 32(b)(1)(A) (relating to percentages) is amended—

“(1) in the second column—

“(A) by striking ‘or more’;

“(B) by striking ‘21.06’ and inserting ‘19.06’; and

“(2) by inserting after the amendment the following new item:

“2 or more qualifying children 45 19.06”;

(b) Effective Date. —The amendments made by this section shall apply to taxable years beginning after December 31, 2001.
(a) IN GENERAL.—Section 32(c)(2)(A)(i) (defining earned income) is amended by inserting “(ii) the taxpayor is includible in gross income for the taxable year after other employee compensation”.

(b) CONFORMING AMENDMENT.—Section 32(c)(2)(B) is amended by striking “and” at the end of clause (iv), by striking the period at the end of clause (v) and inserting “,” and “,” and by adding at the end the following new clause:

“(vi) the requirement under subparagraph (A)(i) that an amount be includible in gross income shall not apply if such amount is exempt from tax under section 7873 or is deemed to be the deduction with respect to such individual.

(ii) The term ‘dependent’ means:

(a) Any individual described in paragraph (2) over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer (or is treated under subsection (c) as received from the taxpayer), or

(b) Any individual described in subsection (f).

(ii) An individual is described in this paragraph if such individual is:

(A) a brother, sister, stepbrother, or stepsister of the taxpayer,

(B) the father or mother of the taxpayer, or

(C) a stepfather or stepmother of the taxpayer,

(D) a son or daughter of a brother or sister of the taxpayer.

(E) a brother or sister of the father or mother of the taxpayer,

(F) a son-in-law, daughter-in-law, father-in-law, brother-in-law, or sister-in-law of the taxpayer,

(G) any individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as their principal place of abode the home of the taxpayer and is a member of the taxpayer’s household.”.

(b) OTHER MODIFICATIONS.—Section 152 is amended by adding at the end the following new subsection:

“(f) Subsection (f) depends—

(1) GENERAL. —An individual is described in this subsection for the taxable year if such individual—

(A) bears a relationship to the taxpayer described in paragraph (2),

(B) except in the case of an eligible foster child described in subsection (e), has the same principal place of abode as the taxpayer for more than one-half of such taxable year, and

(C) has not attained the age of 19 at the close of the calendar year in which the taxable year begins, or

“(ii) is a student (within the meaning of section 151(c)(4)) who has not attained the age of 24 at the close of such calendar year.

“(2) RELATIONSHIP TEST.—An individual bears a relationship to the taxpayer described in this paragraph if such individual is—

(A) a son or daughter of the taxpayer, or a descendent of either,

(B) a stepson or stepdaughter of the taxpayer.

“(3) SPECIAL RULES.—

(A) 2 OR MORE CLAIMING DEPENDENT.—Except as provided in subparagraph (B), if an individual may be claimed as a dependent by 2 or more taxpayers (but for this subparagraph), a taxable year in the same calendar year, only the taxpayer with the highest adjusted gross income for such taxable year shall be allowed the deduction with respect to such individual.

(B) RELEASE OF CLAIM TO EXEMPTION.—Subparagraph (A) shall not apply with respect to an amount as determined by striking “or” and inserting “and” after “a child.”

“(4) The term ‘noncustodial parent’ means the parent who is not the custodial parent.”.

(2) PRE-1995 INSTRUMENTS.—Section 152(c)(4) is amended by inserting “A child” and all that follows through “noncustodial parent” and inserting “A noncustodial parent described in paragraph (1) shall be entitled to the deduction under section 151 for a taxable year with respect to a child if.”

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts received in taxable years beginning after December 31, 2001.

SEC. 603. SIMPLIFICATION OF DEFINITION OF CHILD DEPENDENT.

(a) Removal of Support Test for Certain Individuals.—Section 152(a) (relating to definition of dependent) is amended to read as follows:

“(a) GENERAL DEFINITION.—For purposes of this subtitle—

(1) DIPENDENT.—The term ‘dependent’ means—

(A) any individual described in paragraph (2) (other than an individual who is related to the taxpayer under subsection (b)),

(B) an individual described in paragraph (2)(B) by reason of a stipulated agreement entered into under section 7703(j) or by reason of a written declaration to such taxpayer (or is treated under subsection (c) as received from the taxpayer), or

(C) an individual described in subsection (f).

(2) INDIVIDUALS.—An individual is described in this paragraph if such individual is—

(A) a brother, sister, stepbrother, or stepsister of the taxpayer,

(B) the father or mother of the taxpayer, or

(C) a stepfather or stepmother of the taxpayer,

(D) a son or daughter of a brother or sister of the taxpayer,

(E) a brother or sister of the father or mother of the taxpayer,

(F) a son-in-law, daughter-in-law, father-in-law, brother-in-law, or sister-in-law of the taxpayer,

(G) any individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as their principal place of abode the home of the taxpayer and is a member of the taxpayer’s household.”.

(b) OTHER MODIFICATIONS.—Section 152 is amended by adding at the end the following new subsection:

“(f) Subsection (f) depends—

(1) GENERAL.—An individual is described in this subsection for the taxable year if such individual—

(A) bears a relationship to the taxpayer described in paragraph (2),

(B) except in the case of an eligible foster child described in subsection (e), has the same principal place of abode as the taxpayer for more than one-half of such taxable year, and

(C) has not attained the age of 19 at the close of the calendar year in which the taxable year begins, or

“(ii) is a student (within the meaning of section 151(c)(4)) who has not attained the age of 24 at the close of such calendar year.

“(2) RELATIONSHIP TEST.—An individual bears a relationship to the taxpayer described in this paragraph if such individual is—

(A) a son or daughter of the taxpayer, or a descendent of either,

(B) a stepson or stepdaughter of the taxpayer.

“(3) SPECIAL RULES.—

(A) 2 OR MORE CLAIMING DEPENDENT.—Except as provided in subparagraph (B), if an individual may be claimed as a dependent by 2 or more taxpayers (but for this subparagraph), a taxable year in the same calendar year, only the taxpayer with the highest adjusted gross income for such taxable year shall be allowed the deduction with respect to such individual.

(B) RELEASE OF CLAIM TO EXEMPTION.—Subparagraph (A) shall not apply with respect to an amount as determined by striking “or” and inserting “and” after “a child.”

“(4) The term ‘noncustodial parent’ means the parent who is not the custodial parent.”.

(2) PRE-1995 INSTRUMENTS.—Section 152(c)(4) is amended by inserting “A child” and all that follows through “noncustodial parent” and inserting “A noncustodial parent described in paragraph (1) shall be entitled to the deduction under section 151 for a taxable year with respect to a child if.”

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts received in taxable years beginning after December 31, 2001.

SEC. 604. OTHER MODIFICATIONS TO EARNED INCOME TAX CREDIT.

(a) MODIFICATION OF JOINT RETURN REQUIREMENT.—Subsection (d) of section 32 is amended to read as follows:

“(d) Joint Return.—(1) IN GENERAL.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer files his joint return for the taxable year.

“(2) MARITAL STATUS.—For purposes of paragraph (1), an individual legally separated from his or her spouse for 6 months of the taxable year who files a joint return for the taxable year shall be considered as married.”
“(3) Certain married individuals living apart.—For purposes of paragraph (1), if—

(A) an individual—

(i) is married and files a separate return, and

(ii) has a qualifying child who is a son, daughter, stepson, or stepdaughter of such individual, and

(B) during the last 6 months of such taxable year, such individual and such individual’s spouse do not have the same principal place of abode,

such individual shall not be considered as married.

(b) Modification of Rule Where There Are 2 or More Eligible Individuals.—Subparagraph (C) of section 151(c)(1) is amended to read as follows:

“(C) 2 or more eligible individuals.—

(i) IN GENERAL.—Except as provided in clause (ii), if 2 or more individuals would (but for this subparagraph and after application of subparagraph (B)) be treated as eligible individuals with respect to the same qualifying child for taxable years beginning in the same calendar year, only the individual with the highest modified adjusted gross income for such taxable years shall be treated as an eligible individual with respect to such qualifying child.

(ii) Exception for Certain Parents.—An otherwise eligible individual who is not treated under clause (i) as the only eligible individual with respect to any qualifying child shall be treated as an eligible individual with respect to such child if—

(I) such child is the son, daughter, stepson, or stepdaughter of such individual,

(II) such child is not taken into account under subsection (b) by any other individual, and

(III) the limitation under subsection (a)(2) for the individual who would (but for this clause) be treated under clause (i) as the only eligible individual with respect to such child would be greater than zero (determined as if such individual had 2 qualifying children).”.

(c) Expansion of Mathematical Error Authority.—Paragraph (2) of section 6231(g) is amended by striking “and” at the end of subparagraph (K), by striking the period at the end of subparagraph (L) and inserting “and”, and by inserting after subparagraph (L) the following new subparagraph:

“(M) the entry on the return claiming the credit under section 32 with respect to a child if, according to the Federal Case Registry of Child Support Orders established under section 453(h) of the Social Security Act, the taxpayer is a noncustodial parent of such child.”.

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE VII—TAX RELIEF FOR SELF-EMPLOYED INDIVIDUALS

SEC. 701. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) In General.—Subpart A of chapter 2 of subchapter A of chapter 1 of subchapter A of chapter 1 of subchapter A of part IV of subpart A of part IV of title 26 of the Internal Revenue Code (relating to nonrefundable credits) is amended by—

(1) inserting in the matter preceding section 36A(m)(1) the following new section:

“SEC. 36A. ELIGIBLE DEFERRALS AND IRA CONTRIBUTIONS.

“(a) Allowance of Credit.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of so much of the qualified retirement savings contributions of the eligible individual for the taxable year as do not exceed $2,000.

“(b) Applicable Percentage.—For purposes of this section, the applicable percentage is the percentage determined in accordance with the following table:

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(b) Clarification of Limitations on Other Coverage.—The first sentence of section 162(h)(2)(B) is amended to read as follows:

“(Paragraph 1 shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 408A(c)(4) of the taxpayer or the spouse of the taxpayer).”.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

TITLE VIII—TAX RELIEF FOR EXPANDING PENSION AVAILABILITY

SEC. 801. NONREFUNDABLE CREDIT TO CERTAIN INDIVIDUALS FOR ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 302(a), is amended by inserting after section 36B the following new section:

“SEC. 25C. ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS BY CERTAIN INDIVIDUALS.

“(a) Allowance of Credit.—In the case of an eligible individual, the amount of elective deferrals and eligible contributions made by such individual to any retirement plan (as defined in section 4974(c)), Roth IRA.

“(b) Applicable Percentage.—For purposes of this section, the applicable percentage is a percentage determined in accordance with the following table:

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(1) **In General.**—Subsection (a) of section 26 is amended by inserting “(other than the credit allowed by section 25C)” after “credits allowed by this subsection.”

(2) **In the Unemployment.**—Section 25C, as added by subsection (a), is amended by inserting after subsection (f) the following new subsection:

“(g) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate credit allowed by this section for the taxable year shall not exceed the sum of—

(1) the taxpayer’s regular tax liability for the taxable year reduced by the sum of the credits allowed by sections 21, 22, 23, 24, 25A, and 25B, plus—

(2) the tax imposed by section 55 for such taxable year.”.

(c) **Annual Report.**—The Comptroller General of the United States shall submit a report annually to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the number of taxpayers receiving the credit allowed under section 25C of the Internal Revenue Code of 1986, as added by subsection (a).

(d) **REPEALING AMENDMENT.**—The table of sections for part A of part IV of subchapter A of chapter 1, as amended by section 302(b), is amended by inserting after the item relating to section 25B the following new item:

“Sec. 25C. Elective deferrals and IRA contributions by certain individuals.”.

(e) **Effective Dates.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

**SEC. 402. CREDIT FOR QUALIFIED PENSION PLAN CONTRIBUTIONS OF SMALL EMPLOYERS.**

(a) **In General.**—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 411(a), is amended by adding at the end the following new section:

“**SEC. 45F. SMALL EMPLOYER PENSION PLAN CONTRIBUTIONS.**

(a) **General Rule.**—For purposes of section 38, in the case of an eligible employer, the small employer pension plan contribution credit determined under this section for any taxable year is an amount equal to 50 percent of the amount which would (but for subsection (f)(1)) be allowed as a deduction under section 401 for such taxable year for qualified employer contributions made to any qualified retirement plan on behalf of any employee who is not a highly compensated employee.

(b) **Credit Limited to 3 Years.**—The credit allowable by this section shall be allowed only with respect to the period of 3 taxable years beginning with the first taxable year for which a credit is allowable with respect to a plan under this section.

(c) **Conforming Amendments.**—For purposes of this section—

(1) **Defined Contribution Plans.**—In the case of a defined contribution plan, the term ‘qualified employer contribution’ means the amount of nonelective and matching contributions to the plan made by the employer on behalf of any employee who is not a highly compensated employee to the extent that such contributions do not exceed 3 percent of such employee’s compensation from the employer for the year.

(2) **Defined Benefit Plans.**—In the case of a defined benefit plan, the term ‘employer contribution’ means the amount of employer contributions to the plan made on behalf of any employee who is not a highly compensated employee to the extent that such contributions were taken into account in determining the amount of benefits under the plan which is allotted to the employee for the year immediately preceding the 1st taxable year for which the credit under this section is otherwise allowable for a qualified employer plan or any member of any controlled group including the employer (or any predecessor of either) established or maintained a qualified employer plan with respect to which contributions were made, or benefits were accrued, for substantially the same employees and which the qualified employer plan would be considered a single employer under section 414(b).

(3) **Highly Compensated Employee.**—The term ‘highly compensated employee’ has the meaning given such term by section 414(q)(1)(B)(iii).

(4) **Special Rules.**—(i) **Disallowance of Deduction.**—No deduction shall be allowed for any portion of the qualified employer contributions paid or incurred for the taxable year which is equal to the credit determined under subsection (a).

(ii) **Electors Not to Claim Credit.**—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.

(iii) **Aggregation Rules.**—All persons treated as a single employer under subsection (a) or of section 52, or subsection (b) or (c) of section 414, shall be treated as one person. All eligible employer plans shall be treated as 1 eligible employer plan.

(iv) **Recapture of Credit on Forfeited Contributions.**—

(1) **In General.**—Except as provided in paragraph (2), if any accrued benefit which is allocable by reason of section 401(a)(9) is forfeited, the employer’s tax imposed by this chapter for the taxable year in which the forfeiture occurs shall be increased by 35 percent of the employer’s tax which is allocable by reason of section 401(a)(9) from tax under section 501(a) if the plan to employees who are not highly compensated employees from which such benefit is derived to the extent such contributions were taken into account in determining the credit under this section. Paragraph (1) shall not apply to any contribution which is reallocated by the employer under the plan to employees who are not highly compensated employees.

(b) **Credit Allowed as Part of General Business Credit.**—Section 38(b) (defining current year business credit), as amended by section 411(b)(1), is amended by striking “plus” at the end of paragraph (15), by striking the period at the end of paragraph (14) and inserting “plus”, and by adding at the end the following new paragraph:

“(15) in the case of an eligible employer (as defined in section 45F(e)), the small employer pension plan contribution credit determined under section 45F may be taken as a part of the general business credit for any taxable year which is attributable to the small employer pension plan contribution credit determined under section 45F before January 1, 2002.”.

(2) **Subsection (c).**—Subsection (c) of section 196, as amended by section 411(b)(3), is amended by striking “section 401(b)(9)” and inserting “section 401(b)(3)”.

(c) **Conforming Amendments.**—(1) **Section 39D.**—Section 39(d), as amended by adding at the end the following new paragraph:

“(11) **No Carryback of Small Employer Pension Plan Contribution Credit Before January 1, 2002.**—No portion of the unused business credit for any taxable year which is attributable to the small employer pension plan contribution credit determined under section 45F may be taken as a part of the general business credit before January 1, 2002.”.

(2) **Subsection (c) of section 196.**—Subsection (c) of section 196, as amended by section 411(b)(3), is amended by striking the period at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting “, and”, and by adding at the end the following new paragraph:

“(11) the small employer pension plan contribution credit determined under section 45F.”.

(3) The table of sections for part D of part IV of subchapter A of chapter 1, as amended by section 411(b)(4), is amended by adding at the end the following new item:

“Sec. 45F. Small employer pension plan contributions.”.

(d) **Effective Date.**—The amendments made by this section shall apply to contributions paid or incurred in taxable years beginning after December 31, 2001.
SEC. 45G. SMALL EMPLOYER PENSION PLAN STARTUP COSTS.

(a) GENERAL RULE.—For purposes of section 408(p)(2)(C)(i), as amended by section 802(c)(3), the term "qualified employer plan startup cost credit" is amended to mean the sum determined by subtracting the amount of the qualified adoption expenses paid or incurred by the taxpayer during the taxable year which is attributable to the small employer pension plan startup cost credit determined under section 45G(c), the small employer pension plan startup cost credit determined under section 45G(a), and the small employer pension plan startup cost credit determined under section 45G(b), from the amount of the qualified adoption expenses paid or incurred by the taxpayer during the taxable year which is attributable to the small employer pension plan startup cost credit determined under section 45G.

(b) PLAN MUST HAVE AT LEAST 1 PARTICIPANT.—Such term shall not include any qualified employer plan with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are covered by such employer plan.

(c) OTHER DEFINITIONS.—For purposes of this section—

(1) IN GENERAL.—The term "qualified startup costs" means any ordinary and necessary expenses of an eligible employer which are paid or incurred in connection with—

(A) the establishment or administration of an eligible employer plan, or

(B) the retirement-related education of employees eligible to such plan.

(2) ELIGIBLE EMPLOYER.—The term "eligible employer plan" means a qualified employer plan within the meaning of section 4972(d).

(3) FIRST CREDIT YEAR.—The term "first credit year" means—

(A) the taxable year which includes the date that the eligible employer plan to which such costs apply effective, or

(B) at the election of the eligible employer, the taxable year preceding the taxable year referred to in subparagraph (A).

(e) REGULATIONS.—For purposes of this section—

(1) AGGREGATION RULES.—All persons treated as a single employer under section 414(b) of the Internal Revenue Code of 1986, or section 414(n) or (o) of section 414, shall be treated as one person. All eligible employer plans shall be treated as 1 eligible employer plan.

(2) PHASE-IN PERIOD.—No deduction shall be allowed for that portion of the qualified startup costs paid or incurred for the taxable year which is equal to the credit determined under this subsection.

(3) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.

(2) ADOPTION COSTS.—Section 38(b) (relating to adoption assistance programs) is amended by—

(A) striking the term "small employer" as defined in section 45G(c), the small employer pension plan startup cost credit determined under section 45G(b), the small employer pension plan startup cost credit determined under section 45G(a), and the small employer pension plan startup cost credit determined under section 45G; and

(B) striking "(C)(i)" and inserting "(C)(ii)".

(iii) by striking subsection "(a)" and inserting "subsection (c)(i)".

(D) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(1) (relating to dollar limitations for adoption assistance programs) is amended by—

(i) by striking "$5,000" and inserting "$10,000"; and

(ii) by striking "(b)(2)(A) (relating to income limitation)" and inserting "(b)(2)(B)".

(E) PHASE-IN PERIOD.—(A) ADOPTION EXPENSES.—Clause (i) of section 23(b)(2)(A) (relating to income limitation) is amended by striking "$75,000" and inserting "$150,000".

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(2)(A) (relating to income limitation) is amended by striking "$75,000" and inserting "$150,000".

(C) ADOPTION COSTS.—Clause (i) of section 23(a)(2) is amended by adding at the end the following new sentence:

"(ii) by striking the term "small employer" as defined in section 45G(c), the small employer pension plan startup cost credit determined under section 45G(b), the small employer pension plan startup cost credit determined under section 45G(a), and the small employer pension plan startup cost credit determined under section 45G; and

(D) ADOPTION EXPENSES.—Section 23(a)(3) (relating to adoption assistance programs) is amended by striking "$75,000" and inserting "$150,000".

(E) PHASE-IN PERIOD.—Paragraph (2) of section 23(d) (relating to definition of eligible child) is amended to read as follows:

"(2) ELIGIBLE CHILD.—The term "eligible child" means any individual who—

(A) has not attained age 18, or

(B) is physically or mentally incapable of caring for himself or herself.

(F) ADOPTION ASSISTANCE PROGRAMS.—Section 137 (relating to adoption assistance programs) is amended by—

(1) inserting "(a)(3)" and "(d)(2)(B)" therefor.

(2) Limitation on Tax Credit.—Section 23(b) (relating to adoption assistance programs) is amended by—

(A) striking the term "small employer" as defined in section 45G(c), the small employer pension plan startup cost credit determined under section 45G(b), the small employer pension plan startup cost credit determined under section 45G(a), and the small employer pension plan startup cost credit determined under section 45G; and

(B) striking "(C)(i)" and inserting "(C)(ii)".

(D) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(1) (relating to dollar limitations for adoption assistance programs) is amended by—

(i) by striking "$5,000" and inserting "$10,000"; and

(ii) by striking "(b)(2)(A) (relating to income limitation)" and inserting "(b)(2)(B)".

(E) PHASE-IN PERIOD.—(A) ADOPTION EXPENSES.—Clause (i) of section 23(b)(2)(A) (relating to income limitation) is amended by striking "$75,000" and inserting "$150,000".

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(2)(A) (relating to income limitation) is amended by striking "$75,000" and inserting "$150,000".

(C) ADOPTION COSTS.—Clause (i) of section 23(a)(2) is amended by adding at the end the following new paragraph:

"(ii) by striking the term "small employer" as defined in section 45G(c), the small employer pension plan startup cost credit determined under section 45G(b), the small employer pension plan startup cost credit determined under section 45G(a), and the small employer pension plan startup cost credit determined under section 45G; and

(D) ADOPTION EXPENSES.—Section 23(a)(3) (relating to adoption assistance programs) is amended by—

(1) inserting "(a)(3)" and "(d)(2)(B)" therefor.

(2) Limitation on Tax Credit.—Section 23(b) (relating to adoption assistance programs) is amended by—

(A) striking the term "small employer" as defined in section 45G(c), the small employer pension plan startup cost credit determined under section 45G(b), the small employer pension plan startup cost credit determined under section 45G(a), and the small employer pension plan startup cost credit determined under section 45G; and

(B) striking "(C)(i)" and inserting "(C)(ii)".

(2) PHASE-IN PERIOD.—(A) ADOPTION EXPENSES.—Clause (i) of section 23(b)(2)(A) (relating to income limitation) is amended by striking "$75,000" and inserting "$150,000".

(B) ADOPTION ASSISTANCE PROGRAMS.—Section 137(b)(2)(A) (relating to income limitation) is amended by striking "$75,000" and inserting "$150,000".

(C) ADOPTION COSTS.—Clause (i) of section 23(a)(2) is amended by adding at the end the following new paragraph:

"(ii) by striking the term "small employer" as defined in section 45G(c), the small employer pension plan startup cost credit determined under section 45G(b), the small employer pension plan startup cost credit determined under section 45G(a), and the small employer pension plan startup cost credit determined under section 45G; and

(D) ADOPTION EXPENSES.—Section 23(a)(3) (relating to adoption assistance programs) is amended by—

(1) inserting "(a)(3)" and "(d)(2)(B)" therefor.

(2) Limitation on Tax Credit.—Section 23(b) (relating to adoption assistance programs) is amended by—

(A) striking the term "small employer" as defined in section 45G(c), the small employer pension plan startup cost credit determined under section 45G(b), the small employer pension plan startup cost credit determined under section 45G(a), and the small employer pension plan startup cost credit determined under section 45G; and

(B) striking "(C)(i)" and inserting "(C)(ii)".
(2) APPLICABLE TAX LIMITATION.—Subsection (d) of section 23 is amended by adding at the end the following new paragraph:

"(d) APPLICABLE TAX LIMITATION.—The term ‘applicable tax limitation’ means the sum of—

"(A) the taxpayer’s regular tax liability for the taxable year, reduced (but not below zero) by the credits allowed by sections 21, 22, 24 (other than the amount of the increase under subsection (d) thereof), 25, and 26A, and

"(B) the tax imposed by section 55 for such taxable year."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 26 (relating to limitation on amount of tax) is amended by inserting ‘“other than section 23” after “allowed by this subpart’

(B) Paragraph (2) of section 53(b) relating to minimum tax credit is amended by inserting ‘“reduced by the aggregate amount taken into account under section 23(d)(3)(B) for all such prior taxable years,” after “1986.”

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

By MR. DASCHLE (for himself, MR. BAUCUS, MR. GRAHAM, MR. KENNEDY, MR. AKAKA, MR. BIDEN, MR. BINGAMAN, MRS. BOXER, MR. BYRD, MS. CARNahan, MR. CLELAND, MRS. CLINTON, MR. CORZINE, MR. DAYTON, MR. DODD, MR. DORGAN, MR. DURBIN, MR. HOLLINGS, MR. INOUYE, MR. JOHNSON, MR. KENNEDY, MR. LEAHY, MR. LEVIN, MRS. LINCOLN, MS. MUKULSKI, MRS. MURRAY, MR. NELSON of Florida, MR. REED, MR. REID, MR. ROCKEFELLER, MR. SARABANES and, MR. SCHUMER)

S. 10. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the Medicare Program; to the Committee on Finance.

MEDICARE PRESCRIPTION DRUG COVERAGE ACT OF 2001

Mr. BAUCUS. Mr. President, today I introduce legislation, along with Senator DASCHLE and our colleagues, to establish a universal prescription drug benefit program in Medicare. I am pleased to be part of this effort, because I believe Congress should enact a drug benefit this year. The lack of coverage for outpatient prescription drugs in Medicare has become a glaring gap in the program.

The practice of medicine has changed dramatically since Medicare was created in 1965. Today, more often than not, a trip to the doctor results in a trip to the pharmacy, to fill a prescription as part of the therapy. In many cases, prescription drugs allow patients to avoid more expensive and invasive therapies, such as hospitalization and surgery.

Our increasing reliance on pharmaceutical products has also fueled drug spending. Pharmaceuticals are the fastest growing segment of national health expenditures. In 2002, prescription drug spending increased by an estimated 11 percent, compared with 7 percent for physician services and 6 percent for hospital care. Since 1990, national spending for prescription drugs has tripled.

And as the role and expense of prescription drugs have grown, their absence from Medicare’s outpatient benefit package has become increasingly problematic for beneficiaries. An estimated 35 percent of Medicare beneficiaries currently lack coverage for outpatient prescription drugs. But that figure may understate the problem. One study has shown that only about 50 percent of seniors have drug coverage throughout the year, and for many who do have coverage, it is often limited or inadequate.

In my home state of Montana, Medicare beneficiaries are even less likely to have coverage for prescription drugs than those living in other parts of the country. A National Economic Council study that I requested last year showed that rural Medicare beneficiaries are 50 percent less likely than their urban counterparts to have prescription drug coverage. And although rural Medicare beneficiaries use 10 percent more prescriptions than urban folks, they pay 25 percent more out-of-pocket for their drugs.

These factors underscore the importance of this issue to folks back home. I intend to work hard this year to pass a Medicare drug bill for them and for the millions of other Medicare beneficiaries who lack coverage or are at risk of losing the coverage they currently have. It is time for Congress to act on this issue and pass legislation to provide prescription drugs for America’s seniors.

The Medicare Prescription Drug Coverage Act of 2001 is a good place to start. This legislation builds on the excellent work of Senator GRAHAM and other members of the Finance Committee, including Senators CONRAD, JEFFORDS, and ROCKEFELLER. The benefit package is universal, and is part of the Medicare program, it includes a deductible, and patient coinsurance decreases as drug expenditures increase. The proposal provides subsidies for low-income seniors to help them with their premiums and cost sharing. And the proposal relies on private sector entities to administer the benefit.

Let me add—by no means does this legislation represent the end of the debate. Rather, it represents a beginning, a starting point. For example, the bill does not address many of the elements of Medicare reform that are currently on the table and, quite frankly, should be included. President Bush and others have emphasized that a new drug benefit must be added in the context of overall Medicare reform. As Senator BREAUX is fond of saying, a prescription drug benefit is the dessert that we get when we take the medicine of reform.

I expect that any prescription drug legislation we pass, and the President signs, will include provisions addressing solvency, competition, HCFR reform, and fee-for-service modernization. These are areas, in addition to adding a drug benefit, where Medicare could also be updated and improved, and the bipartisan Medicare Commission has gone a long way toward putting these issues on the national agenda.

I am encouraged that the new administration also recognizes that prescription drugs is an important issue. President Bush campaigned on a promise to address this issue early on, and I sincerely appreciate that it is one of the top priorities of the new administration. Likewise, I know that Senator GRASSLEY also cares deeply about this issue.

In closing, I want to reiterate that I am committed to working with Senator GRASSLEY, with the other members of the Finance Committee, and with the new Administration to come up with a compromise solution. It is truly my hope that we can work together, build consensus, and forge compromise solutions on this issue. If we’re creative, and if we listen to each other, I am confident that we can find balanced and bipartisan solution.

S. 10

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Medicare Prescription Drug Coverage Act of 2001.”

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Medicare outpatient prescription drug benefit program.
Sec. 4. Part D—Outpatient Prescription Drug Benefit Program.
of medicare beneficiaries

(2) At least 2 of such ben-

(3) For the medicare sup-

(5) Medicare beneficiaries
who lack prescription drug

(4) Many medicare benefi-

(6) The ability of a goal

(7) The management of a pre-

(8) If a goal

(9) The addition of a medicare drug benefit

(2) Provision of Benefit

(a) Establishment— Title XVIII of the So-

(b) General

(A) in general— Except as provided in subpara-

(B) period

(C) during the period

(D) to the beneficiary

(2) Eligible beneficiary— The term ‘‘eligible beneficiary’’ means an individual that is entitled to benefits under part A or en-

(3) Eligible entity— The term ‘‘eligible entity’’ means a plan or entity that the Secretary determines to be appropriate to provide eligi-

(4) Special enrollment period

(a) General

(b) Eligibility

 SEC. 1860A. (a) Provision of Benefit— Beginning on the date of enactment of this Act, the Secretary shall pro-

(b) Voluntary nature of program— Nothing in this part shall be construed as requiring an eligible beneficiary to enroll in

(c) Scope of benefits— The program established under this part shall be applicable to all individuals who are entitled to benefits under part A.

(d) Financing— (1) In general— The costs of providing benefits under this part shall be paid from the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

(2) Enrollment

(a) Establishment of process— (A) In general— The Secretary shall establish a process through which an eligible beneficiary (including an eligible beneficiary enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization) may make an election to enroll under this part. Such process shall be similar to the process for enrollment in part B under section 1877.

(B) Requirement of enrollment— An eligible beneficiary may make an election to enroll under this part in order to receive covered outpatient drug benefits under this title.

(3) Late enrollment penalty— (A) In general— Subject to the succeeding provisions of this subparagraph, in the case of an eligible beneficiary whose coverage period under this part began pursuant to an enrollment after the beneficiary’s initial enrollment period under part B (determined pursuant to section 1877) and not pursuant to the open enrollment period described in subparagraph (B), the Secretary shall establish procedures for increasing the amount of the monthly premium under section 1860D applicable to such beneficiary—

(i) by an amount that is equal to 10 percent of such premium for each full 12-month period (in the same continuous period of eligi-

(ii) by an amount that is equal to 10 percent of such premium for each full 12-month period (in the same continuous period of eligi-

(III) Determination

(A) In general— The determination of the close of the beneficiary’s initial enrollment period and the close of the enrollment period in which the beneficiary enrolled shall be determined by the Secretary, by an amount that is equal to 10 percent of such premium for each full 12-month period (in the same continuous period of eligibility) in which the eligible beneficiary could have been enrolled under this part but was not so enrolled; or

(II) Periods not taken into account— For purposes of calculating any 12-month period under clause (I), there shall be taken into account—

(I) the months which elapsed between the close of the eligible beneficiary’s initial enrollment period and the close of the enrollment period in which the beneficiary enrolled; and

(II) in the case of an eligible beneficiary who reenrolls under this part, the months which elapsed between the date of termin-

(III) Periods not taken into account— For purposes of calculating any 12-month period under clause (I), subject to subclause (II), there shall not be taken into account months for which the eligi-

(II) Determination of close of enrollment period

(III) Periods not taken into account— For purposes of calculating any 12-month period under clause (I), subject to subclause (II), there shall not be taken into account months for which the eligi-

(II) In general— The costs of providing benefits under this part shall be paid from the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

(3) Periods not taken into account— For purposes of calculating any 12-month period under clause (I), subject to subclause (II), there shall not be taken into account months for which the eligible beneficiary was covered under a group health plan, including a qualified retiree prescription drug plan (as defined in section 1857(l), as added by section 1860Q), for which the premium was paid under section 1860I, that provides coverage of the cost of prescription drugs whose actuarial value (as defined by the Secretary) to the beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under which an eligible beneficiary shall be covered.
prescription drug benefit program under this part.

(11) APPLICATION.—This clause shall only apply with respect to a coverage period the enrollment for which occurs before the end of the 60-day period that begins on the first day of the month which includes the date on which the plan terminates, ceases to provide, or receives the prescription drug coverage under such plan to below the value of the coverage provided under the program under this part.

(12) DETERMINATION TREATED SEPARATELY.—Any increase in an eligible beneficiary’s monthly premium under clause (1) with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which the beneficiary may have.

(v) PERIOD OF ELIGIBILITY.

(1) IN GENERAL.—Subject to subclause (II), for purposes of this subparagraph, an eligible beneficiary’s ‘‘continuous period of eligibility’’ is the period that begins with the first day on which the beneficiary is eligible to enroll under section 1856 and ends with the beneficiary’s death.

(2) SEPARATE PERIOD.—Any period during all of which an eligible beneficiary satisfied paragraph (1) of section 1856 and which terminated in or before the month preceding the month in which the beneficiary reached age 65 shall be a separate ‘‘continuous period of eligibility’’ with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this subparagraph).

(B) OPEN ENROLLMENT PERIOD FOR CURRENT BENEFICIARIES IN WHICH LATE ENROLLMENT PROCEDURES DO NOT APPLY.—The Secretary shall establish an applicable period, which shall begin on the date on which the Secretary begins to accept enrollment in section 1856 under this part, during which any eligible beneficiary may enroll under this part without the application of the late enrollment procedures established under subparagraph (A)(i).

(3) PERIOD OF COVERED.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an eligible beneficiary’s coverage under the program under this part shall be effective for the period provided in section 1856, as if that section applied to the program with respect to enrollees.

(B) OPEN ENROLLMENT.—An eligible beneficiary who enrolls under the program under this paragraph (1) shall be entitled to the benefits under the program beginning on the first day of the month following the month in which such enrollment occurred.

(C) LIMITATION.—Coverage under this part shall not begin prior to the date that is 1 year after the date of enactment of this Act.

(4) PARTIAL COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A AND B.—

(A) IN GENERAL.—In addition to the causes specified in section 1856, the Secretary shall terminate an individual’s coverage under this part if the individual is no longer enrolled in either part A or part B.

(B) EFFECTIVE DATE.—The termination described in subparagraph (A) shall be effective on the effective date of termination of coverage under part A or (if later) part B.

(C) ENROLLMENT WITH ELIGIBLE ENTITY.—

(1) PROCESSES.—

(A) IN GENERAL.—The Secretary shall establish processes through which an eligible beneficiary who is enrolled under this part but not enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization shall be able to select to enroll with any eligible entity that has been awarded a contract under this part and serves the geographic area in which the beneficiary resides.

(B) RULES.—In establishing the process under subparagraph (A), the Secretary shall ensure that enrollees in and disenrollment from a Medicare+Choice plan under section 1856 (including special election periods under subsection (e)(4) of such section).

(2) MEDICARE CHOICE ENROLLEES.—An eligible beneficiary who is enrolled under this part and enrolled in a Medicare+Choice plan offered by an entity shall receive coverage of covered outpatient drugs under this part through such plan.

(c) FIRST ENROLLMENT PERIOD.—The processes developed under subparagraphs (a) and (b) shall ensure that eligible beneficiaries are permitted to enroll under this part and with an eligible entity prior to the date that is 1 year after the date of enactment of this Act, in order to ensure that coverage under this part is effective as of such date.

(d) PROVIDING INFORMATION TO BENEFICIARIES UNDER THE PROGRAM.—

(1) SEC. 1860C. (a) ACTIVITIES.

(A) IN GENERAL.—The Secretary shall conduct activities that are designed to broadly disseminate information to eligible beneficiaries (and prospective eligible beneficiaries) regarding the coverage provided under this part.

(B) OPEN ENROLLMENT PERIOD FOR CURRENT BENEFICIARIES IN WHICH LATE ENROLLMENT PROCEDURES DO NOT APPLY.—The Secretary shall establish an applicable period, which shall begin on the date on which the Secretary begins to accept enrollment in section 1856 under this part, during which any eligible beneficiary may enroll under this part without the application of the late enrollment procedures established under subparagraph (A)(i).

(2) SPECIAL RULE FOR FIRST ENROLLMENT UNDER THE PROGRAM.—To the extent practicable, the activities described in paragraph (1) shall ensure that eligible beneficiaries are provided with such information at least 30 days prior to the first enrollment period described in section 1860B(c).

(e) REQUIREMENTS.—

(1) IN GENERAL.—The activities described in subsection (a) shall:

(A) be similar to the activities performed by the Secretary under section 1851(d);

(B) be coordinated with the activities performed by the Secretary under such section and under section 1852(d); and

(C) provide for the dissemination of information comparing the eligible entities that are available to eligible beneficiaries residing in an area under this part.

(2) COMPARATIVE INFORMATION.—The comparative information described in paragraph (1) shall include:

(A) BENEFITS.—A comparison of the benefits provided by each eligible entity, including a comparison of the pharmacy networks offered by such entity and the formularies and appeals processes implemented by each entity.

(B) QUALITY AND PERFORMANCE.—To the extent available, a comparison of quality and performance of each eligible entity.

(C) BENEFICIARY COSTS.—The cost-sharing required of eligible beneficiaries enrolled in each eligible entity.

(D) CONSUMER SATISFACTION SURVEYS.—To the extent available, the results of consumer satisfaction surveys regarding each eligible entity.

(3) ADDITIONAL INFORMATION.—The Secretary shall develop standards to ensure that the information provided to eligible beneficiaries under this part is complete, accurate, and understandable.

(4) USE OF MEDICARE CONSUMER COALITIONS TO PROVIDE INFORMATION.—

(A) IN GENERAL.—The Secretary may contract with Medicare+Choice organizations to conduct the informational activities described in paragraph (1) under section 1851(d) and (C) under section 1852(d).

(B) SELECTION OF COALITIONS.—If the Secretary determines that Medicare Consumer Coalitions to be appropriate, the Secretary shall—

(1) develop and disseminate, in such areas as the Secretary determines appropriate, a request for Medicare+Choice organizations to contract with the Secretary in order to conduct any of the informational activities described in paragraph (2) and

(2) select a proposal of a Medicare+Choice organization to conduct the informational activities in such area, with a proposal developed by a Medicare+Choice organization with experience in providing information to beneficiaries under this title.

(5) PAYMENT TO MEDICARE CONSUMER COALITIONS CONTRACTING UNDER THIS SUBSECTION.—The Secretary shall make payments to Medicare Consumer Coalitions contracting under this subsection in such amounts and in such manner as the Secretary determines appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to—

(1) create and maintain the Medicare+Choice program under this section.

(2) MEDICARE CONSUMER COALITION DEFINED.—In this subsection, the term ‘‘Medicare+Choice program’’ means a program that is pre-
SEC. 1860E. (a) DEDUCTIBLE.—

(1) IN GENERAL.—Subject to paragraph (2), no payments shall be made under this part on behalf of an eligible beneficiary until the beneficiary has met a $250 deductible.

(2) WAIVER OF DEDUCTIBLE FOR GENERIC DRUGS.—

(A) IN GENERAL.—An eligible entity may provide that generic drugs are not subject to deductible described in paragraph (1) if the Secretary determines that the waiver of the deductible described in paragraph (1) is tied to the performance measures and other incentives applicable to the entity pursuant to section 1860H(a); and

(B) APPLICABLE PERCENTAGE DEFINED.—

For purposes of subparagraph (A), the ‘‘applicable percentage’’ means expenses incurred as a result of the application of the deductibles under section (a) and the coinsurance required under this subsection.

(3) REDUCTION BY ELIGIBLE ENTITY.—An eligible entity may reduce the applicable percentage by which an eligible beneficiary is subject to under paragraph (1) if the Secretary determines that such reduction—

(A) is tied to the performance measures and other incentives applicable to the entity pursuant to section 1860H(a); and

(B) will not result in an increase in the expenditures made from the Federal Supplementary Medical Insurance Trust Fund.

(4) INFLATION ADJUSTMENT.—

(1) IN GENERAL.—In the case of any calendar year beginning after 2004, the dollar amount described in subparagraph (a)(1) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by the applicable percentage defined under this section (A); and

(B) the amount that the entity will charge the beneficiary for carrying out the requirements under subsection (a) and delivering the benefits under such contract;

(2) DETERMINATION.—

(i) the risk corridors tied to performance measures and other incentives that the entity will accept in order to carry out this part, including information relating to the bidding process under this part.

(B) a detailed description of the entity’s estimated marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries; and

(C) such other information that the Secretary determines is necessary in order to carry out this part, including information relating to the bidding process under this part.

(3) ACCESS.—

(A) makes available to each beneficiary covered under the contract the full scope of the benefits required under this part.

(B) AREA NOT COVERED BY CONTRACTS.—

The Secretary shall develop procedures for the provision of covered outpatient drugs under this part to each eligible beneficiary that resides in an area not covered by any contract under this part.

(5) BENEFICIARIES RESIDING IN DIFFERENT LOCATIONS.—The Secretary shall develop procedures to ensure each eligible beneficiary that resides in different areas in a year is provided the benefits under this part throughout the entire year.

(6) SPECIAL ATTENTION TO RURAL AND HARD-TO-SERVE AREAS.—

(A) IN GENERAL.—The Secretary shall ensure that all eligible beneficiaries have access to the full range of benefits under this part, and shall give special attention to access, pharmacist counseling, and delivery in rural and hard-to-serve areas (as the Secretary may define by regulation).

(B) SPECIAL ATTENTION DEFINED.—For purposes of subparagraph (A), the term ‘‘special attention’’ may include bonus payments to retail pharmacists in rural areas, extra payments to eligible entities for the cost of rapid delivery of pharmaceuticals, and any other actions the Secretary determines are necessary to ensure full access to benefits under this part by eligible beneficiaries residing in rural and hard-to-serve areas.

(C) GAO REPORT.—Not later than 2 years after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001, the Comptroller General of the United States shall submit to Congress a report on the access, service, and payment benefits under this part to eligible beneficiaries residing in rural and hard-to-serve areas, together with any recommendations of the Comptroller General regarding any additional steps the Secretary may need to take to ensure the access of Medicare beneficiaries to such benefits.

(7) AWARDING OF CONTRACTS.—

(A) NUMBER OF CONTRACTS.—The Secretary shall determine, with the goal of containing costs under this title, the number of contracts for each area.

(B) SELECTION OF ENTITIES TO PROVIDE OUTPATIENT DRUG BENEFIT.—

The Secretary shall develop procedures for the determination of coverage areas under this part and the goal of containing costs under this title.

(8) DETERMINATION.—In determining which of the eligible entities that submitted bids meet the minimum standards specified under this part and the goal of containing costs under this title, award in a competitive manner at least 2 contracts in an area, unless the Secretary determines that such reduction

(A) a proposal for the estimated prices of covered outpatient drugs and the projected annual increases in such prices, including differentials between formulary and nonformulary prices, if applicable;

(B) the amount that the entity will charge the beneficiary for carrying out the requirements under subsection (a) and delivering the benefits under such contract;

(C) a statement regarding whether the entity will waive the deductible for generic drugs pursuant to section 1860H(a); and

(D) a statement regarding whether the entity will reduce the applicable coinsurance percentage pursuant to section 1860E(b)(2) and the provisions of such reduction;

(E) a detailed description of—

(i) the risk corridors tied to performance measures and other incentives that the entity will accept in order to carry out this part, including information relating to the bidding process under this part.

(9) DETERMINATION.—In determining which of the eligible entities that submitted bids meet the minimum standards specified under this part and the goal of containing costs under this title, award in a competitive manner at least 2 contracts in an area, unless the Secretary determines that such reduction

(A) a proposal for the estimated prices of covered outpatient drugs and the projected annual increases in such prices, including differentials between formulary and nonformulary prices, if applicable;

(B) the amount that the entity will charge the beneficiary for carrying out the requirements under subsection (a) and delivering the benefits under such contract;

(C) a statement regarding whether the entity will waive the deductible for generic drugs pursuant to section 1860H(a); and

(D) a statement regarding whether the entity will reduce the applicable coinsurance percentage pursuant to section 1860E(b)(2) and the provisions of such reduction;

(E) a detailed description of—

(i) the risk corridors tied to performance measures and other incentives that the entity will accept in order to carry out this part, including information relating to the bidding process under this part.

(B) a detailed description of the entity’s estimated marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries; and

(C) such other information that the Secretary determines is necessary in order to carry out this part, including information relating to the bidding process under this part.

(9) DETERMINATION.—In determining which of the eligible entities that submitted bids meet the minimum standards specified under this part and the goal of containing costs under this title, award in a competitive manner at least 2 contracts in an area, unless the Secretary determines that such reduction

(A) a proposal for the estimated prices of covered outpatient drugs and the projected annual increases in such prices, including differentials between formulary and nonformulary prices, if applicable;

(B) the amount that the entity will charge the beneficiary for carrying out the requirements under subsection (a) and delivering the benefits under such contract;

(C) a statement regarding whether the entity will waive the deductible for generic drugs pursuant to section 1860H(a); and

(D) a statement regarding whether the entity will reduce the applicable coinsurance percentage pursuant to section 1860E(b)(2) and the provisions of such reduction;

(E) a detailed description of—

(i) the risk corridors tied to performance measures and other incentives that the entity will accept in order to carry out this part, including information relating to the bidding process under this part.

(B) a detailed description of the entity’s estimated marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries; and

(C) such other information that the Secretary determines is necessary in order to carry out this part, including information relating to the bidding process under this part.

(9) DETERMINATION.—In determining which of the eligible entities that submitted bids meet the minimum standards specified under this part and the goal of containing costs under this title, award in a competitive manner at least 2 contracts in an area, unless the Secretary determines that such reduction

(A) a proposal for the estimated prices of covered outpatient drugs and the projected annual increases in such prices, including differentials between formulary and nonformulary prices, if applicable;

(B) the amount that the entity will charge the beneficiary for carrying out the requirements under subsection (a) and delivering the benefits under such contract;

(C) a statement regarding whether the entity will waive the deductible for generic drugs pursuant to section 1860H(a); and

(D) a statement regarding whether the entity will reduce the applicable coinsurance percentage pursuant to section 1860E(b)(2) and the provisions of such reduction;

(E) a detailed description of—

(i) the risk corridors tied to performance measures and other incentives that the entity will accept in order to carry out this part, including information relating to the bidding process under this part.

(B) a detailed description of the entity’s estimated marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries; and

(C) such other information that the Secretary determines is necessary in order to carry out this part, including information relating to the bidding process under this part.

(9) DETERMINATION.—In determining which of the eligible entities that submitted bids meet the minimum standards specified under this part and the goal of containing costs under this title, award in a competitive manner at least 2 contracts in an area, unless the Secretary determines that such reduction

(A) a proposal for the estimated prices of covered outpatient drugs and the projected annual increases in such prices, including differentials between formulary and nonformulary prices, if applicable;

(B) the amount that the entity will charge the beneficiary for carrying out the requirements under subsection (a) and delivering the benefits under such contract;

(C) a statement regarding whether the entity will waive the deductible for generic drugs pursuant to section 1860H(a); and

(D) a statement regarding whether the entity will reduce the applicable coinsurance percentage pursuant to section 1860E(b)(2) and the provisions of such reduction;

(E) a detailed description of—

(i) the risk corridors tied to performance measures and other incentives that the entity will accept in order to carry out this part, including information relating to the bidding process under this part.

(B) a detailed description of the entity’s estimated marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries; and

(C) such other information that the Secretary determines is necessary in order to carry out this part, including information relating to the bidding process under this part.

(9) DETERMINATION.—In determining which of the eligible entities that submitted bids meet the minimum standards specified under this part and the goal of containing costs under this title, award in a competitive manner at least 2 contracts in an area, unless the Secretary determines that such reduction

(A) a proposal for the estimated prices of covered outpatient drugs and the projected annual increases in such prices, including differentials between formulary and nonformulary prices, if applicable;

(B) the amount that the entity will charge the beneficiary for carrying out the requirements under subsection (a) and delivering the benefits under such contract;

(C) a statement regarding whether the entity will waive the deductible for generic drugs pursuant to section 1860H(a); and

(D) a statement regarding whether the entity will reduce the applicable coinsurance percentage pursuant to section 1860E(b)(2) and the provisions of such reduction;

(E) a detailed description of—

(i) the risk corridors tied to performance measures and other incentives that the entity will accept in order to carry out this part, including information relating to the bidding process under this part.

(B) a detailed description of the entity’s estimated marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries; and

(C) such other information that the Secretary determines is necessary in order to carry out this part, including information relating to the bidding process under this part.
(B) the amount that the entity will charge the Secretary for administering and delivering the benefits under the contract;

(C) the proposed prices of covered outpatient drugs and annual increases in such prices;

(D) the proposed risk corridors tied to performance measures and other incentives that the entity will be subject to under the contract;

(E) the factors described in section 1860B(h); and

(F) prior experience in administering a prescription drug benefit program;

(G) effectiveness in containing costs through purchase incentives and utilization management; and

(H) such other factors as the Secretary deems necessary to evaluate the merits of each eligible entity.

(3) EXCEPTION TO CONFLICT OF INTEREST RULES.—In awarding contracts under this part, the Secretary may waive conflict of interest rules generally applicable to Federal acquisitions (subject to such safeguards as the Secretary may find necessary to impose) in circumstances where the Secretary finds that such waivers are necessary to achieve the objectives of the program under this part.

(4) ADMINISTRATIVE OR JUDICIAL REVIEW.—The determination of the Secretary to award or not award a contract to an eligible entity under this part shall not be subject to administrative or judicial review.

(f) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—The provisions of section 1861(h) shall apply to marketing material and application forms under this part in the same manner as such provisions apply to marketing material and application forms under part B.

(g) DURATION OF CONTRACTS.—Each contract under this part shall be for a term of at least 2 years but not more than 5 years, as determined by the Secretary.

(h) CONDITIONS FOR AWARDING CONTRACT.—

(1) QUALITY AND FINANCIAL STANDARDS.—The eligible entity meets the quality and financial standards specified by the Secretary.

(2) PROCEDURES TO ENSURE PROPER UTILIZATION, COMPLIANCE, AND AVOIDANCE OF ADVERSE DRUG REACTIONS.—The eligible entity has in place drug utilization review procedures.

(3) COST-EFFECTIVE PROVISION OF BENEFITS.—

(A) IN GENERAL.—In providing the benefits under a contract under this part, an eligible entity may—

(i) employ mechanisms to provide the benefits economically, including the use of—

(I) formularies (pursuant to subparagraph (B));

(II) alternative methods of distribution; and

(III) generic drug substitution;

(ii) use mechanism to encourage eligible beneficiaries to use cost-effective prescription drugs or less costly means of receiving drugs, including the use of pharmacy incentive programs, therapeutic interchange programs, and disease management programs;

(iii) encourage pharmacy providers to—

(I) inform beneficiaries of the differences in price, quality, and cost of generic and nongeneric drug equivalents; and

(II) provide medication therapy management programs in order to enhance beneficiaries' understanding of the appropriate use of medications and to reduce the risk of potential adverse events associated with medications.

(B) FORMULARIES.—If an eligible entity uses a formulary under this part, such formulary shall comply with standards established by the Advisory Committee established under section 1860M. Such standards shall require that the eligible entity—

(i) use a pharmacy and therapeutic committee (that meets the standards for a pharmacy and therapeutic committee established by the Secretary in consultation with the Advisory Committee established under section 1860M) to develop and implement the formulary;

(ii) in the formulary—

(I) at least 1 drug from each therapeutic class (as defined by the entity's pharmacy and therapeutic committee in accordance with standards established by the Advisory Committee established under section 1860M); and

(II) if there is more than 1 drug available in a therapeutic class, at least 2 drugs from such class; and

(iii) if there are more than 2 drugs available in a therapeutic class, at least 2 drugs from such class and a generic drug substitute if available;

(iv) develop procedures for the—

(A) addition of new therapeutic classes to the formulary;

(B) addition of new drugs to an existing therapeutic class; and

(C) modification of the formulary;

(v) provide coverage of otherwise covered nonformulary drugs (as determined by the Secretary) in accordance with such standards as the Secretary determines to be necessary to promote the exercise of the authority under this section;

(vi) maintain such records and information in a manner that is accurate and time sensitive.

(2) ACCESS.—The eligible entity ensures that the covered outpatient drugs are accessible and convenient to eligible beneficiaries covered under the contract, including by doing the following:

(A) PROVIDING SERVICES DURING EMERGENCIES.—Offering services 24 hours a day and 7 days a week for emergencies.

(B) AGREEMENTS WITH PHARMACIES.—Entering into participation agreements under subsection (b) with pharmacies, that include terms that—

(i) require the participation of sufficient numbers of pharmacies to ensure convenient access (including adequate emergency access); and

(ii) permit the participation of any pharmacy in the service area that meets the participation requirements described in subsection (b).

(C) CONTINUITY OF CARE.—

(i) IN GENERAL.—The eligible entity ensures that, in the case of an eligible beneficiary who loses coverage under this part with the entity under circumstances that would permit a special election period (as established by the Secretary under section 1860B(b)), the entity will continue to provide coverage under this contract to such beneficiary until the beneficiary enrolls and receives such coverage with another eligible entity under this part.

(ii) LIMITED PERIOD.—In no event shall an eligible entity be required to provide the extended coverage required under clause (i) beyond the date which is 30 days after the coverage with such entity would have terminated but for this subparagraph.

(D) PROCEDURES REGARDING DENIALS OF COVERAGE.—An eligible entity has in place procedures to ensure—

(i) a timely internal and external review and resolution of denials of coverage (in whole or in part) and complaints (including those regarding the use of formularies under paragraph (3)) by eligible beneficiaries, or by providers, pharmacists, and other individuals acting on behalf of each such beneficiary (with the beneficiary's consent) in accordance with requirements (as established by the Secretary) that are comparable to such requirements for Medicare-Choice organizations under part B; and

(ii) that beneficiaries are provided with information regarding the appeals procedures under this part at the time of enrollment.

(E) PROCEDURES REGARDING PATIENT CONFIDENTIALITY.—The eligible entity maintains individually identifiable medical records or other health information regarding eligible beneficiaries under a contract entered into under this part, the entity has in place procedures to—

(i) safeguard the privacy of any individually identifiable beneficiary information; and

(ii) maintain such records and information in a manner that is accurate and timely;

(F) PROCEDURES REGARDING TRANSFER OF MEDICAL RECORDS.—

(i) IN GENERAL.—The eligible entity has in place procedures for the timely transfer of records and information described in subparagraph (D) with respect to a beneficiary who loses coverage under this part with the entity and enrols with another entity under this part; and

(ii) PATIENT CONFIDENTIALITY.—The procedures described in clause (i) shall comply
with the patient confidentiality procedures described in subparagraph (D).

(‘‘F’’) PROCEDURES REGARDING MEDICAL ERRORS.—The eligible entity has in place procedures with the Secretary to deter medical errors related to the provision of covered outpatient drugs.

(‘‘G’’) PROCEDURES TO CONTROL FRAUD, ABUSE, AND WASTE.—The eligible entity has in place procedures to control fraud, abuse, and waste.

(‘‘H’’) REPORTING REQUIREMENTS.—(A) The eligible entity provides the Secretary with reports containing information regarding the following:—

(1) The benefits provided to beneficiaries enrolled with the entity will be charged for covered outpatient drugs.

(2) The administrative costs of providing such benefits.

(iv) Utilization of such benefits.

(v) Marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries.

(B) TIMELINE FOR SUBMITTING REPORTS.—

(i) IN GENERAL.—The eligible entity shall submit a report described in subparagraph (A) to the Secretary within 3 months after the end of each 12-month period in which the eligible entity maintains a contract under this part. Such report shall contain information concerning the benefits provided during such 12-month period.

(ii) LAST YEAR OF CONTRACT.—In the case of the last year of a contract under this section, the Secretary may require that a report described in subparagraph (A) be submitted within 3 months prior to the end of the contract. Such report shall contain information concerning the benefits provided between the period covered by the most recent report under paragraph (1) and the date that a report is submitted under this clause.

(C) CONFIDENTIALITY OF INFORMATION.—

(i) IN GENERAL.—Notwithstanding any other provision of law and subject to clause (ii), information disclosed by an eligible entity pursuant to subparagraph (A) is confidential and shall only be used by the Secretary for the purposes of, and to the extent necessary, to carry out this part.

(ii) UTILIZATION DATA.—Subject to patient confidentiality, the Secretary shall make information disclosed by an eligible entity pursuant to subparagraph (A)(iv) available for research purposes. The Secretary may charge a reasonable fee for making such information available.

(‘‘I’’) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—The eligible entity will comply with the requirements described in section 1860F(f).

(‘‘J’’) RECORDS AND AUDITS.—The eligible entity maintains adequate records related to the administration of the benefit under this part and affords the Secretary access to such records for auditing purposes.

(b) PHARMACY PARTICIPATION AGREEMENTS.—

(1) IN GENERAL.—A pharmacy that meets the requirements of this subsection shall be eligible to enter an agreement with an eligible entity to furnish covered outpatient drugs and pharmacists’ services to eligible beneficiaries enrolled with such entity and residing in the service area.

(2) TERMS OF AGREEMENT.—An agreement under this subsection shall include the following terms and requirements:

(A) LICENSING.—The pharmacy and pharmacists authorized through such agreement to provide services during the contract period will continue to meet all applicable State and local licensing requirements.

(B) LIMITATION ON CHARGES.—Pharmacies participating under this part shall not charge an eligible beneficiary enrolled with the eligible entity more than—

(i) the price of such drug (as reported to the Secretary pursuant to subsection (a)(6)(A)); or

(ii) the amount of the beneficiary’s obligation (as determined in accordance with the provisions of this part) of the negotiated price of such drug.

(C) PERFORMANCE STANDARDS.—The pharmacy shall comply with performance standards relating to—

(i) measures for quality assurance, reduction of medical errors, and compliance with the drug utilization review procedures described in subsection (a)(2);

(ii) systems to ensure compliance with the patient confidentiality standards applicable under subsection (a)(4)(D); and

(iii) other requirements as the Secretary may impose to ensure integrity, efficiency, and the quality of the program under this part.

(1) PAYMENTS.

SEC. 1860H. (a) PAYMENTS TO ELIGIBLE ENTITIES.—

(1) PROCEDURES.—

(A) IN GENERAL.—The Secretary shall establish procedures for making payments to an eligible entity under a contract entered into under this part for the administration and delivery of the services required under this part.

(B) ENTITIES ONLY SUBJECT TO LIMITED RISK.—Under the procedures established under paragraph (A), an eligible entity shall only be at risk to the extent that the entity is at risk under paragraph (2).

(2) RISK CORRIDORS TIED TO PERFORMANCE MEASURES AND OTHER INCENTIVES.—

(A) IN GENERAL.—The procedures established under paragraph (1) may include the use of—

(i) risk corridors tied to performance measures that have been agreed to between the eligible entity and the Secretary under the contract; and

(ii) any other incentives that the Secretary determines appropriate.

(B) PHASE-IN OF RISK CORRIDORS TIED TO PERFORMANCE MEASURES.—The Secretary may phase-in the use of risk corridors tied to performance measures if the Secretary determines such phase-in to be appropriate.

(C) PAYMENTS SUBJECT TO INCENTIVES.—If a contract under this paragraph includes the use of risk corridors tied to performance measures or other incentives pursuant to subparagraph (A), payments to eligible entities under such contract shall be subject to such risk corridors tied to performance measures and other incentives.

(3) RISK ADJUSTMENT.—To the extent that eligible entities are at risk because of the risk corridors or other incentives described in paragraph (2)(A), the procedures established under paragraph (1) may include a methodology for adjusting the payments made to such entities based on the differences in actuarial risk of different enrollees being served if the Secretary determines such adjustments to be necessary and appropriate.

(b) SECONDARY PAYER PROVISIONS.—The provisions of section 1862(b) shall apply to the benefits provided under this part.

EMPLOYER INCENTIVE PROGRAM FOR EMPLOYMENT-BASED RETIREE DRUG COVERAGE

SEC. 1860I. (a) PROGRAM AUTHORITY.—

The Secretary is authorized to develop and implement a program under this section called the ‘‘Employer Incentive Program’’ that encourages employers and other sponsors of employment-based retiree coverage to provide adequate prescription drug benefits to retired individuals by subsidizing, in part, the sponsor’s cost of providing coverage under qualifying plans.

(b) SPONSOR REQUIREMENTS.—In order to be eligible to receive an incentive payment under this section with respect to coverage of an individual under a qualified retiree prescription drug plan (as defined in subsection (c)), a sponsor shall meet the following requirements:

(1) ASSURANCES.—The sponsor shall—

(A) annually attest, and provide such assurance to the Secretary, that the coverage offered by the sponsor is a qualified retiree prescription drug plan, and will remain such a plan for the duration of the sponsor’s participation in the program under this section; and

(B) guarantee that it will give notice to the Secretary and covered retirees—

(i) at least 120 days before terminating its plan; and

(ii) immediately upon determining that the actuarial value of the prescription drug benefit under the plan falls below the actuarial value of the outpatient prescription drug benefit under this part.

(2) BENEFICIARY INFORMATION.—The sponsor shall submit to the Secretary each calendar quarter for which it seeks an incentive payment under this section, the names and social security numbers of all retirees (and their spouses and dependents) covered under such plan during such quarter and the dates (if less than the full quarter) during which each such individual was covered.

(3) AUDITS.—The sponsor of an employment-based retiree health coverage plan seeking incentive payments under this section shall provide such other information, and comply with such other requirements, as the Secretary may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription drug coverage, the accuracy of incentive payments made, and such other matters as may be appropriate.

(4) OTHER REQUIREMENTS.—The sponsor shall provide such other information, and comply with such other requirements, as the Secretary may find necessary to administer the program under this section.

(c) INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A sponsor that meets the requirements of subsection (b) with respect to any calendar quarter shall be entitled to have payment made by the Secretary on a quarterly basis (to the sponsor or, at the sponsor’s direction, to the appropriate employment-based retiree health coverage plan) of an incentive payment, in the amount determined in paragraph (2), for each retired individual (or spouse) who—

(A) was covered under the sponsor’s qualified retiree prescription drug plan during such quarter; and

(B) was eligible for, but was not enrolled in, the outpatient prescription drug benefit program under this part.

(2) AMOUNT OF INCENTIVE.—The payment under this section with respect to each individual described in paragraph (1) for a month shall be equal to ¾ of the monthly premium amount payable by an eligible beneficiary enrolled under this part, as set for the calendar year pursuant to section 1860D(a)(2).

(3) PAYMENT DATE.—The incentive under this section with respect to a calendar quarter shall be payable as of the end of the next succeeding calendar quarter.

(4) CIVIL MONKEY PENALTIES.—A sponsor, health plan, or other entity that the Secretary determines, has, directly or through its agent, provided information in connection with a request for an incentive payment under this section that the entity knew or should have known was false or misleading is subject to a civil monetary penalty in an amount up to 3 times the total incentive payment.
SEC. 1860J. If the Secretary first implements the program under this part on a day other that January 1 of a year, the Secretary shall establish procedures for implementing the program during the period between the date of implementation and December 31 of such year, including procedures—

(1) for prorating premiums, deductibles, and coinsurance under the program during such period; and

(2) relating to requirements and payments under the Medicare+Choice program during such period.

APPROPRIATIONS—

‘‘SEC. 1860K. There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the program under this section.’’

PROCEDURES FOR PARTIAL YEAR IMPLEMENTATION

‘‘SEC. 1860L. If the Secretary first implements the program under this part on a day other that January 1 of a year, the Secretary shall establish procedures for implementing the program during the period between the date of implementation and December 31 of such year, including procedures—

(1) for prorating premiums, deductibles, and coinsurance under the program during such period; and

(2) relating to requirements and payments under the Medicare+Choice program during such period.

APPROPRIATIONS—

‘‘SEC. 1860M. There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the program under section 1860D.’’

SUBPART 2—MEDICARE PHARMACY AND THERAPEUTICS (P&T) ADVISORY COMMITTEE

‘‘SEC. 1860N. (a) ESTABLISHMENT OF COMMITTEE.—There is established a Medicare Pharmacy and Therapeutics Advisory Committee, in this section referred to as the Committee.

(b) FUNCTIONS OF COMMITTEE.—On and after January 1, 2002, the Committee shall advise the Secretary in policy matters that directly affect the administration of the outpatient prescription drug benefit program under this part; and

(1) the development of guidelines for the implementation and administration of the outpatient prescription drug benefit program under this part; and

(2) the development of—

(A) standards for a pharmacy and therapeutics committee to certify eligible entities under section 1860G(a)(3)(B)(i); (B) standards for—

(i) defining therapeutic classes; (ii) determining new therapeutic classes to a formulary; (iii) adding new drugs to a therapeutic class within a formulary; and

(iv) whether and how often a formulary should be modified;

(C) procedures to evaluate the bids submitted by eligible entities under this part; and

(D) procedures to ensure that eligible entities with a contract under this part are in compliance with the requirements under this part.

(2) STRUCTURE AND MEMBERSHIP OF THE COMMITTEE.—

(a) ESTABLISHMENT.—The Committee shall be composed of 19 members who shall be appointed by the Secretary.

(b) MEMBERSHIP.—The members of the Committee shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their training or experience, exceptionally qualified to perform the duties of members of the Committee.

(c) SPECIFIC MEMBERS.—Of the members appointed under paragraph (1)—

(i) eleven shall be chosen to represent pharmacists;

(ii) four shall be chosen to represent physicians;

(iii) one shall be chosen to represent the Health Care Financing Administration; and

(iv) three shall be chosen to represent actuarial and pharmacoeconomists; and

(v) one shall be chosen to represent new emerging drug technologies.

(d) TERMS OF APPOINTMENT.—Each member of the Committee shall serve for a term determined appropriate by the Secretary. The terms of service of the members initially appointed shall begin on January 1, 2002.

(e) CHAIRMAN.—The Secretary shall designate one member of the Committee as Chairman. The term as Chairman shall be for a 1-year term.

(f) COMPENSATION AND TRAVEL EXPENSES.—

(i) COMPENSATION.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee. All members of the Committee who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

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

(3) MEETINGS.—The Committee shall meet at the call of the Chairman (after consultation with the other members of the Committee) not less often than quarterly to consider a specific agenda of issues, as determined by the Chairman after such consultation.

(4) STAFF.—The Secretary shall provide such staff assistance as the Committee may determine is necessary to the performance of its duties.

(5) MEETINGS.—The Committee shall meet at such times and places as the Secretary determines, and shall be individuals who are, by reason of their training or experience, exceptionally qualified to perform the duties of members of the Committee.

(g) OPERATION OF THE COMMITTEE.—

(i) MEETINGS.—The Committee shall meet at the call of the Chairman (after consultation with the other members of the Committee) not less often than quarterly to consider a specific agenda of issues, as determined by the Chairman after such consultation.

(ii) VOLUNTARY BENEFICIARY ENROLLMENT—

A volunteer may agree to serve as a member of the Committee, which shall be an out-of-pocket expense for the volunteer.

(3) COMPENSATION AND TRAVEL EXPENSES.—

(i) COMPENSATION.—The members of the Committee who are not officers or employees of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee. All members of the Committee who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

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

(iii) MEETINGS.—The Committee shall meet at such times and places as the Secretary determines, and shall be individuals who are, by reason of their training or experience, exceptionally qualified to perform the duties of members of the Committee.

(iv) OPERATION OF THE COMMITTEE.—

(i) MEETINGS.—The Committee shall meet at the call of the Chairman (after consultation with the other members of the Committee) not less often than quarterly to consider a specific agenda of issues, as determined by the Chairman after such consultation.

(ii) STAFF.—The Secretary shall provide such staff assistance as the Committee may determine is necessary to the performance of its duties.

(iii) MEETINGS.—The Committee shall meet at such times and places as the Secretary determines, and shall be individuals who are, by reason of their training or experience, exceptionally qualified to perform the duties of members of the Committee.

(2) VOLUNTARY BENEFICIARY ENROLLMENT FOR DRUG COVERAGE.—Section 1852(a)(1)(A) of such Act (42 U.S.C. 1395w–22(a)(1)(A)) is amended by striking ‘‘(and under part D to individuals also enrolled under that part)’’ after ‘‘parts A and B’’.

(b) ACCESS TO SERVICES.—Section 1852(d)(1) of such Act (42 U.S.C. 1395w–22(d)(1)) is amended—

(1) in subsection (D), by striking ‘‘and’’ at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ‘‘; and’’; and

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

‘‘(F) in the case of prescription drugs covered under part D, which are not prescribed in accordance with such part.’’

(c) CONFIRMING REFERENCES TO PREVIOUS PART D—

(1) IN GENERAL.—Any reference in law (in effect before the date of enactment of this Act) to part D of title XVIII of the Social Security Act is deemed a reference to part E of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSALS—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal for such technical and conforming amendments in the law as are required by the provisions of this Act.

SEC. 4. PART D BENEFITS UNDER MEDICARE+CHOICE PLANS.

(a) ELIGIBILITY, ELECTION, AND ENROLLMENT.—Section 1851 of the Social Security Act (42 U.S.C. 1395w–21) is amended—

(1) in subsection (a)(1)(A), by striking ‘‘parts A and B’’ and inserting ‘‘parts A, B, and D’’; and

(b) VOLUNTARY BENEFICIARY ENROLLMENT FOR DRUG COVERAGE.—Section 1852(a)(1)(A) of such Act (42 U.S.C. 1395w–22(a)(1)(A)) is amended by inserting ‘‘(and under part D to individuals also enrolled under that part)’’ after ‘‘parts A and B’’.

(c) ACCESS TO SERVICES.—Section 1852(d)(1) of such Act (42 U.S.C. 1395w–22(d)(1)) is amended—

(1) in subparagraph (D), by striking ‘‘and’’ at the end;
part D (as defined in section 1861(n)), the organization complies with the access requirements applicable under part D.”

(d) Payments to Organizations.—Section 1854(a) of such Act (42 U.S.C. 1395w–23(a)(1)(A)) is amended—

(1) by inserting “determined separately for the benefits under parts A and B and under part D” before “(part D)” after “as calculated under subsection (c)”;

(2) by striking “that area, adjusted for such risk factors” and inserting “that area. In the case of payment for the benefits under parts A and B, such payment shall be adjusted for such risk factors as”; and

(3) by inserting the following new sentence: “In the case of the payments for the benefits under part D, such payment shall initially be adjusted for the risk factors of each enrollee as the Secretary determines to be feasible and appropriate to ensure actuarial equivalence. By 2006, the adjustments to payments for benefits under part D shall be for the same risk factors used to adjust payments for the benefits under parts A and B.”

(e) Calculation of Annual Medicare+Choice Capitation Rate.—Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(1) in paragraph (1), in the matter preceding clause (A), by inserting “benefits under parts A and B” after “capitation rate”;

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

“(8) PAYMENT FOR PART D BENEFITS.—The Secretary shall determine a capitation rate for part D benefits (for individuals enrolled under part D) as follows:

(A) DRUGS DISPENSED BEFORE 2006.—In the case of prescription drugs dispensed on or after the date that is 1 year after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001 and before January 1, 2004, the capitation rate shall be based on the projected national per capita costs for prescription drug benefits under part D and associated claims processing costs for beneficiaries enrolled under part D and not enrolled with a Medicare+Choice organization under part D.

(B) DRUGS DISPENSED IN SUBSEQUENT YEARS.—In the case of prescription drugs dispensed in 2004 or a subsequent year, the capitation rate shall be determined by the Secretary’s estimate of the projected per capita cost growth in expenditures under this part D for an individual enrolled under part D for such subsequent year.”.

(f) Limitation on Enrollee Liability.—Section 1854(e) of such Act (42 U.S.C. 1395w–24(e)) is amended by adding at the end the following new paragraph:

“(5) SPecial RULE FOR PART D BENEFITS.—With respect to outpatient prescription drug benefits under a Medicare+Choice organization may not require that an enrollee pay a deductible or a coinsurance percentage that exceeds the deductible or coinsurance percentage applicable for such benefits for an eligible beneficiary under part D.”

(g) Requirement for Additional Benefits.—Section 1854(f)(1) of such Act (42 U.S.C. 1395w–24(f)(1)) is amended by adding at the end the following new sentence: “Such determination shall be made separately for the benefits under parts A and B and for prescription drug benefits under part D.”

(h) Effective Date.—The amendments made by this section shall apply to items and services provided under a Medicare+Choice plan on or after the date that is 1 year after the date of enactment of this Act.

SEC. 5. EXCLUSION OF PART D COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.

Section 1905(b) of the Social Security Act (42 U.S.C. 1396r(g)) is amended—

(1) by striking “attributable to the application of section” and inserting “attributable to—”;

(i) the application of section;?

(2) by striking the period and inserting “and”; and

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

“(2) the program under part D providing for covered outpatient drugs (including payments to employers and other sponsors of employment-based health care coverage under the Employer Incentive Program under section 1922 of the Act)”.

SEC. 6. ADDITIONAL ASSISTANCE FOR LOW-INCOME BENEFICIARIES.

(a) Inclusion in Medicare Cost-Sharing.—Section 1905(p)(3) of the Social Security Act (42 U.S.C. 1396a(p)(3)) is amended—

(1) in subparagraph (A), by striking “and” at the end; and

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

“(ii) The preceding sentence shall not apply to coinsurance described in section 1905(b)(2) or deductibles described in section 1905(b)(3).”.

(b) Expansion of Medical Assistance.—Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) in clause (i), by striking “and” at the end; and

(2) by adding at the end of the clause the following:

“(ii) from the amount otherwise determined as described in section 1905(b)(2), or deductibles described in section 1905(b)(3), as calculated under subsection (d), for the fiscal year that is 1 year after the date of enactment of such Act and any fiscal year thereafter, the amount otherwise determined under this subsection (and subsection (i)) for beneficiaries described in section 1860D, for coinsurance described in section 1860D(b), and for the deductible described in section 1860D(a); and

(B) by striking “and” at the end;

(2) by redesigning clause (iv) as clause (vi); and

(3) by inserting after clause (iii) the following new clauses:

(iv) for making medical assistance available for Medicare cost-sharing described in section 1860D(b), and for the deductible described in section 1860D(a);

(C) by adding at the end the following new sentence:

“(3) in subsection (b), by striking “section 1905(p)(3)(A)(ii)” and inserting “clauses (ii) and (iii) of section 1905(p)(3)(A), for the coinsurance described in section 1860D(b), and for the deductible described in section 1860D(a);”

(D) by striking “and” at the end;

(E) by adding at the end the following new subparagraph:

“(2) by striking “and” before “(3)”; and

(f) Treatment of Territories.—Section 1108(g) of such Act (42 U.S.C. 1396g) is amended by adding at the end the following new paragraph:

“(B) the aggregate amount of total payments made to the 50 States and the District of Columbia for the fiscal year under title XIX that are attributable to making medical assistance available for individuals described in clauses (i), (iii), (iv), and (v) of section 1902(a)(10)(E) for payment of Medicare cost-sharing that consists of premiums under section 1860D, coinsurance described in section 1860D(b), and deductibles described in section 1860D(a); to

(1) by striking “and” at the end; and

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

(e) Conforming Amendments.—Section 1933 of the Social Security Act (42 U.S.C. 1396a–3) is amended—

(1) in subsection (a), by striking “section 1902(a)(10)(E)(iv)” and inserting “section 1902(a)(10)(E)(vi)”;

(2) by striking subsection (c)(2)(A) and inserting—


(B) in clause (ii), by striking “section 1902(a)(10)(E)(iv)(II)” and inserting “section 1902(a)(10)(E)(vi)(II)”;

(3) in subsection (d), by striking “section 1902(a)(10)(E)(iv)” and inserting “section 1902(a)(10)(E)(vi)”;

(4) in subsection (e), by striking “section 1902(a)(10)(E)(iv)” and inserting “section 1902(a)(10)(E)(vi)”;

(5) in subsection (g), by striking “section 1902(a)(10)(E)(iv)” and inserting “section 1902(a)(10)(E)(vi)”;

(h) Effective Date.—The amendments made by this section shall apply for medical assistance provided under section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) on and after the date that is 1 year after the date of enactment of this Act.

SEC. 7. MEDIQAP REVISIONS.

Section 1882 of the Social Security Act (42 U.S.C. 1395s) is amended by adding at the end the following new subsection:

“(V) modernized benefits packages for Medicare supplemental policies.

“(1) promulgation of model regulation.—

(A) naic model regulation.—If, within 6 months after the date of enactment of the Medicare Prescription Drug Coverage Act of 2001, the National Association of Insurance
Commissioners in this subsection referred to as the ‘NAIC’ changes the 1991 NAIC Model Regulation (described in subsection (p)) to revise the benefit packages classified as ‘H’ and ‘J’, and the standards established by subsection (p)(2) (including the benefit package classified as ‘F’ with a high deductible feature, as described in subsection (p)(1)).

(i) the coverage for outpatient prescription drugs available under such benefit packages is replaced with coverage for outpatient prescription drugs that beneficiaries are otherwise eligible for under this Act;

(ii) the revised benefit packages provide a range of coverage options for outpatient prescription drugs for beneficiaries, but do not provide coverage for services other than prescription drugs; and

(iii) more than 90 percent of the coinsurance applicable to an individual under section 1860B(e) or 1860D.

SEC. 8. COMPREHENSIVE IMMUNOSUPPRESSIVE DURATION COVERAGE FOR TRANSPLANT PATIENTS.

(a) In general.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395w-120(s)(2)(J)) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106-55, section 113(a) as added, section 3), including an analysis of the outpatient drug benefit program under part D of title XVIII of the Social Security Act (as added by section 3) is expected to foster maximum competition and efficiency.

(b) Biennial reports.—Not later than January 1, 2001, and annually thereafter, the Comptroller General of the United States shall submit to Congress a report on the results of the study conducted under subsection (a), together with any recommendations for legislation that the Comptroller General determines to be appropriate as a result of such study.

SEC. 9. STUDIES AND REPORT TO CONGRESS REGARDING OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM.

(a) Studies.—The Secretary of Health and Human Services shall conduct a study on the following:

(1) Waiver or reduction of late enrollment penalty.—The feasibility and advisability of establishing an annual open enrollment period under the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 3), including an analysis of the outpatient drug benefit program under part D of title XVIII of the Social Security Act (as added by section 3) in which the late enrollment penalty under section 1860B(a)(2)(A) of the Social Security Act (as so added) would be the reduced penalty or without a penalty.

(2) Uniform format for pharmacy benefit cards.—The advisability of establishing a uniform format for pharmacy benefit cards provided to beneficiaries by eligible entities under such outpatient prescription drug benefit program.

(b) Report.—Not later than January 1, 2001, and annually thereafter, the Medicare Payment Advisory Commission shall submit to Congress a report on the results of the study conducted under subsection (a), together with any recommendations for legislation that such Commission determines to be appropriate as a result of such study.

SEC. 12. APPROPRIATIONS.

In addition to amounts otherwise appropriated to the Secretary of Health and Human Services, there are authorized to be appropriated to the Secretary for fiscal year 2002 and each subsequent fiscal year such sums as may be necessary to administer the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 3).

By Mrs. HUTCHISON (for herself, Mr. LÖTT, Mr. BROWNBACK, Mr. NELSON, Mr. MURKOWSKI, Mr. ALLEN, Mr. GRAMM, Mr. CRAPO, Mr. WARNER, Mr. HAGEL, Mr. BUNNING, Mr. FRIST, Mr. MCCONNELL, Mr. BURNS, Mr. ENsign, Mr. HELMS, and Mr. COGGINS).

S. 1163 A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by providing that the income tax rate bracket amounts, and the amount of the standard deduction, for joint returns shall be twice the amounts applicable to unmarried individuals, and for other purposes; to the Committee on Finance.
MARRIAGE PENALTY LEGISLATION

Mrs. HUTCHISON. Mr. President, for 4 years now, I have introduced a bill to eliminate the marriage penalty tax. I have said all of these years that I do not think Americans should have to choose between love and money. They should be able to get married and not be penalized because they do. But in fact 25 million married couples in America today do pay a penalty just because they got married. The sad thing is, the average penalty they pay is about $1,400, that is $1,400 that a young couple would like to have as they are starting their lives together, for the things they want: Like the down payment on the new house or the new car or the expenses associated with having children. We want them to be able to have the money they earn to make their choices rather than having Uncle Sam take $1,400 more just because of what amounts to a glitch in the Tax Code that requires these married couples to pay this penalty.

The bill I have just introduced today, S. 11, is cosponsored by Senators BROWNBACK, LOTT, NICKLES, ALLEN, BUNNING, BURNS, CRAPO, FRIST, GRAMM, HAGEL, KYL, ENSign, MCCONNELL, MURKOWSKI, and WALKER.

This is a bill that I hope will have bipartisan support because, in fact, we have passed it twice and sent it to the President with bipartisan majorities in the past. The President has chosen to veto the bills before, but today we have a new President who I believe will sign marriage penalty relief. It was part of President Bush’s campaign. When we send him Marriage penalty relief for the third time in a bipartisan way in Congress, I believe President Bush will sign it.

I am very pleased this bill will double the standard deduction for married couples. Today, if you get married the standard deduction that two single people would get is not double. We want to double the standard deduction. Two people getting married who have two incomes but do not itemize would receive a increase of $1,500 in their standard deduction. That is what we want to do.

Secondly, we will double each tax bracket for married couples filing a joint return. For example, if a couple is in the 15-percent income tax bracket but they get married and are thrown into the 30-percent bracket, we want to provide them relief such that they will effectively remain in the 15 percent bracket. This bill would widen the 15-percent bracket by $9,000 for married couples.

Congress passed this legislation, and it was vetoed. Today, I am introducing this bill. I know we are going to pass it in this Congress, and I know it will be signed. This is the beginning of a new day in our United States of America, and we are going to eliminate the marriage penalty this year. I will count on it.

Mr. BURNS. Mr. President, I rise in support of legislation my colleague from Texas introduced today that will put an end to the “marriage penalty” tax. Mr. President, we’ve been fighting this tax inequity for several years now. The people of Montana have spoken to me either through letters or conversation—this tax is unfair.

When we first started working to resolve this issue, I was contacted by Joshua and Jody Hayes of Billings, Montana. The Hayes paid $971 more in taxes because they were married than they would have paid if they remained single.

In Montana, it is estimated that nearly 90,000 couples are penalized by this tax to the tune of $51.5 million—solely for being married. Making a living—supporting a family—is a difficult task in today’s fast paced economy. A young couple married today is immediately subject to an additional financial burden because they want to share their lives together. The federal tax code penalizes same-sexing couples. These are not wealthy people—this effort to provide tax relief does not discriminate—this effort does not single out a specific income group. It is a tax on families.

I, along with my Republican colleagues, have made it clear that continued tax reform and tax relief is necessary, but I can think of no other tax that has such a dramatic impact on so many people.

If ever there was a disincentive to be married, this penalty would be it. I believe this, along with the estate tax, is one of the most unfair taxes on Americans. It is not right for people to be penalized with higher taxes simply because they choose to get married.

According to the Congressional Budget Office (CBO), almost half of all married couples pay higher taxes due to their marital status. Cumulatively, the marriage penalty increases taxes on affected couples by $29 billion per year. Currently, this tax penalty imposes an average additional tax of $1,400 on 21 million married couples nationwide.

The marriage penalty can have significantly negative economic implications for the country as a whole as well. Not only does this penalty within the tax system stand as a likely obstacle to marriage, it can actually discourage a spouse from entering the workforce.

By adding together husband and wife under the rate schedule, tax laws both encourage families to identify a primary earner and then place an extra burden on the secondary worker because his or her wages come on top of the primary earner’s wages.

As the American family realizes lower income levels, the nation realizes lower economic output. From a strictly economic perspective, the fact that potential workers would avoid the labor force as a result of a tax penalty is a clear sign of a failure to maximize true economic output. As a result, the nation is $1,600 billion lower in economic potential, which is demonstrated by decreased earnings and international competitiveness.

Whereas I am very disappointed President Clinton has vetoed this initiative in the past, I am confident our new President will support America’s families.

Congress has momentum considering this body has already passed this legislation to correct this inequity. I encourage my colleagues to support this legislation to repeal the marriage penalty.

By Mr. DASCHLE (for himself, Mr. LEARY, Mr. SCHUMER, Mr. DURbin, Mrs. BOXER, Mr. BREAux, Mrs. CLINTON, Mr. CORzINE, Mr. ROCKEFELLer, Mr. LEVIN, and Mr. JOHNSON).

S. 16. A bill to improve law enforcement, crime prevention, and victim assistance in the 21st century; to the Committee on the Judiciary.

21st CENTURY LAW ENFORCEMENT, CRIME PREVENTION, AND VICTIMS ASSISTANCE ACT

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill and an analysis of the bill be printed in the RECORD.

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

S. 16 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act”.

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

TITLE I—SUPPORTING LAW ENFORCEMENT AND THE EFFECTIVE ADMINISTRATION OF JUSTICE

Subtitle A—Support for Community Personnel
Sec. 1101. 21st Century Community Policing Initiative.

Subtitle B—Protecting Federal, State, and Local Law Enforcement Officers and the Judicial Officials
Sec. 1201. Expansion of protection of Federal officers and employees from murder due to their status.
Sec. 1202. Assaulting, resisting, or impeding certain officers or employees.
Sec. 1203. Influencing, impeding, or retaliating against a Federal official by threatening a family member.
Sec. 1204. Mailing threatening communications.
Sec. 1205. Amendment of the sentencing guidelines for assaults and threats against Federal judges and certain other Federal officials and employees.
Sec. 1206. Killing persons aiding Federal investigations or State correctional officers.
Sec. 1207. Killing State correctional officers.
Sec. 1208. Establishment of protective function privilege.

Subtitle C—Disarming Felons and Protecting Children From Violence
Sec. 1211. Prevention, and Victims Assistance Act in the 21st century; to the

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Sec. 1206. Killing persons aiding Federal investigations or State correctional officers.
Sec. 1207. Killing State correctional officers.
Sec. 1208. Establishment of protective function privilege.

Subtitle C—Disarming Felons and Protecting Children From Violence
Sec. 1211. Authorization of funding for additional State and local gun prosecutors.
Sec. 2306. Clarification of length of supervised release terms in controlled substance cases.
Sec. 2309. Supervised release period after benefits payment for continuing criminal enterprise.
Sec. 2310. Technical correction to ensure compliance of sentencing guidelines with provisions of all Federal statutes.
Sec. 2311. Import and export of chemicals used to produce illicit drugs.
Subtitle D—Deterring Cargo Theft
Sec. 2351. Punishment of cargo theft.
Sec. 2352. Reports to Congress on cargo theft.
Sec. 2353. Establishment of Advisory Committee on Cargo Theft.
Sec. 2354. Addition of attempted theft and counterfeiting offenses to eliminate gaps and inconsistencies in coverage.
Sec. 2355. Clarification of scienter requirement for receiving property stolen from an Indian tribal organization.
Sec. 2356. Larceny involving post office boxes and postal stamp vending machines.
Sec. 2357. Expansion of Federal theft offenses to cover theft of vessels.
Subtitle E—Improvements to Federal Criminal Law
PART 1—SENTENCING IMPROVEMENTS
Sec. 2415. Authority of court to impose a sentence of imprisonment in certain offenses.
Sec. 2416. Elimination of proof of value requirement for felony theft or conversion of grand jury material.
Sec. 2417. Increased maximum corporate penalty for antitrust violations.
Sec. 2418. Amendment of Federal sentencing guidelines for counterfeit bearer obligations of the United States.
PART 2—ADDITIONAL IMPROVEMENTS TO FEDERAL CRIMINAL LAW
Sec. 2421. Violence directed at dwellings in Indian country.
Sec. 2422. Corrections to Amber Hagerman Child Protection Act.
Sec. 2423. Elimination of “harmly harm” element in assault with a dangerous weapon offense.
Sec. 2424. Appeals from certain dismissals.
Sec. 2425. Authority for injunction against disposal of ill-gotten gains from violations of fraud statutes.
Sec. 2426. Expansion of interstate travel fraud statute to cover interstate travel by perpetrator.
Sec. 2427. Clarification of scope of unauthorized selling of military medals or decorations.
Sec. 2428. Amendment to section 669 to conform to Public Law 104–294.
Sec. 2429. Expansion of jurisdiction over child buying and selling of children.
Sec. 2430. Limits on disclosure of wiretap orders.
Sec. 2431. Prison credit and aging prisoner reform.
Sec. 2432. Miranda reaffirmation.
TITLE III—PROTECTING AMERICANS AND SUPPORTING VICTIMS OF CRIME
Subtitle A—Crime Victims Assistance
Sec. 2311. Right to notice and to be heard concerning detention.
Sec. 2312. Right to a speedy trial.
Sec. 2313. Right to notice and to be heard concerning plea.
Sec. 2314. Enhanced participatory rights at trial.
Sec. 2315. Right to notice and to be heard concerning sentence.
Sec. 2316. Right to notice and to be heard concerning sentence adjustment.
Sec. 2317. Right to notice of release or escape.
Sec. 2318. Right to notice and to be heard concerning executive clemency.
Sec. 2319. Remedies for noncompliance.
PART 2—VICTIM ASSISTANCE INITIATIVES
Sec. 2321. Pilot programs to establishombudsmen programs for crime victims.
Sec. 2323. Increased training for law enforcement officers and court personnel to respond to the needs of crime victims.
Sec. 2324. Increased resources to develop State-of-the-art systems for notifying crime victims of important dates and developments.
PART 3—VICTIM-OFFENDER PROGRAMS: "RESTORATIVE JUSTICE"
Sec. 2331. Pilot program and study on effectiveness of restorative justice approach on behalf of victims of crime.
Subtitle B—Violence Against Women Act Enhancements
Sec. 2301. Shelter services for battered women and children.
Sec. 2302. Transitional housing assistance for victims of domestic violence.
Sec. 2303. Family unity demonstration project.
Subtitle C—Senior Safety
Sec. 2311. Short title.
Sec. 2302. Findings and purposes.
Sec. 2303. Definitions.
PART 1—COMBATING CRIMES AGAINST SENIORS
Sec. 2311. Enhanced sentencing penalties based on age of victim.
Sec. 2312. Study and report on health care fraud sentences.
Sec. 2313. Increased penalties for fraud resulting in serious injury or death.
Sec. 2314. Safeguarding pension plans from fraud and theft.
Sec. 2315. Additional civil penalties for defrauding pension plans.
Sec. 2316. Punishing bribery and graft in connection with employee benefit plans.
PART 2—PREVENTING TELEMARKETING FRAUD
Sec. 2321. Centralized complaint and consumer education service for victims of telemarketing fraud.
Sec. 2322. Blocking of telemarketing scams.
PART 3—PREVENTING HEALTH CARE FRAUD
Sec. 2331. Injunctive authority relating to false claims and illegal kickback schemes involving Federal health care programs.
Sec. 2332. Authorized investigative demand procedures.
Sec. 2333. Extending antifraud safeguards to the Federal employee health benefits program.
Sec. 2334. Grand jury disclosure.
Sec. 2335. Increasing the effectiveness of civil investigative demands in false claims investigations.
PART 4—PROTECTING THE RIGHTS OF ELDERLY CRIME VICTIMS
Sec. 2341. Use of forfeited funds to pay restitution to crime victims and regulatory agencies.
Sec. 2342. Victim restitution.
Sec. 2343. Bankruptcy proceedings not used to shield illegal gains from false claims.
Sec. 2344. Forfeiture for retirement offenses.
Subtitle D—Violent Crime Reduction Trust Fund
Sec. 2346. Extension of violent crime reduction trust fund.
TITLE IV—BREAKING THE CYCLE OF DRUGS AND VIOLENCE
Subtitle A—Drug Courts, Drug Treatment, and Alternative Sentencing
PART 1—EXPANSION OF DRUG COURTS
Sec. 4111. Reauthorization of drug courts program.
Sec. 4112. Juvenile drug courts.
PART 2—ZERO TOLERANCE DRUG TESTING
Sec. 4121. Grant authority.
Sec. 4122. Administration.
Sec. 4123. Applications.
Sec. 4124. Federal share.
Sec. 4125. Geographic distribution.
Sec. 4126. Technical assistance, training, and evaluation.
Sec. 4127. Authorization of appropriations.
Sec. 4128. Permanent set-aside for research and evaluation.
Sec. 4129. Additional requirements for the use of funds under the violent offender incarceration and truth-in-sentencing grant programs.
PART 3—DRUG TREATMENT
Sec. 4131. Drug treatment alternative to prison programs administered by State or local prosecutors.
Sec. 4132. Substance abuse treatment in Federal prisons reauthorization.
Sec. 4133. Residential substance abuse treatment for State prisoners reauthorization.
Sec. 4134. Drug treatment for juveniles.
PART 4—FUNDING FOR DRUG FREE COMMUNITY PROGRAMS
Sec. 4141. Extension of safe and drug-free schools and communities program.
Sec. 4142. Say No to Drugs community centers.
Sec. 4143. Drug education and prevention relating to youth gangs.
Sec. 4144. Drug education and prevention program for runaway and homeless youth.
Subtitle B—Youth Crime Prevention and Juvenile Courts
PART 1—GRANTS TO YOUTH ORGANIZATIONS
Sec. 4211. Grant program.
Sec. 4212. Grants to national organizations.
Sec. 4213. Grants to States.
Sec. 4214. Allocation; grant limitation.
Sec. 4215. Report and evaluation.
Sec. 4216. Authorization of appropriations.
Sec. 4217. Grants to public and private agencies.
PART 2—REAUTHORIZATION OF INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS
Sec. 4221. Incentive grants for local delinquency prevention programs.
Sec. 1222. Research, evaluation, and training.

PART 3—JUMP AHEAD

Sec. 1231. Short title.

Sec. 1232. Findings.

Sec. 1233. Juvenile mentoring grants.

Sec. 1234. Implementation and evaluation grants.

Sec. 1235. Evaluations; reports.

PART 4—TRUANCY PREVENTION

Sec. 1241. Short title.

Sec. 1242. Findings.

Sec. 1243. Grants.

PART 5—JUVENILE CRIME CONTROL AND DELINQUENCY PREVENTION ACT

Sec. 1251. Short title.

Sec. 1252. Purpose.

Sec. 1253. Definitions.

Sec. 1255. Name of office.

Sec. 1256. Concentration of Federal effort.

Sec. 1257. Allocation.

Sec. 1258. State plans.

Sec. 1259. Juvenile delinquency prevention block grant program.

Sec. 1260. Research; evaluation; technical assistance; training.

Sec. 1261. Demonstration projects.

Sec. 1262. Authorization of appropriations.

Sec. 1263. Administrative authority.

Sec. 1264. Use of funds.

Sec. 1265. Limitation on use of funds.

Sec. 1266. Rules of construction.

Sec. 1267. Leasing surplus Federal property.

Sec. 1268. Issuance of rules.

Sec. 1269. Technical and conforming amendments.

Sec. 1270. References.

PART 6—LOCAL GUN VIOLENCE PREVENTION PROGRAMS

Sec. 1271. Competitive grants for children’s firearm safety education.

Sec. 1272. Dissemination of best practices via the Internet.

Sec. 1273. Grant priority for tracing of guns used in crimes by juveniles.

TITLE 1—SUPPORTING LAW ENFORCEMENT AND THE EFFECTIVE ADMINISTRATION OF JUSTICE

Subtitle A—Support for Community Law Enforcement

SEC. 1101. 21ST CENTURY COMMUNITY POLICING INITIATIVE.

(a) COPS PROGRAM.—Section 1701(a) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)) is amended by—

(1) in paragraph (1) —

(A) by striking “and” at the end of subparagraph (B) and inserting after “Nation,” “or pay overtime to existing career law enforcement officers;”;

(B) by striking the period at the end of subparagraph (C) and inserting “; and”;

and

(C) by adding at the end following:

“(D) promote higher education among service State and local law enforcement officers by reimbursing them for the costs associated with seeking a college or graduate school education;”;

(2) in paragraph (2), by striking all that follows “SUPPORT SYSTEMS.—” and inserting “Grants pursuant to paragraph (1)(A) for overtime may not exceed 25 percent of the funds available for grants pursuant to this subsection for any fiscal year; grants pursuant to paragraph (1)(B) may not exceed 20 percent of the funds available for grants pursuant to this subsection for any fiscal year;”;

(c) ADDITIONAL GRANT PROJECTS.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (2) —

(A) by inserting “integrity and ethics” after “specialized”; and

(B) by inserting “and” after “enforcement officers”;

(2) in paragraph (7), by inserting “school officials, religiously affiliated organizations,” after “enforcement officers”;

(3) by striking paragraph (8) and inserting the following:

“(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, illegal use and possession of alcohol and illegal possession, use, and distribution of drugs;”;

(4) in paragraph (10), by striking “and” at the end;

(5) in paragraph (11), by striking the period that appears at the end and inserting a semicolon; and

(6) by adding at the end following:

“(12) develop and implement innovative programs (such as the TRIAD program) that may be used to improve access to crime and disorder interventions, and to other public and private entities, for example, in increasing public awareness of the public safety concerns of older citizens; and (13) assist State, local, or tribal prosecutors’ offices in the implementation of community-based programs that build on local community partnerships and enlisting the community with specifically tailored solutions.

(b) TECHNICAL ASSISTANCE.—Section 1701(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(f)) is amended—

(1) in paragraph (1)—

(A) by inserting “use up to 5 percent of the funds appropriated under subsection (a) to” after “The Attorney General may”;

(B) by inserting at the end the following:

“in addition, the Attorney General may use up to 5 percent of the funds appropriated under subsections (d), (e), and (f) to technical assistance and training provided to States, units of local government, Indian tribal governments, and to other public and private entities for those respective purposes.”;

(2) in paragraph (2), by inserting “under subsection (a)” after “the Attorney General”;

and

(3) in paragraph (3)—

(A) by striking “the Attorney General may” and inserting “the Attorney General shall”;

(B) by inserting “regional community policing institutes” after “operation;” and

(C) by inserting “representatives of police labor and management organizations, community residents, and other forensic capabilities; and effectuate interoperability;”;

(3) establish programs to assist local prosecutors’ offices in the implementation of community-based prosecution programs that build on local community policing efforts. Funds made available under this subsection may be used to—

(1) hire additional prosecutors who will be assigned to community prosecution programs, including (but not limited to) programs that assign prosecutors to handle cases from specific geographic areas, to address specific violent crime and other local crime problems (including intensive illegal gun, and drug enforcement projects); and quality of life initiatives, and to address localized violent and other crime problems based on needs identified by local law enforcement agencies, community organizations, and others;

(2) reestablish or expand programs to community prosecution programs as described in paragraph (1) of this subsection by hiring victim and witness coordinators, parole, community outreach, and other such personnel; and

(3) establish programs to assist local prosecutors’ offices in the implementation of programs that help them identify and respond to priority crime problems in a community with specifically tailored solutions. At least 75 percent of the funds made available under this subsection shall be reserved for grants under paragraphs (1) and (2) of this subsection in amounts set aside for any fiscal year by the Attorney General, to the extent funds are available, may be used for grants under paragraph (2) and at least 25 percent of the funds shall be reserved for grants under paragraphs (1) and (2) to units of local government with a population of less than 50,000.

(f) RETENTION GRANTS.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-2) is amended by inserting at the end the following:

“(g) RETENTION GRANTS.—The Attorney General may use no more than 50 percent of the funds under subsection (a) to award grants targeted specifically for retention of officers to grantee agencies, with preference to those that demonstrate financial hardship or severe budget constraints.
that impacts the entire local budget and may result in the termination of employment for police officers funded under subsection (b)(1).

(2) CRIMINAL COSTS.—Section 170(c) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-3(c)) is amended by striking ‘‘$75,000’’ and inserting ‘‘$125,000’’.

(h) DEFINITIONS.—

(1) CAREER LAW ENFORCEMENT OFFICER.—Section 170(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-8) is amended by inserting after ‘‘criminal laws’’ the following: ‘‘including street crime and disorder problems, and illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;’’;

(2) LOCAL LAW ENFORCEMENT OFFICER.—Section 170(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-8) is amended—

(A) by striking subparagraph (A) and inserting the following: ‘‘(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearm- and violence-related accidents, and illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;’’;

(B) by striking subparagraph (E) and inserting the following: ‘‘(E) to train students in conflict resolution, restorative justice, and crime awareness, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;’’; and

(C) by adding at the end the following: ‘‘(H) to work with school administrators, members of the local parent teacher associations, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;’’.

(i) AUTHORIZATION OF APPROPRIATIONS.—


(1) by amending subparagraph (A) to read as follows: ‘‘(A) There are authorized to be appropriated—

(i) $1,150,000,000 for fiscal year 2002;

(ii) $1,150,000,000 for fiscal year 2003;

(iii) $1,150,000,000 for fiscal year 2004;

(iv) $1,150,000,000 for fiscal year 2005;

(v) $1,150,000,000 for fiscal year 2006; and

(vi) $1,150,000,000 for fiscal year 2007;’’; and

(2) by striking ‘‘3 percent’’ and inserting ‘‘5 percent’’;

(b) by striking ‘‘85 percent’’ and inserting ‘‘$600,000,000’’; and

(C) by striking ‘‘170(b),’’ and all that follows through ‘‘and as so designated, by’’ and inserting the following: ‘‘(b) In subsection (b), (c), $350,000,000 to grants for the purposes specified in section 170(f), and $200,000,000 to grants for the purposes specified in section 170(g).’’;

Subtitle B—Protecting Federal, State, and Local Law Enforcement Officers and the Judiciary

SEC. 1201. EXPANSION OF PROTECTION FOR FEDERAL OFFICERS AND EMPLOYEES FROM MURDER DUE TO THEIR STATUS.

Section 1114 of title 18, United States Code, is amended—

(1) by inserting ‘‘or because of the status of the victim as such an officer or employee, under section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both;’’;

(2) in subsection (a), by striking ‘‘and’’ and inserting ‘‘, or’’;

(3) in subsection (a), by striking ‘‘and’’ and inserting ‘‘; and’’;

(4) in subsection (a), by inserting ‘‘in connection with’’ before ‘‘the victim as such an officer or employee, under section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both;’’;

(5) in subsection (a), by striking ‘‘by striking’’ and inserting ‘‘by striking’’; and

(6) in subsection (a), by striking ‘‘or, if the person assisting’’ and inserting ‘‘or, if the person assisting’’.

SEC. 1202. ASSAULTING, RESISTING, OR IMPEDING CIVIL, COUNTY, STATE, OR FEDERAL OFFICERS OR EMPLOYEES.

Section 111 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ‘‘three’’ and inserting ‘‘12’’; and

(2) in subsection (b), by striking ‘‘ten’’ and inserting ‘‘six’’.

SEC. 1203. INFLUENCING, IMPEDING, OR RETAILING AGAINST A FEDERAL OFFICIAL BY THREATENING A FAMILY MEMBER.

Section 115b(b)(4) of title 18, United States Code, is amended—

(1) by striking ‘‘five’’ and inserting ‘‘10’’; and

(2) by striking ‘‘three’’ and inserting ‘‘6’’.

SEC. 1204. MAILING THREATENING COMMUNICATIONS.

Section 876 of title 18, United States Code, is amended—

(1) by designating the first 4 undesignated paragraphs as subsections (a) through (d), respectively;

(2) in subsection (c), as so designated, by adding at the end the following: ‘‘If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both. ’’; and

(3) in subsection (d), as so designated, by adding at the end the following: ‘‘If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both. ’’.

may overhear top secret discussions, diplomatic exchanges, sensitive conversations, and matters of personal privacy.

(7) The necessary level of proximity can be maintained only in an atmosphere of complete trust and confidence between the protectee and his or her protectors.

(8) If a protectee has reason to doubt the conditions under which any statements or conversations taken in sight or hearing of Secret Service personnel, the protectee may seek to push the protective envelope away or undermine it to the extent that it could no longer be fully effective.

(9) The possibility that Secret Service personnel might be compelled to testify against their protectees could induce foreign nations to refuse Secret Service protection in future state visits, making it impossible for the Secret Service to fulfill its important statutory mission of protecting the life and safety of foreign dignitaries.

(10) A privilege protecting information acquired by Secret Service personnel while performing their protective function in physical proximity to the protectee shall preserve the security of the protectee by lessening the incentive of the protectee to distance Secret Service personnel in situations in which there is some risk to the safety of the protectee.

(11) Recognition of a protective function privilege for the President and those in direct line of the Presidency, and for visiting heads of foreign states and foreign governments, will promote sufficiently important interests to outweigh the need for probative evidence.

(12) Because Secret Service personnel retain law enforcement responsibility even while engaged in their protective function, the privilege must be subject to a crime/terrorism exception.

(b) PURPOSES. —The purposes of this Act are—

(1) to facilitate the relationship of trust and confidence between Secret Service personnel and certain protected officials that is essential to the ability of the Secret Service to protect these officials, and the Nation, from the risk of assassination; and

(2) to ensure that Secret Service personnel are not precluded from testifying in a criminal investigation or prosecution about unlawful activity committed within their view or heard by them.

(c) ADMISSIBILITY OF INFORMATION ACQUIRED BY SECRET SERVICE PERSONNEL WHILE PERFORMING THEIR PROTECTIVE FUNCTION.—

(1) PRIVILEGE.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3056 the following:

3056A. Testimony by Secret Service personnel; protective function privilege

(2) APPLICATION.—This section and the amendments made by this section shall apply to any proceeding commenced on or after the date of enactment of this Act.

Subtitle C—Disarming Felons and Protecting Children From Violence

PART I—EXTENSION OF PROJECT EXILE

SEC. 3111. AUTHORIZATION OF FUNDING FOR ADDITIONAL STATE AND LOCAL GUN PROSECUTION PROGRAMS.

(a) GRANTS FOR STATE AND LOCAL GUN PROSECUTORS.—Title III of the Violent Crime Control and Law Enforcement Act of 1994 is amended by adding at the end the following:

32501. GRANT AUTHORIZATION.

"The Attorney General may award grants to the State, Indian tribal, or local prosecutor for the purpose of supporting the creation or expansion of community-based justice programs for the prosecution of firearm-related crimes.

32502. USE OF FUNDS.

"Grants awarded by the Attorney General under this subtitle shall be used to fund programs for the hiring of prosecutors and related staff who shall utilize an interdisciplinary team approach to prevent, reduce, and respond to firearm-related crimes in partnership with law enforcement agencies in the jurisdiction.

32503. APPLICATION.

(a) ELIGIBILITY.—To be eligible to receive a grant award under this subtitle for a fiscal year, a State, Indian tribal, or local prosecutor, in conjunction with the chief executive officer of the jurisdiction in which the program will be placed, shall submit to the Attorney General an application, in such form and containing such information as the Attorney General may reasonably require.

(b) REQUIREMENTS.—Each application submitted under this paragraph shall include—

(1) a request for funds for the purposes described in section 32502;

(2) a description of the communities to be served by the program, including the nature of the firearm-related crime in such communities; and

(3) assurances that Federal funds received under this subtitle shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this section.

SEC. 32504. MATCHING REQUIREMENT.

"The Federal share of a grant awarded under this subtitle may not exceed 50 percent of the total cost of the program described in the application submitted under section 32503 for the fiscal year for which the program receives assistance under this subtitle.

SEC. 32505. AWARD OF GRANTS.

(a) IN GENERAL.—Except as provided in subsection (b), in awarding grants under this subtitle, the Attorney General shall consider—

(1) the demonstrated need for, and the evidence of the ability of the applicant to provide, the services described in section 32502, as described in the application submitted under section 32503;

(2) the extent to which, as reflected in the 1998 Uniform Crime Report of the Federal Bureau of Investigation, there is a high rate of firearm-related crime in the jurisdiction of the applicant, measured either in total or per capita; and

(3) the extent to which the jurisdiction of the applicant has experienced an increase in the total or per capita rate of firearm-related crime, as reported in the 3 most recent annual Uniform Crime Reports of the Federal Bureau of Investigation;

(4) the extent to which State and local law enforcement agencies in the jurisdiction of the applicant have elected to cooperate with Federal officials in responding to illegal acquisition, distribution, possession, and use of firearms within the jurisdiction; and

(5) The extent to which the jurisdiction of the applicant participates in comprehensive law enforcement programs such as the Youth Crime Gun Interdiction Initiative, Project Achilles, Project Disarm, Project Triggerlock, Project Exile, Project Surefire, and Operation Crossfire.

(b) INDIAN TRIBES.—

(1) FEDERAL GRANTS.—Not less than 5 percent of the amount made available for grants under this subtitle for each fiscal year shall be awarded as grants to Indian tribes.

(2) GRANT CRITERIA.—In awarding grants to Indian tribes in accordance with this section, the Attorney General shall consider, to the extent practicable, the factors for consideration set forth in subsection (a).

(c) RESEARCH AND EVALUATION.—Of the amount made available for grants under this subtitle for each fiscal year, the Attorney General shall use not more than 3 percent for research and evaluation of the activities carried out with grants awarded under this subtitle.

SEC. 32506. REPORTS.

(a) REPORT TO ATTORNEY GENERAL.—Not later than October 1 of each fiscal year, the Attorney General shall submit to Congress a report describing the progress achieved in carrying out the grant program for which those funds were received.

(b) REPORT TO CONGRESS.—Beginning not later than October 1 of the first fiscal year in which the initial grants under this subtitle are awarded, and not more than 3 percent for research and evaluation of the activities carried out with grants awarded under this subtitle.

SEC. 32507. DEFINITIONS.

"In this title—

(1) the term ‘federal’ means any Federal, State, or local government or any agency or instrumentality of the Federal government;

(2) the term ‘Indian tribe’ means a tribe, band, pueblo, nation, or other organized
group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians; and

(3) the term ‘State’ means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

SEC. 32508. AUTHORIZATION OF APPROPRIATIONS.

‘‘There is authorized to be appropriated to carry out this subtitle $150,000,000 for fiscal year 2002.’’

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 2 of the Violent Crime Control and Law Enforcement Act of 1994 is amended by inserting after the item relating to subtitle X the following:

‘‘Subtitle Y—Grants for State and Local Gun Prosecutors

‘‘Sec. 32501. Grant authorization.

‘‘Sec. 32502. Use of funds.

‘‘Sec. 32503. Applications.

‘‘Sec. 32504. Matching requirement.

‘‘Sec. 32505. Award of grants.

‘‘Sec. 32506. Reports.

‘‘Sec. 32507. Definitions.

‘‘Sec. 32508. Authorization of appropriations.’’.

SEC. 3121. AUTHORIZATION OF FUNDING FOR ADDITIONAL FEDERAL SPECIFIC FIREARMS PROSECUTORS AND GUN ENFORCEMENT TEAMS.

(a) ADDITIONAL FEDERAL FIREARMS PROSECUTORS.—The Attorney General shall hire 114 additional Federal prosecutors to prosecute violations of Federal firearms laws.

(b) GUN ENFORCEMENT TEAMS.—

(1) ESTABLISHMENT.—The Attorney General shall establish in each of the jurisdictions specified in paragraph (3) a gun enforcement team.

(2) GUN ENFORCEMENT TEAM REQUIREMENTS.—Each gun enforcement team established under this subsection shall be composed of—

(A) 1 coordinator, who shall be responsible, with respect to the jurisdiction concerned, for coordinating among Federal, State, and local law enforcement; (i) the appropriate forum for the prosecution of crimes relating to firearms; and (ii) efforts for the prevention of such crimes; and

(B) 1 analyst, who shall be responsible, with respect to the jurisdiction concerned, for analyzing data relating to such crimes and recommending law enforcement strategies to reduce such crimes.

(c) COVERED JURISDICTIONS.—The jurisdictions specified in this subsection are not more than 20 jurisdictions designated by the Attorney General for purposes of this subsection as areas having high rates of crimes relating to firearms.

(c) CONFORMING AMENDMENTS.—In addition to any other amounts authorized to be appropriated that may be used for such purpose, there is authorized to be appropriated to carry out this title $15,000,000 for fiscal year 2002.

PART 2—EXPANSION OF THE YOUTH CRIME GUN INTERDICTION INITIATIVE

SEC. 1231. YOUTH CRIME GUN INTERDICTION INITIATIVE

(a) IN GENERAL.—

(1) EXPANSION OF NUMBER OF CITIES.—The Secretary of the Treasury shall endeavor to expand the number of cities and counties directly participating in the Youth Crime Gun Interdiction Initiative (in this section referred to as the ‘‘YCIGI’’) to 75 cities or counties by October 1, 2002, to 150 cities or counties by October 1, 2004, and to 250 cities or counties by October 1, 2005.

(2) SECRETARY.—Cities and counties selected for participation in the YCIGI shall be selected by the Secretary of the Treasury and in consultation with Federal, State and local law enforcement.

(b) IDENTIFICATION OF INDIVIDUALS.—

(1) IN GENERAL.—The Secretary of the Treasury shall utilize the information provided by the YCIGI, facilitate the identification and prosecution of individuals illegally trafficking firearms to prohibited individuals.

(2) SHARING OF INFORMATION.—The Secretary of the Treasury shall share information derived from the YCIGI with State and local law enforcement agencies through online computer access, as soon as such capability is available.

(c) GRANT AWARDS.—

(1) IN GENERAL.—The Secretary of the Treasury shall award grants (in the form of funds or equipment) to States, cities, and counties for purposes of assisting such entities in the tracing of firearms and participation in the YCIGI.

(2) USE OF GRANT FUNDS.—Grants made under this section shall be used for:

(A) hire or assign additional personnel for the gathering, submission and analysis of tracing data submitted to the Bureau of Alcohol, Tobacco and Firearms under the YCIGI;

(B) hire additional law enforcement personnel for the purpose of identifying and arresting individuals illegally trafficking firearms; and

(C) purchase additional equipment, including automatic data processing equipment and computer software and hardware, for the timely submission and analysis of tracing data.

PART 3—GUN OFFENSES

SEC. 1231. GUN BAN FOR DANGEROUS JUVENILE OFFENDERS.

(a) DEFINITION.—Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following:

‘‘(2) A device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

‘‘(3) A device incorporated into the design of a firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

‘‘(4) A device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.’’.

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER’S LICENSE.—Section 922(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking ‘‘and’’ at the end; and

(2) in subparagraph (F), by striking the period at the end and inserting ‘‘; and’’; and

(3) by adding at the end the following:

‘‘(5) In the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered in violation of the requirement under this subparagraph to make available such a device).’’.

(c) REVOCATION OF DEALER’S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end of the following: ‘‘or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered in violation of the requirement to make available such a device).’’.

(d) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(1) authorizing a cause of action against any firearms dealer or any other person for any civil liability; or
SEC. 1323. JUVENILE HANDGUN SAFETY.

(a) JUVENILE HANDGUN SAFETY.—Section 922(a)(6) of title 18, United States Code, is amended—

(1) by striking paragraph (A); and

(2) by redesignating subparagraph (B) as paragraph (A); and

(3) by inserting at the end:

"(A) any传染病 described in this paragraph; or

(B) any传染病 who knowingly

three or more years, and biennially thereafter.

SEC. 1334. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL PRECEDENTS.

Section 924(a)(6) of title 18, United States Code, is amended by adding at the end the following:

"(p) Except as otherwise provided in this section, a person who conspires to commit an offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which is the object of the conspiracy."
“(2) record the transfer on a form specified by the Secretary; and
“(3) comply with section 922(t) as if transferring the firearm from the inventory of the licensed importer, licensed manufacturer, or licensed dealer to the designated transferee (although a licensed importer, licensed manufacturer, or licensed dealer comply with this section shall not be required to comply again with the requirements of section 922(t) in delivering the firearm to the nonlicensed transferee), and notify the nonlicensed transferee and the nonlicensed transeree—
“(A) of such compliance; and
“(B) if the transfer is subject to the requirements of section 922(t)(1), of any receipt by the licensed importer, licensed manufacturer, or licensed dealer of a notification from the national instant criminal background check system that the transfer would violate section 922 or would violate State law;
“(4) not later than 10 days after the date on which the transfer occurs, submit to the Secretary a report of the transfer, which report—
“(A) shall be on a form specified by the Secretary by regulation; and
“(B) shall not include the name of or other identifying information relating to any person involved in the transfer who is not licensee or dealer for this chapter;
“(5) if the licensed importer, licensed manufacturer, or licensed dealer assists a person other than a licensee in transferring, at 1 time or during any 5 consecutive business days, 2 or more pistols or revolvers, or any combination of pistols and revolvers totaling 2 or more, to the same nonlicensed person, in addition to the reports required under paragraph (4), prepare a report of the multiple transfers, which report shall be—
“(A) prepared on a form specified by the Secretary; and
“(B) not later than the close of business on the date on which the transfer occurs, forwarded—
“(i) the office specified on the form described in subparagraph (A); and
“(ii) the appropriate State law enforcement agency of the jurisdiction in which the transfer occurs, submit to the Secretary a report of the transfer, which report—
“(A) shall be in a form specified by the Secretary by regulation;
“(B) shall not include the name of or other identifying information relating to the transferee; and
“(C) shall not duplicate information provided in any report required under subsection (e)(4).
“(g) FIREARM TRANSACTION DEFINED.—In this section, the term ‘firearm transaction’ means—
“(1) includes the offer for sale, sale, transfer, or exchange of a firearm; and
“(2) does not include the mere exhibition of a firearm.
“(h) PENALTIES.—Section 922(a) of title 18, United States Code, is amended by adding at the end the following:
“(B) Whoever knowingly violates section 922(h), after notice and opportunity for a hearing, suspend for not more than 18 months or revoke the registration of that person under section 922(a); and
“(C) impose a civil fine in an amount equal to not more than $10,000.
“(2) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 44 of title 18, United States Code, is amended—
“(A) in the chapter heading, by adding at the end the following:
“931. Regulation of firearms transfers at gun shows....;
“(B) in the first sentence of section 923(j), by striking “a gun show or event” and inserting “an event”; and
“(C) Inspection Authority.—Section 922(h)(1) is amended by adding at the end the following:
“(E) Notwithstanding subparagraph (B), the Secretary may enter during business hours the place of business of any gun show promoter and any place where a gun show is held for the purposes of examining the records required by sections 923 and 931 and the inventory of licensees conducting business at the gun show. Such entry and examination shall be conducted for the purposes of determining whether a firearm is being conducted by gun show promoters and licensees conducting business at the gun show and shall not require a showing of reasonable cause or a warrant.”;
“(e) INCREASED PENALTIES FOR SERIOUS RECORDKEEPING VIOLATIONS BY LICENSEES.—Section 922(a)(3) of title 18, United States Code, is amended to read as follows:
“(3)(A) Except as provided in subparagraph (B), any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a persons licensed under this chapter, or who fails to record or file a form as required under this section shall be fined under this title, imprisoned not more than 1 year, or both.
“(B) If the information described in subparagraph (A) is in relation to an offense—
“(i) under paragraph (1) or (3) of section 922(b), such person shall be fined under this title, imprisoned not more than 5 years, or both; or
“(ii) under subsection (a)(6) or (d) of section 922, such person shall be fined under this title, imprisoned not more than 10 years, or both.
“(f) INCREASED PENALTIES FOR VIOLATIONS OF CRIMINAL BACKGROUND CHECK REQUIREMENTS.—
“(1) PENALTIES.—Section 921 of title 18, United States Code, is amended—
“(A) in paragraph (5), by striking “subsection (s) or (t) of section 922” and inserting “subsection (s) or (t) of section 922,”; and
“(B) by adding at the end the following:
“(B) Whoever knowingly violates section 922(t) shall be fined under this title, imprisoned not more than 5 years, or both.”.
“(2) ELIMINATION OF CERTAIN ELEMENTS OF OFFENSE.—Section 923(g)(1) of title 18, United States Code, is amended by striking “and, at the time” and all that follows through “State law.”.
“(g) GUNNNER PRIVACY AND PREVENTION OF FRAUD AND ABUSE OF SYSTEM INFORMATION.—Section 922(t)(2)(C) of title 18, United States Code, is amended by inserting before the period at the end the following: ‘as soon as possible, consult the respon- sibility of the Attorney General under section 103(b) of the Brady Handgun Violence Prevention Act to ensure the privacy and security of the system and to prevent system fraud and abuse, but in no event later than 90 days after the date on which the licensee first contacts the system with respect to the transfer.”.
“(h) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of the bill.

Subtitle D—Assistance to States for Prosecuting and Punishing Juvenile Offenders, and Reducing Juvenile Crime

SEC. 1401. VIOLENT AND CHRONIC JUVENILE OFFENDER INCARCERATION GRANTS.

(a) GRANTS FOR VIOLENT AND CHRONIC JUVENILE FACILITIES.—
“(1) DEFINITIONS.—In this subsection:—
“(A) CO-LOCATED FACILITY.—The term ‘co-located facility’ means the location of adult and juvenile facilities on the same property in a manner consistent with regulations issued by the Attorney General to ensure the privacy and security of the system and to prevent system fraud and abuse, but in no event later than 90 days after the date on which the licensee first contacts the system with respect to the transfer.”.
“(B) SUBSTANTIALLY SEGREGATED.—The term ‘substantially segregated’ means—
“(i) complete sight and sound separation in residential confinement;
“(ii) use of shared direct care and management staff, properly trained and certified by the Attorney General to ensure reasonable efforts are made to segregate adults and juveniles; and
“(iii) incidental contact during transport to and from court proceedings and other activities in accordance with regulations issued by the Attorney General to ensure reasonable efforts are made to segregate adults and juveniles.
“(C) VIOLENT JUVENILE OFFENDER.—The term ‘violent juvenile offender’ means a person under the age of majority pursuant to State law who has been adjudicated delinquent or convicted in adult court of a violent felony as defined in section 922(e)(2)(B) of title 18, United States Code.
“(D) QUALIFYING STATE.—The term ‘qualifying State’ means a State that has submitted, or a State in which an eligible unit of local government has submitted, a grant application that meets the requirements of paragraphs (3) and (5).
“(2) AUTHORITY.—
“(A) IN GENERAL.—The Attorney General may make grants in accordance with this subsection to States, units of local government, or any combination thereof, to assist them in planning, establishing, and operating secure facilities, detention centers, and other correctional programs for violent juvenile offenders.
“(B) USE OF AMOUNTS.—Grants under this subsection may be used—
“(i) for co-located facilities for adult prisoners and violent juvenile offenders; and
(ii) only for the construction or operation of facilities in which violent juvenile offenders are substantially segregated from nonviolent juvenile offenders.

(iii) any significant criminal sanction; and

(iv) will involve the use of force against the person of another.

(b) Definitions.—In this section:

(1) FIRST TIME OFFENDER.—The term ‘‘first time offender’’ means a juvenile who is charged with an offense that would not be criminal if committed by an adult (other than an offense constituting a violation of a valid court order or a violation of section 922(x) of title 18, United States Code (or similar State law)).

(2) GRANT AUTHORIZATION.—The Attorney General may make grants in accordance with this section to States, State courts, local courts, units of local government, and Indian tribes, for the purpose of:

(A) providing juvenile courts with a range of sentencing options such that first time juvenile offenders, including status offenders such as truants, vandals, and juveniles in violation of State or local curfew laws, face at least some level of punishment as a result of their initial contact with the juvenile justice system; and

(B) increasing the sentencing options available to juvenile court judges so that juvenile offenders receive increasingly severe sanctions—

(1) as the seriousness of their unlawful conduct increases; and

(2) for each additional offense.

(c) APPLICATIONS.—(1) Eligibility.—In order to be eligible to receive a grant under this section, the chief executive officer of a State, unit of local government, or Indian tribe, or the chief judge of a local court, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(ii) increasing the sentencing options available to juvenile court judges so that juvenile offenders receive increasingly severe sanctions—

(1) as the seriousness of their unlawful conduct increases; and

(2) for each additional offense.

(d) APPLICATIONS.—(1) Eligibility.—In order to be eligible to receive a grant under this section, the chief executive officer of a State, unit of local government, or Indian tribe, or the chief judge of a local court, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(ii) increasing the sentencing options available to juvenile court judges so that juvenile offenders receive increasingly severe sanctions—

(1) as the seriousness of their unlawful conduct increases; and

(2) for each additional offense.

SEC. 1402. CERTAIN PUNISHMENT AND GRADUATION options for YOUTH OFFENDERS.

(a) FINDINGS AND PURPOSES.—(1) FINDINGS.—Congress finds that—

(A) youth violence constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent youth violence;

(B) the behavior of youth who become violent offenders often follows a progression, beginning with minor acts of violence, school, truancy, and vandalism, leading to property crimes and then serious violent offenses;

(C) the juvenile justice systems in most States are ill-equipped to provide meaningful sanctions to minor, nonviolent offenders because most of their resources are dedicated to dealing with more serious offenders;

(D) in most States, some youth commit multiple, nonviolent offenses without facing any significant criminal sanction; and

(E) the failure to provide meaningful criminal sanctions for first time, nonviolent offenders sends the false message to youth that they can engage in antisocial behavior without suffering significant consequences, and that society is unwilling or unable to restrain that behavior;

(F) studies demonstrate that interventions during the early period of an offender’s criminal career can halt the progression to more serious, violent behavior; and

(G) juvenile courts need access to a range of sentencing options so that at least some level of sanction is imposed on all youth offenders, including status offenders, and the nature and severity of the sanction increases along with the seriousness of the offense.

(ii) increasing the sentencing options available to juvenile court judges so that juvenile offenders receive increasingly severe sanctions—

(1) as the seriousness of their unlawful conduct increases; and

(2) for each additional offense.

(d) APPLICATIONS.—(1) Eligibility.—In order to be eligible to receive a grant under this section, the chief executive officer of a State, unit of local government, or Indian tribe, or the chief judge of a local court, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

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(1) as the seriousness of their unlawful conduct increases; and

(2) for each additional offense.
(B) a description of any resources available in the jurisdiction of the applicant to implement the action plan described in subparagraph (A);
(C) an estimate of the costs of full implementation of the plan; and
(D) a plan for evaluating the impact of the grant on the jurisdiction's juvenile justice system.

(2) GRANT AWARDS.—

(a) IN GENERAL.—The Attorney General shall make and administer grants under this section.

(b) FEDERAL SHARE.—In the event of a grant made under this section, the Federal share of any grant awarded under this section may not exceed 50 percent of the total estimated costs of the program described in the comprehensive plan.

(c) PROHIBITION ON USE OF AMOUNTS.—

(1) IN GENERAL.—Not later than March 1, 2003, and March 1 of each year thereafter, each grant recipient shall submit to the Attorney General a report that describes, for the year to which the report relates, any progress achieved in carrying out the comprehensive plan of the grant recipient.

(2) EFFECT.—Notwithstanding section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), the term "Alien" includes any alien who has been paroled into the United States under section 212(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(3)).

SEC. 1403. PILOT PROGRAM TO PROMOTE REPATRIATION OF IMMIGRANTS.

Not later than 30 days after the date of enactment of this Act, the Attorney General shall appoint an Administrator (in this section referred to as the "Administrator") to carry out the program.

(1) PROGRAM AUTHORIZATION.—To be eligible to receive an initial grant or a renewal grant under this section, a coalition shall meet each of the following criteria:

(a) COMPOSITION.—The coalition shall consist of 1 or more representatives of—

(i) the local police department or sheriff's department;

(ii) the local prosecutors' office;

(iii) the United States Attorney's office;

(iv) the Federal Bureau of Investigation;

(v) the Bureau of Alcohol, Tobacco and Firearms;

(vi) State or local probation officers;

(vii) religious, community, or fraternal organizations involved in crime prevention;

(viii) schools;

(ix) parents or local grass roots organizations such as neighborhood watch groups;

(x) X social service agencies involved in crime prevention.

(b) OTHER PARTICIPANTS.—If possible, in addition to the representatives from the categories listed in subparagraph (A), the coalition shall include—

(i) representatives from the business community; and

(ii) researchers who have studied criminal justice and can offer technical or other assistance.

(c) COORDINATED STRATEGY.—A coalition shall submit to the Attorney General, or the Attorney General's designee, a comprehensive plan for reducing violent juvenile crime. To be eligible for consideration, a plan shall—

(i) ensure close collaboration among all members of the coalition in suppressing and preventing juvenile crime;

(ii) place heavy emphasis on coordinated enforcement initiatives, such as Federal and State programs that coordinate local police departments, prosecutors, and local community leaders to focus on the suppression of violent juvenile crime involving gangs;

(iii) ensure that the collaboration between police and probation officers in the supervision of juvenile offenders, such as initiatives that coordinate the efforts of paraprofessional, school officials, and probation officers to patrol the streets and make home visits to ensure that offenders comply with the terms of their probation;

(iv) commit that a grant is in place to trace all firearms seized from crime scenes or offenders or in an effort to identify illegal gun traffickers; and

(v) ensure that effective crime prevention programs are in place, such as programs that provide after-school safe havens and other opportunities for at-risk youth to escape or avoid other criminal activity, and to reduce recidivism.

(d) ACCOUNTABILITY.—A coalition shall—

(1) establish a program (in this section referred to as the "program") to encourage and support communities that adopt a comprehensive approach to suppressing and preventing violent juvenile crime patterned after the successful State juvenile crime reduction strategies.

(2) PROGRAM.—In carrying out the program, the Attorney General shall—

(a) establish, maintain, and terminate the program (in this section referred to as the "program") in the jurisdiction of a grant recipient in the jurisdiction of the grant recipient that receive a sanction and for the fiscal year for which the program receives assistance under this section.

(b) in accordance with the Secretary of the Treasury, provide for technical assistance and training, data collection, and dissemination of relevant information; and

(c) provide for the general administration of the program.

SEC. 1404. PILOT PROGRAM TO PROMOTE REPATRIATION OF IMMIGRANTS.

Not later than 30 days after the date of enactment of this Act, the Attorney General shall appoint an Administrator (in this section referred to as the "Administrator") to carry out the program.

(1) PROGRAM AUTHORIZATION.—To be eligible to receive an initial grant or a renewal grant under this section, a coalition shall meet each of the following criteria:

(a) COMPOSITION.—The coalition shall consist of 1 or more representatives of—

(i) the local police department or sheriff's department;

(ii) the local prosecutors' office;

(iii) the United States Attorney's office;

(iv) the Federal Bureau of Investigation;

(v) the Bureau of Alcohol, Tobacco and Firearms;

(vi) State or local probation officers;

(vii) religious, community, or fraternal organizations involved in crime prevention;

(viii) schools;

(ix) parents or local grass roots organizations such as neighborhood watch groups;

(x) X social service agencies involved in crime prevention.

(b) OTHER PARTICIPANTS.—If possible, in addition to the representatives from the categories listed in subparagraph (A), the coalition shall include—

(i) representatives from the business community; and

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(iv) commit that a grant is in place to trace all firearms seized from crime scenes or offenders or in an effort to identify illegal gun traffickers; and

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(a) establish, maintain, and terminate the program (in this section referred to as the "program") in the jurisdiction of a grant recipient in the jurisdiction of the grant recipient that receive a sanction and for the fiscal year for which the program receives assistance under this section.

(b) in accordance with the Secretary of the Treasury, provide for technical assistance and training, data collection, and dissemination of relevant information; and

(c) provide for the general administration of the program.

SEC. 1405. PILOT PROGRAM TO PROMOTE REPATRIATION OF IMMIGRANTS.

Not later than 30 days after the date of enactment of this Act, the Attorney General shall appoint an Administrator (in this section referred to as the "Administrator") to carry out the program.

(1) PROGRAM AUTHORIZATION.—To be eligible to receive an initial grant or a renewal grant under this section, a coalition shall meet each of the following criteria:

(a) COMPOSITION.—The coalition shall consist of 1 or more representatives of—

(i) the local police department or sheriff's department;

(ii) the local prosecutors' office;

(iii) the United States Attorney's office;

(iv) the Federal Bureau of Investigation;

(v) the Bureau of Alcohol, Tobacco and Firearms;

(vi) State or local probation officers;

(vii) religious, community, or fraternal organizations involved in crime prevention;

(viii) schools;

(ix) parents or local grass roots organizations such as neighborhood watch groups;

(x) X social service agencies involved in crime prevention.

(b) OTHER PARTICIPANTS.—If possible, in addition to the representatives from the categories listed in subparagraph (A), the coalition shall include—

(i) representatives from the business community; and

(ii) researchers who have studied criminal justice and can offer technical or other assistance.

(c) COORDINATED STRATEGY.—A coalition shall submit to the Attorney General, or the Attorney General's designee, a comprehensive plan for reducing violent juvenile crime. To be eligible for consideration, a plan shall—

(i) ensure close collaboration among all members of the coalition in suppressing and preventing juvenile crime;

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(iii) ensure that the collaboration between police and probation officers in the supervision of juvenile offenders, such as initiatives that coordinate the efforts of paraprofessional, school officials, and probation officers to patrol the streets and make home visits to ensure that offenders comply with the terms of their probation;

(iv) commit that a grant is in place to trace all firearms seized from crime scenes or offenders or in an effort to identify illegal gun traffickers; and

(v) ensure that effective crime prevention programs are in place, such as programs that provide after-school safe havens and other opportunities for at-risk youth to escape or avoid other criminal activity, and to reduce recidivism.

(d) ACCOUNTABILITY.—A coalition shall—
(i) establish a system to measure and report outcomes consistent with common indicators and evaluation protocols established by the Administrator and which receives the approval of the Administrator; and
(ii) devise a detailed model for measuring and evaluating the success of the plan of the coalition in reducing violent juvenile crime, and provide that the plan be evaluated on a regular basis to assess progress in reducing violent juvenile crime.

5. GRANT AMOUNTS
(a) IN GENERAL. The Administrator may grant to an eligible coalition under this paragraph, an amount not to exceed the amount of non-Federal funds raised by the coalition, providing in-kind contributions, for that fiscal year.

(b) NONSUPPLANTING REQUIREMENT. — A coalition seeking funds shall provide reasonable assurances that funds made available under this program to States or units of local government shall be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for programs described in this section, and shall in no event replace each State, local, or other non-Federal funds.

6. SUSPENSION OF GRANTS.— If a coalition fails to continue to meet the criteria set forth in paragraphs (a) through (d), the Administrator may suspend the grant, after providing written notice to the grant recipient and an opportunity to appeal.

7. REWORK GRANTS.—Subject to subparagraph (E), the Administrator may award a renewal grant to a grant recipient under this subparagraph for each fiscal year following the fiscal year in which an initial grant is awarded, in an amount not to exceed the amount of non-Federal funds raised by the coalition, including in-kind contributions, for the duration of the 4-year period following the period of the initial grant.

8. LIMITATION.—The amount of a grant award under this section may not exceed $300,000 for a fiscal year.

9. PERMITTED USE OF FUNDS.—A coalition receiving funds under this section may expend such Federal funds on any use or program consistent with the plan submitted to the Administrator.

10. CONGRESSIONAL CONSULTATION.—Two years after the date that all participating communities have completed the data collection component of the program established in this section, the General Accounting Office shall submit a report to Congress reviewing the effectiveness of the program in suppressing and reducing violent juvenile crime.

11. INFORMATION COLLECTION AND DISSEMINATION WITH RESPECT TO COALITIONS.—(1) COALITION INFORMATION.—For the purpose of audit and examination, the Administrator—
(A) shall have access to any books, documents, papers, and records that are pertinent to any renewal or grant renewal request under this section; and
(B) may periodically request information from a coalition to ensure that the coalition meets the applicable criteria.

(2) REPORTING.— The Administrator shall, to the maximum extent practicable and in a manner consistent with applicable law, minimize any regulations or requirements by a coalition and expedite any application for a renewal grant made under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund to carry out this section, $3,000,000 in each of fiscal years 2002, 2003, and 2004.

SEC. 1404. REIMBURSEMENT OF STATES FOR COSTS OF INCARCERATING JUVENILE ALIEN OFFENDERS.

(a) IN GENERAL.—Subject to subsection (b), the Immigration and Nationality Act (as that term is defined in section 101(a)(3) of the United States Code, is amended by adding at the end the following:

(4) by adding at the end the following:

(i) JUVENILE ALIEN DEFINED.—In this section, the term ‘juvenile alien’ means an alien who has been adjudicated delinquent and committed to a correctional facility by a State or locality as a juvenile offender.

Subtitle E—Ballistics, Law Assistance, and Safety Technology

SEC. 1501. SHORT TITLE.

This subtitle may be cited as the ‘Ballistics, Law Assistance, and Safety Technology Act’ (‘BLAST’).

SEC. 1502. PURPOSES.

The purposes of this subtitle are—

(1) to increase public safety by assisting law enforcement in solving more gun-related crimes and offering prosecutors evidence to link felons to gun crimes through ballistics technology;

(2) to provide for ballistics testing of all firearms in custody of Federal agencies to assist in the identification of firearms used in crimes;

(3) to require ballistics testing of all firearms in custody of Federal agencies to assist in the identification of firearms used in crimes; and

(4) to add ballistics testing to existing firearms enforcement programs.

SEC. 1503. DEFINITION OF BALLISTICS.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

(5) BALLISTICS.—The term ‘ballistics’ means a comparative analysis of fired bullets and cartridge casings to identify the firearm from which bullets were discharged; and

(6) the acquisition, disposition, and upgradation of ballistics equipment and bullet recovery equipment to be placed at or near the sites of licensed manufacturers and importers;

(7) the hiring or designation of personnel necessary to develop and maintain a database of ballistics images of fired bullets and cartridge casings, research and evaluation; and

(8) any other steps necessary to make ballistics testing effective.

(b) THE Attorney General and the Secretary shall—

(1) establish a computer system through which State and local law enforcement agencies can promptly access ballistics records stored under this subsection, as soon as such capability is available;

(2) encourage training for all ballistics examiners.

(3) Not later than 1 year after the date of enactment of this subsection and annually thereafter, the Attorney General and the Secretary shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report regarding the impact of this section, including—

(A) the number of Federal and State criminal investigations that would not have proceeded without the ballistic identification of firearms used in crimes; and

(B) the extent to which ballistics records are accessible across jurisdictions; and

(C) a statistical evaluation of the test programs conducted pursuant to section 1506 of the Ballistics, Law Assistance, and State Technology Act.

SEC. 1504. TEST FIRING AND AUTOMATED STORAGE OF BALLISTICS RECORDS.

(a) AMENDMENT.—Section 923(a) of title 18, United States Code, is amended by adding at the end the following:

(n) In addition to the other licensing requirements under this section, a licensed manufacturer or licensed importer shall—

(A) test each firearm manufactured or imported by such licensee as specified by the Secretary by regulation;

(B) prepare ballistics images of the fired bullet and cartridge casings from the test fire;

(C) make the records available to the Secretary for entry in a computerized database; and

(D) store the fired bullet and cartridge casings in such a manner and for such a period as specified by the Secretary by regulation.

(b) EFFECTIVE DATE.—Section (b) shall take effect on the date on which the Attorney General and the Secretary of the Treasury, in consultation with the Board of the National Integrated Ballistics Information Network, certify that the ballistics systems used by the Department of Justice and the Department of the Treasury are sufficiently interoperable to make mandatory ballistics testing of new firearms possible.

(2) EFFECTIVE DATE OF ENACTMENT.—Section (a) of this Act, as added by subsection (a), shall take effect on the date of enactment of this Act.
Ballistics information of individual guns in any form or database established by this Act may not be used for—
(1) prosecutorial purposes unless law enforcement officials have a reasonable belief that a crime has been committed and that ballistics information would assist in the investigation of that crime; or
(2) the creation of a national firearms registry of gun owners.

SEC. 1506. DEMONSTRATION FIREARM CRIME REDUCTION STRATEGY.

(a) In General.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury and the Attorney General shall establish in the jurisdictions selected under subsection (c), a comprehensive firearm crime reduction strategy that meets the requirements of subsection (b).

(b) Program Elements.—Each program established under subsection (a) shall, for the jurisdiction concerned—
(1) provide for ballistics testing, in accordance with criteria set forth by the National Integrated Ballistic Information Network of all firearms recovered during criminal investigations, in order to—
(A) identify the types and origins of the firearms;
(B) identify suspects; and
(C) link multiple crimes involving the same firearm;
(2) require that all identifying information relating to firearms recovered during criminal investigations be promptly submitted to the Secretary of the Treasury, in order to identify the types and origins of the firearms and to identify illegal firearms traffickers;
(3) provide for coordination among Federal, State, and local law enforcement officials, firearm examiners, technicians, laboratory personnel, investigators, and prosecutors in the tracing and ballistics testing of firearms and the investigation and prosecution of firearms-related crimes including illegal firearms trafficking; and
(4) require analysis of firearm tracing and ballistics data in order to establish trends in firearm-related crime and firearm trafficking.

(c) Participating Jurisdictions.—
(1) In General.—The Secretary of the Treasury and the Attorney General shall select not fewer than 10 jurisdictions for participation in the program under this section.

SEC. 1605. PRIVACY RIGHTS OF LAW ABIDING CITIZENS.

SEC. 1601. SHORT TITLE.

This subtitle may be cited as the “Offender Reentry and Community Safety Act of 2001”.

SEC. 1602. FINDINGS.

Congress finds the following:

(1) There are now nearly 1,900,000 individuals in our nation’s prisons, including over 140,000 individuals under the jurisdiction of the Federal Bureau of Prisons.

(2) Enforcement of offender violations of conditions of release has sharply increased the number of offenders who return to prison—while revocations comprised 17 percent of State prison admissions in 1980, they rose to 36 percent in 1999.

(3) Although prisoners generally are serving longer sentences than they did a decade ago, most eventually reenter communities; for example, in 1999, approximately 580,000 State prisoners and over 50,000 Federal prisoners, a record number, were returned to American communities. Approximately 110,000 State offenders released to communities received no supervision whatsoever.

(4) Historically, two-thirds of returning State prisoners have been rearrested for new crimes within three years, so these individuals pose a significant public safety risk and a continuing burden to society.

(5) A key element to effective post-incarceration supervision is an immediate, pre-determined, and appropriate response to violations of the probation.

(6) An estimated 187,000 State and Federal prison inmates have been diagnosed with mental health problems; about 70 percent of State prisoners and 57 percent of Federal prisoners have a history of drug use or abuse; and nearly 75 percent of released offenders with heroin or cocaine problems return to using drugs months if untreated; however, few States link prison mental health treatment programs with those in the return community.

(7) Between 1987 and 1997, the volume of juvenile adjudicated cases resulting in court-ordered residential placements rose 56 percent. In 1997, for example, in 1997, approximately 163,200 juvenile court-ordered residential placements. The steady increase of youth exiting residential placement has strained the juvenile justice system, however, without adequate supervision and services, youth are likely to relapse, recidivate, and return to confinement at the public’s expense.

(8) Emerging technologies and multidisciplinary community-based strategies present new opportunities to alleviate the public safety risk posed by released prisoners while helping offenders to reenter their communities successfully.

SEC. 1603. PURPOSES.

The purposes of this subtitle are to—

(1) establish demonstration projects in several Federal judicial districts, the District of Columbia, and in the Federal Bureau of Prisons, social service providers, and local Workforce Investment Boards; and

(2) rigorously evaluate these reentry programs to determine their effectiveness in reducing recidivism and promoting successful offender reintegration.

PART I—FEDERAL REENTRY DEMONSTRATION PROJECTS

SEC. 1611. FEDERAL REENTRY CENTER DEMONSTRATION.

(a) Authority and Establishment of Demonstration Project.—From funds made available to the Attorney General, the Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, shall establish the Federal Reentry Center Demonstration project. The project shall involve appropriate prisoners from the Federal prison population and shall utilize community correctional facilities, home confinement, and a coordinated response by Federal agencies to assist participating prisoners, under close monitoring and more seamless supervision, in preparing for and adjusting to reentry into the community.

(b) Project Elements.—The project authorized by subsection (a) shall include—

(1) a reentry review committee, consisting of representatives from the Bureau of Prisons, the United States Probation System, and the relevant community corrections facility, who shall initially meet with the prisoner to develop a reentry plan tailored to the needs of the prisoner and incorporating victim impact information, and will subsequently monitor the prisoner’s progress toward reentry and coordinate access to appropriate reentry measures and resources;

(2) regular drug testing, as appropriate;

(3) a system of graduated levels of supervision within the community corrections facility to promote community safety, provide incentives for prisoners to complete the reentry plan, including victim restitution, and provide a reasonable method for imposing immediate sanctions for a prisoner’s minor technical violations; and

(4) substance abuse treatment and aftercare mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, battered women, and crime victims assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed;

(5) to the extent practicable, the recruitment and utilization of local citizen volunteers, including volunteers from the faith-based and business communities, to serve as mentors and advisors to prisoners being released into the community;

(6) a description of the methodology and outcome measures that will be used to evaluate the program and

(7) notification to victims on the status and nature of offenders’ reentry plans.

(c) Probation Officers.—From funds made available to carry out this section, the Director of the Administrative Office of the United States Courts shall assign one or more probation officers from each participating Federal district to carry out the Reentry Demonstration project. Such officers shall be assigned to and stationed at the community corrections facility and shall serve on the Reentry Review Team.

(d) Project Duration.—The Reentry Center Demonstration project shall begin not
begin not later than six months following the availability of funds to carry out this section, and shall last 3 years. The Director of the Administrative Office of the United States Courts, in consultation with the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self Government Improvement Act of 1997 (Public Law 105-33; 111 Stat. 712) shall establish the District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration project.

SEC. 1613. DISTRICT OF COLUMBIA INTENSIVE SUPERVISION, TRACKING, AND REENTRY TRAINING (DC ISTART) DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Trustee of the Court Services and Offender Supervision Agency of the District of Columbia, as authorized by the National Capital Revitalization and Self Government Improvement Act of 1997 (Public Law 105-33; 111 Stat. 712) shall establish the District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration (DC ISTART) project.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) participation by appropriate high risk parolees;

(2) use of community corrections facilities and home confinement that, together with the technology referenced in paragraph (5), will be a part of a system of graduated levels of supervision;

(3) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, and other programmatic needs and other components as appropriate to promote effective reentry into the community;

(4) involvement of a victim advocate and the family of the prisoner, if it is safe for the victim, prior to the prisoner’s release in domestic violence cases, to be involved;

(5) the use of monitoring technologies, as appropriate and indicated, to monitor and supervise participating offenders in the community;

(6) a description of the methodology and outcome measures that will be used to evaluate the program;

(7) notification to victims on the status and nature of a prisoner’s reentry plan.

(c) PROGRAM DURATION.—In each of the judicial districts in which the demonstration project is in effect, appropriate offenders who are found to have violated the terms of their supervised release and who will be subject to any additional mandatory conditions of supervised release, shall be designated to participate in the demonstration project. With respect to any offender, the court shall impose additional mandatory conditions of supervised release that each offender shall, as directed by the probation officer, reside at a community corrections facility or participate in a program of home confinement, or both, and submit to appropriate monitoring, and otherwise participate in and complete the project.

(d) PROGRAM DURATION.—The Federal High-Risk Offender Reentry Demonstration shall begin not later than six months following the availability of funds to carry out this section, and shall last 3 years. The Director of the Federal Bureau of Prisons to develop a reentry plan that incorporates victim impact information and is tailored to the needs of the parolee and which will thereby meet regularly to monitor the parolee’s progress and allow parolees to access to appropriate reentry resources.

(e) SELECTION OF DISTRICTS.—The Judicial Conference of the United States, in consultation with the Attorney General, shall select an appropriate number of Federal judicial districts in which to carry out the District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration project.

SEC. 1614. FEDERAL INTENSIVE SUPERVISION, TRACKING, AND REENTRY TRAINING (FED ISTART) DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration (FED ISTART) project.

(b) PROJECT ELEMENTS.—The project authorized by subsection (a) shall include—

(1) participation by appropriate high risk Federal offenders;

(2) significantly smaller caseloads for probation officers participating in the demonstration project;

(3) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programmatic needs and other components as appropriate to promote effective reintegration into the community as needed; and

(4) notification to victims on the status and nature of a parolee’s reentry plan.

(c) PROGRAM DURATION.—The Director of the Federal Bureau of Prisons, in consultation with the Attorney General, shall select an appropriate number of Federal judicial districts in which to carry out the Federal Intensive Supervision, Tracking and Reentry Training Demonstration project.

SEC. 1615. FEDERAL ENHANCED IN-PRISON VOCATIONAL ASSESSMENT AND TRAINING DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Attorney General shall establish the Federal Enhanced In-Prison Vocational Assessment and Training Demonstration project.

(b) PROGRAM DURATION.—The Enhanced In-Prison Vocational Assessment and Training

later than 6 months following the availability of funds to carry out this section, and shall last 3 years. The Attorney General may extend the project for a period of up to six months to enable participating prisoners to complete their involvement in the project.

(c) SELECTION OF DISTRICTS.—The Judicial Conference of the United States, in consultation with the Attorney General, shall select an appropriate number of Federal judicial districts in which to carry out the Reentry Center Demonstration project.

(d) PROGRAM DURATION.—The District of Columbia Intensive Supervision, Tracking and Reentry Training Demonstration project.

(e) COORDINATION OF PROJECTS.—The Attorney General, may, if appropriate, include in the Reentry Center Demonstration project offenders who participated in the Enhanced In-Prison Vocational Assessment and Training Demonstration project established by section 1615 of this Act.

SEC. 1612. FEDERAL HIGH-RISK OFFENDER REENTRY DEMONSTRATION.

(a) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—From funds made available to carry out this section, the Attorney General shall establish the Federal High-Risk Offender Reentry Demonstration project.

(b) PROGRAM ELEMENTS.—The project authorized by subsection (a) shall include—

(1) participation by appropriate high risk parolees;

(2) use of community corrections facilities and home confinement that, together with the technology referenced in paragraph (5), will be a part of a system of graduated levels of supervision;

(3) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, and other programmatic needs and other components as appropriate to promote effective reintegration into the community;

(4) involvement of a victim advocate and the family of the prisoner, if it is safe for the victim, prior to the prisoner’s release in domestic violence cases, to be involved;

(5) the use of monitoring technologies, as appropriate and indicated, to monitor and supervise participating offenders in the community;

(6) a description of the methodology and outcome measures that will be used to evaluate the program;

(7) notification to victims on the status and nature of a prisoner’s reentry plan.

(c) PROGRAM DURATION.—In each of the judicial districts in which the demonstration project is in effect, appropriate offenders who are found to have violated the terms of their supervised release and who will be subject to any additional mandatory conditions of supervised release, shall be designated to participate in the demonstration project. With respect to any offender, the court shall impose additional mandatory conditions of supervised release that each offender shall, as directed by the probation officer, reside at a community corrections facility or participate in a program of home confinement, or both, and submit to appropriate monitoring, and otherwise participate in and complete the project.
Demonstration shall begin not later than six months following the availability of funds to carry out this section, and shall last 3 years. The Attorney General may extend the project for up to 6 months for eligible participating prisoners to complete their involvement in the project.

SEC. 1616. RESEARCH AND REPORTS TO CONGRESS.

(a) ATTORNEY GENERAL.—Not later than 2 years after the enactment of this Act, the Attorney General shall report to Congress on the progress of the demonstration projects authorized by sections 1613 and 1615. Not later than 1 year after the end of the demonstration project authorized by sections 1613 and 1615, the Director of the Federal Bureau of Prisons shall report to Congress on the effectiveness of the reentry projects authorized by sections 1613 and 1615 on post-release outcomes and recidivism. The report shall address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary in the House of Representatives and the Senate.

(b) OFFICE OF THE UNITED STATES COURTS.—Not later than 2 years after the enactment of this Act, the Director of the Administrative Office of the United States Courts shall report to Congress on the progress of the demonstration projects authorized by sections 1612 and 1614. Not later than 1 year after the end of the demonstration projects authorized by sections 1612 and 1614, the Director of the Administrative Office of the United States Courts shall report to Congress on the effectiveness of the reentry projects authorized by sections 1612 and 1614 on post-release outcomes and recidivism. The report shall address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary in the House of Representatives and the Senate.

(c) DC ISTART.—Not later than 2 years after the enactment of this Act, the Executive Director of the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712) shall report to Congress on the progress of the demonstration project authorized by section 1613 of this Act. Not later than 1 year after the end of the demonstration project authorized by section 1613, the Executive Director of the corporation or institute authorized by section 11281(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. Law 105–33; 111 Stat. 712) shall report to Congress on the effectiveness of the reentry project authorized by section 1613 of this Act on post-release outcomes and recidivism. The report shall address post-release outcomes and recidivism for a period of 3 years following release from custody. The reports submitted pursuant to this section shall be submitted to the Committees on the Judiciary in the House of Representatives and the Senate.

SEC. 1617. DEFINITIONS.

In this part—

(1) the term “appropriate prisoner” means a person who is considered by prison authorities—

(A) to pose a medium to high risk of committing a criminal act upon reentering the community, and

(B) to lack the skills and family support network that facilitate successful reintegration into the community; and

(2) the term “appropriate high parolee” means parolees considered by prison authorities—

(A) to pose a medium to high risk of committing a criminal act upon reentering the community; and

(B) to lack the skills and family support network that facilitate successful reintegration into the community.

SEC. 1618. AUTHORIZATION OF APPROPRIATIONS.

To carry out this part, there are authorized to be appropriated, to carry out this section, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

SEC. 1621. AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) In General.—I. The Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) as amended, is amended by inserting after part CC the following new part:

PART DD—OFFENDER REENTRY AND COMMUNITY SAFETY

SEC. 2851. ADULT OFFENDER STATE AND LOCAL NATIONAL REENTRY AND COMMUNITY INITIATIVES

(1) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $1,000,000 to States, Territories, and Indian tribes, in partnership with local government and nonprofit organizations, for the purpose of establishing adult offender reentry demonstration projects. Grants may be expended by the grantees for the following purposes:

(1) oversight/monitoring of released offenders;

(2) providing returning offenders with drug and alcohol testing and treatment and mental health assessment and services;

(3) convening community impact panels, victim impact panels or victim impact educational classes;

(4) providing and coordinating the delivery of other community services to offenders such as housing assistance, education, employment training, victim services, reentry program coordination, and other social services as appropriate; and

(5) establishing and implementing graduated sanctions.

(2) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subparagraph—

(1) describe a long-term strategy and detailed implementation plan, including how reentry project funds will be used for the period after the Federal funding ends;

(2) identify the governmental and community agencies that will be coordinated by this project;

(3) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program, including existing community corrections and parole; and

(4) describe the methodology and outcome measures that will be used in evaluating the program.

(3) APPLICANTS.—The applicants as designated under subsection (a)—

(1) shall prepare the application as required under subsection (b); and

(2) shall administer grant funds in accordance with procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

SEC. 2952. STATE AND LOCAL REENTRY COURTS.

(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $500,000 to State and local courts or State agencies, municipalities, public agencies, nonprofit organizations, and tribes that have agreements with States or local governments to take the lead in establishing a reentry court. The Attorney General shall provide to each reentry court funds for the project for the following purposes:

(1) monitoring offenders returning to the community;

(2) providing returning offenders with drug and alcohol testing and treatment and mental and medical health assessment and services;

(3) convening community impact panels, victim impact panels, or victim impact educational classes;

(4) providing and coordinating the delivery of other community services to offenders such as housing assistance, education, employment training, victim services, reentry program coordination, and other social services as appropriate; and

(5) establishing and implementing graduated sanctions.

(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specifi
(5) establishing and implementing graduated sanctions and incentives.
(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—
(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;
(2) identify the governmental and community agencies that will be coordinated by this project;
(3) certify that there has been appropriate consultation with all affected agencies, including existing community corrections and parole programs, to develop appropriate coordination with all affected agencies in the implementation of the program;
(4) describe the methodology and outcome measures that will be used in evaluation of the program.
(c) APPLICANTS.—The applicants as designated under subsection (a)—
(1) shall prepare the application as required under subsection (b); and
(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.
(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 25 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.
(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require that contains:
(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and
(2) such other information as the Attorney General may require.
(f) AUTHORIZATION OF APPROPRIATIONS.—
(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $5,000,000 in fiscal years 2002 and 2003, and such sums as are necessary for each of the fiscal years 2004, 2005, and 2006.
(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—
(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and
(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.
SEC. 2953. JUVENILE OFFENDER STATE AND LOCAL REENTRY PROGRAMS.
(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $250,000 to States, in partnership with local units of governments or nonprofit organizations, for the purpose of establishing juvenile offender reentry programs. Funds may be expended by the grantees for—
(1) providing returning juvenile offenders with drug and alcohol testing and treatment and mental and medical health assessment and services;
(2) convening victim impact panels, restorative justice panels, or victim impact educational classes for juvenile offenders;
(3) oversight/monitoring of released juvenile offenders; and
(4) providing for the planning of reentry services when the youth is initially incarcerated and coordinating the delivery of community-based services, such as education, conflict resolution skills training, batterer intervention programs, employment training and placement efforts to identify suitable living arrangements, family involvement and support, and other services.
(b) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—
(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;
(2) identify the governmental and community agencies that will be coordinated by this project;
(3) certify that there has been appropriate consultation with all affected agencies and there will be appropriate coordination with all affected agencies and community corrections and parole, in the implementation of the program;
(4) describe the methodology and outcome measures that will be used in evaluation of the program.
(c) APPLICANTS.—The applicants as designated under subsection (a)—
(1) shall prepare the application as required under subsection (b); and
(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.
(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 25 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.
(e) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require that contains:
(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and
(2) such other information as the Attorney General may require.
(f) AUTHORIZATION OF APPROPRIATIONS.—
(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $5,000,000 in fiscal years 2002 and 2003, and such sums as are necessary for each of the fiscal years 2004, 2005, and 2006.
(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—
(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and
(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.
SEC. 2954. STATE REENTRY PROGRAM RESEARCH, DEVELOPMENT, AND EVALUATION.
(a) GRANT AUTHORIZATION.—The Attorney General shall make grants to conduct research on a range of issues pertinent to reentry programs, the development and testing of new reentry components and a procedure for evaluating projects authorized in the preceding sections, and dissemination of information to the field.
(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 in fiscal years 2002 and 2003, and such sums as are necessary to carry out this section in fiscal years 2004, 2005, and 2006.
(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended, is amended by inserting after the matter relating to part CC the following:
‘‘PART DD—OFFENDER REENTRY AND COMMUNITY SAFETY ACT.’’
‘‘Sec. 2951. Adult Offender State and Local Reentry Partnerships.
‘‘Sec. 2952. State and Local Reentry Courts.
‘‘Sec. 2953. Juvenile Offender State and Local Reentry Programs.
‘‘Sec. 2954. State Reentry Program Research and Evaluation.’’
TITLE II—STRENGTHENING THE FEDERAL CRIMINAL LAWS
Subtitle A—Combating Gang Violence
PART I—ENHANCED PENALTIES FOR GANG-RELATED ACTIVITIES
SEC. 2101. GANG FRANCHISING.
Chapter 26 of title 18, United States Code, is amended by adding at the end the following:
‘‘SEC. 522. INTERSTATE FRANCHISING OF CRIMINAL STREET GANGS.
(a) PROHIBITED ACT.—Whoever travels in interstate or foreign commerce, or causes another to do so, to recruit, solicit, induce, command, or cause to create, or attempt to create a franchise of a criminal street gang shall be punished in accordance with subsection (c).
(b) DEFINITIONS.—In this section:
(1) CRIMINAL STREET GANG.—The term ‘‘criminal street gang’’ has the meaning given that term in section 521.
(2) FRANCHISE.—The term ‘‘franchise’’ means an organized group of individuals related by name, moniker, or other identifier, that engages in coordinated violent crime or drug trafficking activities in interstate or foreign commerce with a criminal street gang in another State.
(3) PENALTIES.—A person who violates subsection (a) shall be imprisoned for not more than 10 years, fined under this title, or both.’’.
SEC. 2102. ENHANCED PENALTY FOR USE OR RECRUITMENT OF MINORS IN GANGS.
(a) IN GENERAL.—Chapter 26 of title 18, United States Code, as amended by section 2101 of this title, is amended by adding at the end the following:
‘‘§ 523. Sentencing enhancement for use or recruitment of minors.
‘‘Pursuant to its authority under section 994(p) of title 28, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement for the use of minors in a criminal street gang and the recruitment of minors in furtherance of the creation of a criminal street gang franchise.’’
(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following:
‘‘§ 522. Interstate franchising of criminal street gangs.
§ 523. Sentencing enhancement for use or recruitment of minors.’’
SEC. 2103. GANG FRANCHISING AS A RICO PREMISE.
Section 1961(1) of title 18, United States Code, is amended—
(1) by striking ‘‘or’’ before ‘‘(F);’’ and
SEC. 2104. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS GANG MEMBER.

SEC. 2106. PUNISHMENT OF ARSON OR BOMBING AT FACILITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE.

SEC. 2107. ELIMINATION OF STATUTE OF LIMITATIONS FOR MURDER.

SEC. 2109. RESTRUCTURING AND EXPANDING PROHIBITIONS AGAINST VIOLENT CRIMES.

SEC. 2110. INCREASED PENALTY AND BROADENED APPLICATION OF VARCHARITY AGAINST VIOLENT CRIMES.

SEC. 2111. FACILITATION OF THE PROSECUTION OF CARJACKING OFFENSES.

SEC. 2112. FACILITATION OF RICO PROSECUTIONS.

SEC. 2113. ASSAULT AS A RICO PRECEDATE.

SEC. 2114. INCREASED PENALTY FOR KNOWINGLY RECEIVING FIREARMS WITH OBLITERATED SERIAL NUMBER.

SEC. 2115. INCREASED PENALTIES FOR VIOLENCE IN THE COURSE OF RIOT OFFENCES.

SEC. 2116. EXPANSION OF FEDERAL JURISDICTION OVER CRIMES OCCURRING IN PRIVATE PENAL FACILITIES HOUSING FEDERAL PRISONERS OR PRISONERS FROM OTHER STATES.

SEC. 2117. TRANSFER OF FIREARMS TO COMMIT A CRIME OF VIOLENCE.

SEC. 2118. INCREASED PENALTY FOR KNOWINGLY RECEIVING FIREARMS FOR USE IN CRIMES.

SEC. 2119. AMENDMENT OF THE SENTENCING GUIDELINES TO PROHIBIT LOOTING.

SEC. 2120. STATEMENT OF INTERSTATE TRAVEL TO ENGAGE IN PROHIBITED ACTIVITIES.

SEC. 2121. PROHIBITION OF BANKING OF CRIME EARNINGS.

SEC. 2122. PROHIBITION OF COVER-UP OF CRIME EARNINGS.

SEC. 2123. INTERSTATE TRAVEL TO ENGAGE IN WITNESS INTIMIDATION OR OBSTRUCTION OF JUSTICE.

SEC. 2124. VIOLATION OF BAN ON RELATION TO THE UNITED STATES.
criminal street gang or racketeering enter-

tion

one for any term of years or for life, or

section 1365) results, be so fined or impris-

tion of which was the object of the

he also, and thereafter engages or endeavors

ty or availability for use in such a pro-

cause any person to destroy, alter, or

means to cause any person to destroy, alter,

or conceal a record, document, or other ob-

in paragraph (1), by striking “as pro-

vided in paragraph (2)” and inserting “as

vided in paragraph (3)”;

B) by redesignating paragraph (2) as para-

C) by inserting after paragraph (1) the fol-

“(2) Whoever uses physical force or the

(A) influence, delay, or prevent the testi-

(1) by striking any person who has com-

(3) if death results, be so fined and impris-

(2) in subsection (b), by striking

(2) by striking the period at the end of

(1) by striking the period at the end of

(2) by inserting “and” at the end of sub-

paragraph (B);

(2) by striking “at the end the following:

“(D) an offense that is a violation of section

842(c)(1) or 922(g)(1) of this title (relating to

position of explosives or firearms by convic-

tion of felony)”;

(b) OFFENSES.—Section 3156(a)(4) of title 18,

United States Code, is amended—

(1) by striking “or” at the end of subpara-

graph (B);

(2) by striking the period at the end of sub-

paragraph (C) and inserting “; or”; and

(3) by adding at the end the following:

“(D) an offense that is a violation of section

842(a)(1) and 922(g)(1) of this title (relating to

protection of explosives or firearms by con-

viction of felony)”;

(c) FACTORS.—Section 3142(g)(3)(B) of title 18,

United States Code, is amended—

(1) by striking “the person was—”

(1) on probation”;

(2) by striking “local law; and” and insert-

“local law; or”;

(3) by adding at the end the following:

“(ii) a member of or participated in a crim-

inal street gang or racketeering enter-

prise”;

SEC. 2133. CONSPIRACY PENALTY FOR OBSTAC-

LING OF JUSTICE OFFENSES IN-

VOLVING VICTIMS, WITNESSES, AND

Section 1512 of title 18, United States Code, is

amended by adding at the end the fol-

owing:

“1. Whoever conspires to commit any of-

fense defined in this section or section 1512 of

this title shall be subject to the same pen-

alties as those prescribed for the offense the

commission of which was the object of the

conspiracy.”.

SEC. 2134. ALLOWING A REDUCTION OF SEN-

TENCE FOR PROVIDING USEFUL IN-

VESTIGATIVE INFORMATION AL-

THOUGH NOT REGARDING A

PARTICULAR INDIVIDUAL.

(a) Title 18.—Section 3553(e) of title 18,

United States Code, is amended by striking

“substantial assistance in the investiga-

tion or prosecution of another person who

has committed an offense” and inserting “sub-

stantial assistance in the investigation of

any offense or the prosecution of another

who has committed an offense”;

(b) Title 28.—Section 994(n) of title 28,

United States Code, is amended by striking

“substantial assistance in the investiga-

tion or prosecution of another person who

has committed an offense” and inserting “sub-

stantial assistance in the investigation of

any offense or the prosecution of another

who has committed an offense”;

(c) FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 35(b) of the Federal Rules of

Criminal Procedure is amended by striking

“substantial assistance in the investigation or

prosecution of another person who has

committed an offense” and inserting “sub-

stantial assistance in an investigation of

any offense or the prosecution of another

person who has committed an offense”.

SEC. 2135. INCREASING THE PENALTY FOR USING

GANG PARAPHERNALIA

Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “as pro-

vided in paragraph (2)” and inserting “as

provided in paragraph (3)”;

(B) by redesignating paragraph (2) as para-

C) by inserting after paragraph (1) the fol-

lowing:

“(2) Whoever uses physical force or the

threat of physical force, or attempts to do

so, with intent to—

(A) influence, delay, or prevent the testi-

mony of any person in an official proceed-

ing;

(B) cause or induce any person to—

(i) withhold testimony, or withhold a

record, document, or other object, from an

official proceeding;

(ii) alter, destroy, mutilate, or conceal an

object with intent to impair the object’s

integration or availability for use in an official

proceeding;

(iii) evade legal process summoning that

person to appear as a witness, or to produce

a record, document, or other object, in an

official proceeding;

(iv) be absent from an official proceeding

to which such person has been summoned by

legal process; or

(C) hinder, delay, or prevent the commu-

nication to a law enforcement officer or

judge of the United States of information re-

lating to the commission or possible com-

mission of a Federal offense or a violation

of conditions of probation, parole, or release

pending judicial proceedings; shall be pun-

ished as provided in paragraph (3);” and

(D) by striking paragraph (3)(B), as redesig-

nated, and inserting the following:

“(B) an attempt to murder, the use of

physical force, the threat of physical force,

or an attempt to do so, imprisonment for not

more than 20 years.

(2) in subsection (b), by striking “or

physical force”.

SEC. 2136. EXPANSION OF FEDERAL KIDNAPPING

OF VICTIM OCCURS BEFORE CROSS-

OFFENSE TO COVER WHEN DEATH

SEC. 2137. ASSAULTS OR OTHER CRIMES OF VIO-

LENCE FOR HIJRI

Section 1958(a) of title 18, United States

Coded is amended by inserting “or other felon-

ous crime of violence against the person” after

“muder”.

SEC. 2138. CLARIFICATION OF INTERSTATE

THREAT STATUTE TO COVER

THREATS TO KILL

Subsections (b) and (c) of section 875 of title

18, United States Code, and the second and

third undesignated paragraphs of sections

876 and 877 of title 18, United States

Code, are each amended by inserting “any

threat to injure” and inserting “any threat to

kill or injure”.

SEC. 2139. CONFORMING AMENDMENT TO LAW

PUNISHING OBSTRUCTION OF JUST-

ICE BY NOTIFICATION OF EXIST-

ENCE OF A SUBPOENA FOR

RECORDS IN CERTAIN TYPES OF IN-

VESTIGATIONS.

Section 1512 of title 18, United States Code, is amended—

(1) in clause (1), by striking “or” at the end;

(2) in clause (ii), by striking the period at

the end and inserting “; or”; and

(3) by adding at the end the following:

“(iii) the Controlled Substances Act (21

U.S.C. 801 et seq.), the Controlled Substances

Import and Export Act (21 U.S.C. 951 et seq.),

or section 6050I of the Internal Revenue Code

of 1986; and

“section 286, 287, 699, 1001, 1027, 1035,

1341, 1343, 1347, 1518, or 1954 relating to a

Federal health care offense.”.

PART IV—GANG PARAPHERNALIA

SEC. 2141. STREAMLINING PROCEDURES FOR

LAWS ENFORCED TO CLONE NUMERIC PAGERS.

(a) AMENDMENT TO CHAPTER 206.—Chapter

206 of title 18, United States Code, is amend-

ed—

(1) in the chapter heading, by striking “AND

TRAP AND TRACE DEVICES” and in-

cluding “AND TRAP AND TRACE DE-

VICES, AND CLONE NUMERIC PAGERS”;

(2) in section 2121—

(A) in the section heading, by striking “and

trap and trace device, and clone pager”;

(B) in subsection (a)—

(i) by striking “or a trap and trace device”;

(ii) by redesignating subsections (c) through

(f) as subsections (d) through (g), re-

spectively; and

(C) by inserting after subsection (b) the fol-

lowing:

“(c) CLONE PAGER.—Upon the request of an

attorney for the Government or an officer of

a law enforcement agency authorized to use

a clone pager under this chapter, a provider

of a paging service or electronic communica-

tion service shall furnish such investigative

or law enforcement officer or judge of the

United States of all information, facilities,

and technical assistance necessary to

accomplish the use of the clone pager un-

conditionally and with a minimum of inter-

ference with the services that the person so

ordered by the court provides to the sub-

scriber, if such assistance is directed by a

court in an order as provided in section 3123(b)(2)

of this chapter.”;

(4) in section 3125—

(A) in the section heading, by striking “and

trap and trace device” and inserting “a

trap and trace device, or a clone pager”;

(b) in subsection (a)—

(i) by striking “or a trap and trace device”;

(ii) by redesignating subsections (c) through

(f) as subsections (d) through (g), re-

spectively; and

(C) by inserting after subsection (b) the fol-

lowing:

“(c) CLONE PAGER.—Upon the request of an

attorney for the Government or an officer of

a law enforcement agency authorized to use

a clone pager under this chapter, a provider

of a paging service or electronic communica-

tion service shall furnish such investigative

or law enforcement officer or judge of the

United States of all information, facilities,

and technical assistance necessary to

accomplish the use of the clone pager un-

conditionally and with a minimum of inter-

ference with the services that the person so

ordered by the court provides to the sub-

scriber, if such assistance is directed by a

court in an order as provided in section 3123(b)(2)

of this chapter.”;
(ii) by striking “as an order approving the installation or use is issued in accordance with section 3123 of this title” and inserting “as an application is made for an order approving the installation or use in accordance with section 3123 or section 3126 of this title”; and

(C) in subsection (b), by adding at the end the following: “In the event such application for the use of the clone pager is denied, or in any other case where the use of the clone pager is terminated without an order having been issued, an inventory shall be served as provided for in 18 U.S.C. 3128(e)”; 

(5) in section 3126—

(A) in the section heading, by striking “and trap and trace devices” and inserting “trap and trace devices, and clone pagers”;

(B) by striking “pen register and orders for trap and trace devices” and inserting “orders for pen registers, trap and trace devices, and clone pagers”; and

(C) by adding at the end the following: “any other case where the use of the clone pager is terminated without an order having been issued, an inventory shall be served as provided for in 18 U.S.C. 3128(e).”

(b) C ONTENTS OF AN ORDER. An order authorizing the use of a clone pager shall direct that—

(1) the order be sealed until otherwise ordered by the court; and

(2) the person who has been ordered by the court to provide assistance to the applicant make a sworn statement to the court that the use of the clone pager was authorized by law or was in accordance with section 3124 of this title.

(c) CONFORMING AMENDMENT. The analysis for chapter 206 of title 18, United States Code, is amended by striking chapter 119 and inserting “chap ters 119 and 206.”

SEC. 3121. ISSUANCE OF AN ORDER FOR USE OF A CLONE PAGER. —

(a) DEFINITIONS.—In this section:

(1) BODY ARMOR.—The term “body armor” means any garment or clothing, including personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment;

(2) LAW ENFORCEMENT OFFICER.—The term “law enforcement officer” means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any offense in which the defendant used body armor.

(c) CONSISTENCY.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

(d) APPLICABILITY.—No Federal sentencing guideline amendment made under this section shall apply if the Federal crime in which the body armor is used constitutes a violation of, attempted violation of, or conspiracy to violate the civil rights of a person by a law enforcement officer acting under color of the authority of such law enforcement officer.

SEC. 3123. ISSUANCE OF AN ORDER FOR USE OF A CLONE PAGER.

(a) DEFINITIONS.—In this section:

(1) THE TERM “FIREARM” has the same meaning as in section 921 of title 18, United States Code; and

(2) the term “laser-sighting device” includes any device designed to be attached to a firearm that uses technology, such as laser sighting, red-dot-sighting, night sight,
telescopic sighting, or other similarly effective technology, in order to enhance target acquisition.

(b) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 18, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any serious violent felony or serious drug offense, as defined in section 3559 of title 18, United States Code, in which the defendant—
(1) possessed a firearm equipped with a laser-sighting device; or
(2) possessed a firearm and the defendant possessed a laser-sighting device (capable of being attached to the firearm) in a way as to minimize the recording or registering of the information likely to be obtained by the laser-sighting device.

(c) SCIENTER REQUIREMENT.—For the purposes of proving a violation of this section involving an illegal money transmitting business—

(1) it shall be sufficient for the Government to prove that the defendant knew that the money transmitting business lacked a license required by State law; and
(2) it shall be sufficient for the Government to show that the defendant knew that the operation of such a business without the required license was an offense punishable as a felony or misdemeanor under State law.

SEC. 2203. RESTRAINT OF ASSETS OF PERSONS ARRESTED ABROAD.

Section 591(b) of title 18, United States Code, is amended by adding at the end the following:

"(9) RESTRAINT OF ASSETS.—

(A) IN GENERAL.—If any person is arrested or charged in a foreign country in connection with an offense that would give rise to the forfeiture of property in the United States under this section or under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Attorney General may apply to any Federal judge or magistrate judge in the district in which the property is located for an ex parte order restraining the property subject to forfeiture for not more than 30 days, except that the order shall not apply for good cause shown at a hearing conducted in the manner provided in Rule 43(e) of the Federal Rules of Civil Procedure.

(B) APPLICATION FOR A RESTRAINING ORDER.—A provider of mobile electronic communication service shall provide to a governmental entity information covered by subsection (g) of this section after "(b) of this section".

SEC. 2204. CIVIL MONEY LAUNDERING JURISDICTION OVER FOREIGN PERSONS.

Section 1956(b) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting each subparagraph appropriately;

(2) by striking "(b) Whoever" and inserting the following:

"(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Whoever;

(2) by striking the end of that paragraph and inserting the following in its place:

"(c) SATISFACTION OF JUDGMENT.—In any action described in paragraph (2), the court—

(1) may accept a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under this section.".

SEC. 2205. PUNISHMENT OF LAUNDERING MONEY THROUGH FOREIGN BANK ACCOUNTS.

Section 1956(c)(6) of title 18, United States Code, is amended to read as follows:

"(6) the term ‘financing institution’ includes—

(A) any financial institution described in section 5312(a)(2) of title 31, or the regulations promulgated thereunder;

(B) any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7));

SEC. 2206. ADDITION OF SERIOUS FOREIGN CRIMES TO LIST OF MONEY LAUNDERING PRECEDENTS.

(a) IN GENERAL.—Section 1956(c)(7) of title 18, United States Code, is amended—

(1) by striking paragraph (B) and inserting the following:

"(B) any act or acts constituting a crime of violence; and"

(2) by adding at the end the following:

"(v) fraud, or any scheme to defraud, committed against a foreign government or foreign governmental entity;

(vi) bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official;

(vi) smuggling or export control violations involving munitions listed in the United States Munitions List or technologies with military applications as defined in the Export Administration Regulations; or

(vii) an offense with respect to which the United States would be obligated by a multilateral treaty either to extradite the alleged offender to or to submit the case for prosecution, if the offender were found within the territory of the United States;"

"(2) by striking paragraph (D) and inserting the following:

"(D) by inserting "section 541 (relating to goods falsely classified), before section 542;"

"(E) by inserting "section 922(1) (relating to the unlawful importation of firearms), section 924(m) (relating to firearms traffic-faking), before section 956;"

"(F) by inserting "section 1030 (relating to computer fraud and abuse), before "1032; and

"(G) by inserting "any felony violation of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.)," before "or any felony violation of the Foreign Corrupt Practices Act;"

"(3) In this subsection, the term "financial institution" includes—

"(a) a financial institution described in section 5312(a)(2) of title 31, or the regulations promulgated thereunder;

"(b) any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7));

SEC. 2209. ADMISSIBILITY OF FOREIGN BUSINESS RECORDS.

(a) IN GENERAL.—Chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"2487. Foreign records

"(a) DEFINITIONS.—In this section—

"(1) the term ‘business’ includes—

"(2) an entity engaged in business, institution, association, profession, occupation, and calling of every kind whether or not conducted for profit.

"(3) the term ‘foreign certification’ means a written declaration made and signed in a foreign country by the custodian of a record
of regularly conducted activity or another qualified person, that if falsely made, would subject the maker to criminal penalty under the law of that country.

(3) The term ‘regularly conducted activity’ means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country; and

(4) the term ‘official request’ means a letter rogatory, a request under an agreement, treaty or convention, or any other request for information or evidence made by a court of the United States or an authority of the United States having law enforcement responsibilities, to a court or other authority of a foreign country.

(b) ADMISSIBILITY.—In a civil proceeding in a court of the United States, including a civil forfeiture proceeding and a proceeding in the United States Claims Court and the United States Tax Court, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness, a foreign record of regularly conducted activity (or a duplicate of such record), obtained pursuant to an official request as evidenced by the hearsay rule if a foreign certification, also obtained pursuant to the same official request or subsequent official request that adequately identifies such foreign record, attests that—

(1) the foreign record was made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

(2) the foreign record was kept in the course of a regularly conducted business activity;

(3) the business activity made such a record a regular practice; and

(4) United States is not the original, the record is a duplicate of the original.

(c) FOREIGN CERTIFICATION.—A foreign certification under this section shall authenticate a record or duplicate described in subsection (b).

(d) NOTICE.—As soon as practicable after a responsive pleading has been filed, a party intending to offer in evidence under this section a foreign record of regularly conducted activity shall provide written notice of that intention to each other party.

(2) OPPOSITION.—A motion opposing admission in evidence of a record under paragraph (1) may be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record, except that the court for cause shown may grant relief from the waiver.

(b) CONFORMING AMENDMENT.—The analysis for civil forfeiture in section 5323 of title 28, United States Code, is amended by adding at the end the following:

"2467. Foreign records.”

SEC. 2210. CHARGING MONEY LAUNDERING AS A CONDUCT.

Section 1956(h) of title 18, United States Code, is amended—

(1) by striking ‘‘(h) Any person and inserting ‘‘(h) Conspiracy; Multiple Violations.—’’;

(h) CONSPIRACY; MULTIPLE VIOLATIONS.—

(1) Conspiracy.—Any person;

and

(2) by adding at the end the following:

(2) MULTIPLE VIOLATIONS.—Any person who commits multiple violations of this section or section 1957 that are part of the same scheme or continuing course of conduct may be charged and convicted of the Government, in a single count in an indictment or information.”

SEC. 2211. VENUE IN MONEY LAUNDERING CASES.

Section 1956 of title 18, United States Code, as amended by adding at the end the following:

"(I) VENUE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a prosecution for an offense under this section or section 1957 may be brought in the district in which the financial or monetary transaction is conducted, or in which a prosecution for the underlying specified unlawful activity could be brought, if the defendant has been, or is about to be, transferred to the district; or in the district in which the financial or monetary transaction is conducted; or

(2) EXCEPTION.—A prosecution for an attempt or conspiracy offense under this section or section 1957 may be brought in the district in which venue would lie for the completed offense under paragraph (1), or in any other district in which an act in furtherance of the attempt or conspiracy took place.”

SEC. 2212. TECHNICAL AMENDMENT TO RESTORE WIRETAP AUTHORITY FOR CERTAIN PROCEEDINGS.

Section 2516(1)(g) of title 18, United States Code, is amended by striking “of title 31, United States Code (dealing with the reporting and illegal structuring of currency transactions)”.

SEC. 2213. CRIMINAL PENALTIES FOR VIOLATIONS OF ANTI-MONEY LAUNDERING ORDERS.

(a) REFUGEE BAN ON SAUDI ARABIA.—Section 5324(a) of title 31, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting ‘‘, or the reporting requirements imposed by an order issued pursuant to section 5326’’ after ‘‘section’’; and

(2) in each of paragraphs (1) and (2), by inserting ‘‘, or a report required under any order issued pursuant to section 5326’’ before the semicolon.

(b) PENALTIES.—Sections 5321(a)(1), 5322(a), and 5322(b) of title 31, United States Code, are each amended by inserting ‘‘or order issued’’ after ‘‘or a regulation prescribed’’ each place that term appears.

SEC. 2214. ENCOURAGING FINANCIAL INSTITUTIONS TO NOTIFY LAW ENFORCEMENT AUTHORITIES OF SUSPICIOUS FINANCIAL TRANSACTIONS.

(a) IN GENERAL.—Section 2211 of title 18, United States Code, is amended—

(1) by inserting ‘‘or supervisory agency’’ after ‘‘a law enforcement agency’’;

(2) in subparagraph (A), by striking ‘‘and’’ and inserting ‘‘and appear to pertain to the commission of the crime; or’’; and

(3) in subparagraph (B), by striking ‘‘appear to pertain to the commission of the crime.’’ and inserting ‘‘appear to reveal a suspicious transaction relevant to a possible violation of law or regulation.’’

(b) DETERMINATION.—Section 2211 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ‘‘and’’ at the end;

(2) in paragraph (2), by striking the period at the end and inserting ‘‘; and’’; and

(3) by adding at the end the following:

"(3) the terms ‘suspicious transaction’ and ‘relevant to a possible violation of the law or regulation’ shall be interpreted in the same manner as those terms have been interpreted for purposes of section 5318(g) of title 31; and

"(4) the term ‘supervisory agency’ has the meaning given the term in section 1101(7) of the Right to Financial Privacy Act of 1978.’’

SEC. 2215. COVERAGE OF FOREIGN BANK ACCOUNTS WITHIN THE JURISDICTION OF THE UNITED STATES.

Section 209 of title 18, United States Code, is amended by inserting before the period the following:

"except that for purposes of this section the definition of the term ‘State’ in such Act shall be deemed to include a commonwealth, territory, or possession of the United States, an independent state, and any other district in which an act in furtherance of the attempt or conspiracy took place.”

SEC. 2216. CONFORMING STATUTE OF LIMITATIONS AMENDMENT FOR CERTAIN BANK FRAUD OFFENSES.

Section 1952 of title 18, United States Code, is amended—

(1) by inserting “225,” after “215,”; and

(2) by inserting “1032,” before “1033.”

SEC. 2217. JURISDICTION OVER CERTAIN FINANCIAL CRIMES COMMITTED ABROAD.

Section 1029 of title 18, United States Code, is amended by adding at the end the following:

"(b) JURISDICTION OVER CERTAIN FINANCIAL CRIMES COMMITTED ABROAD.—Any person who, outside the jurisdiction of the United States, engages in any act that, if committed within the jurisdiction of the United States, would constitute an offense under subsection (a) or (b), shall be subject to the same penalties as if that offense had been committed in the United States, if the act—

(1) involves an access device issued, owned, managed, or controlled by a financial institution, account issuers, system members, or other entity within the jurisdiction of the United States; and

(2) causes, or if completed would have caused, a transfer of property, or a loss to an entity listed in paragraph (1).”

SEC. 2218. KNOWLEDGE THAT THE PROPERTY IS THE PROCEEDS OF A FELONY.

Section 1956(h)(2) of title 18, United States Code, is amended by inserting “, and regardless of whether or not the person knew that the activity constituted a felony” before the semicolon at the end.

SEC. 2219. MONEY LAUNDERING TRANSACTIONS; COMINGLED ACCOUNTS.

(a) SECTION 1956.—Section 1956 of title 18, United States Code, as amended by adding at the end the following:

"(1) A transaction, transportation, transmission, or transfer of funds shall be considered for the purposes of this section to be one involving the proceeds of specified unlawful activity, or property represented to be the proceeds of specified unlawful activity, if the transaction, transportation, transmission, or transfer involves—

(1) funds directly traceable to the specified unlawful activity, or represented to be directly traceable to the specified unlawful activity;

(2) a bank account in which the proceeds of specified unlawful activity, or property represented to be the proceeds of specified unlawful activity, have been commingled with other funds; or

(3) 2 or more bank accounts, where the proceeds of specified unlawful activity, or property represented to be the proceeds of specified unlawful activity, are deposited into 1 bank account and there is a contemporaneous, related transfer of funds or debt to, another bank account controlled by the same person, or by a person acting in concert with that person.

(b) SECTION 1957.—Section 1957(f) of title 18, United States Code, is amended by inserting after paragraph (3) the following:

"(4) the term ‘monetary transaction in criminally derived property that is of a value greater than $10,000’ includes—

(A) a monetary transaction involving the transfer, withdrawal, encumbrance or other disposition of any such property from that district to the district in which the specified unlawful activity, have been commingled with other funds; or

(B) any transfers of such property in amounts under $10,000 that exceed $10,000 in the aggregate and that are closely related to
SEC. 2280. LAUNDERING THE PROCEEDS OF TERRORISM.

Section 5k 2339A(1) of title 18, United States Code, is amended by striking "willfully violating a registration prescribed under section 21 of the Federa

SEC. 2281. VIOLATIONS OF SECTION 6050I.

Sections 981(a)(1)(A) and 982(a)(1) of title 31, United States Code, are amended by inserting "or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, after "section 5315 or 5324),"

SEC. 2282. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC TARGETING ORDERS AND CERTAIN RECORDKEEPING REQUIREMENTS.

(a) CIVIL PUNISHMENT FOR VIOLATION OF TARGETING ORDER.—Section 5322(a)(1) of title 31, United States Code, is amended—

(1) by inserting "willfully violating a registration prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, after "section 5315 or 5324)"; and

(b) by inserting "willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, after "section 5315 or 5324);"

(c) by striking paragraph (2)(A) of section 5322(b), and inserting that paragraph as follows:

"(A) by inserting "willfully violating a registration prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, after "section 5315 or 5324);"

(d) in subsection (c), by striking "recordkeeping requirements prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, after "section 5315 or 5324);" and

(e) by inserting "registration prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, after "section 5315 or 5324);"

(1) (A) by inserting "willfully violating a registration prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, after "section 5315 or 5324);" and

(2) in subsection (b), by striking "registration prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, after "section 5315 or 5324);"

(3) by striking paragraph (2)(A) of section 5322(b), and inserting that paragraph as follows:

"(A) by inserting "willfully violating a registration prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, after "section 5315 or 5324);"

(4) by inserting "registration prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, after "section 5315 or 5324);"

(5) by inserting "registration prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, after "section 5315 or 5324);"

SEC. 2283. RENEWAL OF ORDERS.

(A) A temporary scheduling order issued under subparagraph (l)(B) of paragraph (1) of this section shall expire at the end of one year from the effective date of the order, except that the Attorney General may, during the pendency of proceedings under subsection (a)(1) of this section, extend such temporary scheduling order for up to six months.

(B) A temporary scheduling order issued under subparagraph (1)(B) of this subsection shall expire at the end of 18 months from the effective date of the order, except that, if the Attorney General determines that continuance of the temporary scheduling order is necessary to avoid an imminent hazard to the public safety, the Attorney General may, during the pendency of proceedings under subsection (a)(1) of this section, extend such temporary scheduling order for up to six months.

(C) Compliance with applicable record keeping and reporting requirements of the FDC Act, as determined by the Secretary, shall constitute compliance with section 307 (21 U.S.C. 827). A violation of such requirements shall constitute a violation of section 307 and shall subject a violator to applicable civil penalties prescribed under section 307 and subsection (b) of section 307. In addition to any other penalties provided by law. Records or documents required to be kept for such purposes under the FDC Act shall be deemed records required under this subchapter, and places where such records or documents are kept or required to be kept shall be deemed places subject to inspection and seizure and shall be inspected and seized under section 307 and section 307.
“(C) Each person that is a sponsor of an investigation of a new drug for which a research exemption is in effect under section 505(i) of the FDCA with respect to such substance shall be required to certify to the Secretary of Health and Human Services, by one effective date of the temporary scheduling order with respect to the substance, and by the end of each succeeding six month period, that such person is able to verify location and use of all quantities of such substance that are or have been manufactured, distributed, dispensed, possessed, or used under such exemption on or before the date of such certification.

“(D) In the case of a substance that is temporarily scheduled under subparagraph (1)(B) of this subsection, the disclosure of the existence of an exemption under section 505(i) of the FDCA with respect to such substance shall not be considered to be disclosure prohibited under section 301(i) of the FDCA or section 1905 of title 18 of the United States Code.

“(E) The manufacture, possession, distribution, or use of such substance within the scope of such exemption shall not be subject to any requirements or penalty under State or local law more stringent than the provisions of this chapter or other applicable Federal law.

“(7) JUDICIAL REVIEW.—An order issued under paragraph (1) is not subject to judicial review. The renewal order issued under subparagraph (2)(B) of this subsection is subject to judicial review in accordance with section 507 (21 U.S.C. 877).

SEC. 2302. AMENDMENT TO REPORTING REQUIREMENT FOR TRANSACTIONS IN VOLVING CERTAIN LISTED CHEMICALS.

Section 310(b)(3) of the Controlled Substances Act (21 U.S.C. 830(b)(3)) is amended by—

(1) redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C); and

(2) inserting a new subparagraph (A) as follows:

“(A) As used in this section, the term ‘drug product’ means a pharmaceutical substance in dosage form that has been approved under the Federal Food, Drug, and Cosmetic Act for distribution in the United States.”;

(3) in the redesignated (B) by inserting “or who engages in an export transaction after nonregulated person” and

(4) adding at the end the following—

“(D) Except as provided in subparagraph (E), the following distributions to a nonregulated person and the following export transactions shall not be subject to the reporting requirement established in subparagraph (B):

(i) distributions of sample packages of drug products when such packages contain not more than 2 liquid dosage units or the equivalent of 2 dosage units in liquid form, not to exceed 10 milliliters of liquid per package, and not more than one package is distributed to an individual or residential address in any 30-day time period;

(ii) distributions of drug products by retail distributors to a patient or otherwise transferred under such circumstances as would apply under section 102(a) of this title and

(iii) distributions of drug products to a resident of a Long Term Care Facility as that term is defined in the regulations of the Attorney General or distributions of drug products to a Long Term Care Facility for dispensing to or for use by a resident of that facility.

“(A) distributions of drug products pursuant to a valid prescription (as used in this section, the term ‘valid prescription’ is one which is issued for a legitimate medical purpose and on the written order of a practitioner of the health profession); and

“(B) the term ‘imitation controlled substance’ means a substance, which is not a controlled substance, that is represented (expressly or by implication) to be a controlled substance.

“(C) The term ‘imitation controlled substance’ does not include a placebo which is directly applied to the body of a research subject or a person for his own use, by, or pursuant to the order of, a practitioner for a lawful purpose.”.

(b) Section 102(b) of the Controlled Substances Act (21 U.S.C. 822(b)) is amended by-—

(1) inserting “to deliver an imitation controlled substance or” after “controlled substance or”; and

(2) inserting “, an imitation controlled substance,” after “controlled substance”.

(c) Section 102(11) of the Controlled Substances Act (21 U.S.C. 822(11)) is amended by—

(1) inserting “to deliver an imitation controlled substance or” in the first sentence; and

(2) inserting “, an imitation controlled substance,” after “controlled substance” in the second sentence.

(d) Section 102(4) of the Controlled Substances Act (21 U.S.C. 822(4)) is amended by—

(1) striking “or” after “marinhuana,”;

(2) inserting “, anabolic agents, or listed chemicals (as defined in this title)”; and

(3) inserting “which is or is likely to be useable by imprisonment for more than one year under any provision of this title or title III” after “stimulant substances.”.

(e) Section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) is amended by—

(1) striking “or” at the end of paragraph (1);

(2) striking “create” in paragraph (2) and inserting “manufacture”;

(3) inserting “manufacture,” after “intent to” in paragraph (2);

(4) striking the period at the end of paragraph (2) and inserting “;”;

and

(5) adding at the end the following paragraph:

“(5) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute or dispense, an imitation controlled substance.”

SEC. 2303. DRUG PARAPHERNALIA.

(a) In GENERAL.—Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended by inserting “packaging,” after “concealing”.

(b) DETERMINATION OF DRUG PARAPHERNALIA.—Section 422(e)(4) of the Controlled Substances Act (21 U.S.C. 863(e)(4)) is amended by adding the following after “sales”:—

“(A) the Attorney General may revoke any or all of the exemptions listed in (C) for an individual regulated person if he finds that drug products distributed by that person are being used in violation of this title or title III. The regulated person shall be notified of this revocation, which will be effective upon receipt by the regulated person of such notice, as provided in section 1018(c)(1) of title III and has the right to an expedited hearing as provided in section 1018(c)(2) of title III.

SEC. 2304. COUNTERFEIT SUBSTANCES/IMITATION CONTROLLED SUBSTANCES.

(a) Section 102 of the Controlled Substances Act (21 U.S.C. 822(7)) is amended by—

(1) inserting “(A)” after “(7)”; and

(2) designating the text after “a controlled substance” as clause (i);

(3) inserting “characteristic,” after “number,”; and

(4) striking the period at the end and inserting a semicolon;

and

(b) Paragraph (5)(B) of this subsection may be applied to make a determination that a controlled substance is a counterfeit substance.

“5(A) In the case of an imitation controlled substance, such person shall be sentenced to a term of imprisonment for a fine, or both, which does not exceed one-half of the maximum term of imprisonment and fine which would apply under this section to the counterfeit substance which the imitation controlled substance is represented to be or based on the counterfeit substance which is actually controlled in the counterfeit substance, which ever provides the greater sentence.

“(B) Paragraph (5)(B) of this subsection may be applied to make a determination that a controlled substance is a counterfeit substance.

“(B)(A) In the case of an imitation controlled substance, such person shall be sentenced to a term of imprisonment for a fine, or both, which does not exceed one-half of the maximum term of imprisonment and fine which would apply under this section to the counterfeit substance which the imitation controlled substance is represented to be the minimum period of supervised release for such person shall be one-half of that which would apply under this section to the controlled substance which the imitation controlled substance is represented to be.

“(B) In the case of a violation of this title or title III involving an imitation controlled substance, the following provisions shall apply:
“(1) The titer of fact may consider the following factors in addition to any other factor that may be relevant for purposes of determining whether a substance was an imitation controlled substance. The presence of any two of the following factors shall be prima facie evidence that the substance was an imitation controlled substance; however, the presence of any of these factors is not required for a determination that a substance is an imitation controlled substance:

(i) The person in control of the substance expressly or impliedly represents that the substance is a controlled substance or has the effect of a controlled substance;

(ii) The person in control of the substance expresses or otherwise represents that the substance because of its nature or appearance can be sold, delivered or used as a controlled substance or as a substitute for a controlled substance;

(iii) The person in control of the substance utilizes evasive tactics or actions to avoid detection by law enforcement authorities or other authorities such as school authorities;

(iv) The physical appearance of the substance is, or is designed to be, substantially identical to the controlled substance. This may be determined by such factors as color, shape, size, markings, taste, odor, consis-tency, packaging, labeling, or other identifying marks.

(v) The substance is packaged or distributed in a manner normally used for the illegal distribution of controlled substances; or

(V) The distribution or attempted dis-

tribution includes an exchange or demand for money or other property as consideration, and the amount of the consideration is substantially greater than the reasonable retail market value of the substance.

(ii) It shall not constitute a defense that the accused believed the imitation controlled substance to actually be a controlled substance.”

(g) Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) in paragraph (a)(2), by inserting “or list I chemical” after “controlled substance” each place it appears;

(2) in paragraph (a)(3), by inserting “or a laboratory supply (as defined in section 402(a) of this title)” after “controlled sub-

stance”; and

(iii) in paragraph (a)(5) by—

(A) inserting “or substance” after “drug” both places it appears; and

(B) inserting “or an imitation controlled substance” after “interfer with substance”;

(b) Section 506(a) of the Controlled Substances Act (21 U.S.C. 876(a)) is amended by inserting “; imitation controlled sub-

stance” after “controlled substances”:

(1) Section 509 of the Controlled Substances Act (21 U.S.C. 879) is amended by inserting “; imitation controlled substances, or list I chemicals” after “controlled substances”.

(j) Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended—

(A) by redesignating paragraphs (2) and (3) of subsection (b) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) new paragraphs (2) and (3) at the end of subsection (b), respectively—

(2) in paragraph (2), by inserting “or”; imitation controlled substance, “after “controlled substance”; and

(C) in paragraph (6), by inserting “; imitation controlled substance, “after “controlled substance”; and

(D) in paragraph (8), by inserting “and imitation controlled substance” after “controlled substance”;

(2) Section 607(a)(3) of the Tariff Act of 1930 (19 U.S.C. 1607(a)(3)) is amended by inserting “; imitation controlled substance, “after “controlled substance”;

(3) Section 607(b) of the Tariff Act of 1930 (19 U.S.C. 1607(b)) is amended by inserting “; imitation controlled substance,” after “controlled substance.”

(k) Section 1010(a) of the Controlled Substances Act (21 U.S.C. 1908(a)) is amended—

(1) in paragraph (2), by striking “or” at the end;

(2) in paragraph (3), by inserting “or” after “substance,” and

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

“(d) knowingly or intentionally imports or exports a counterfeit substance or an imitation controlled substance;

(1) Section 2516(1)(e) of title 18, United States Code, is amended by inserting “or a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 851, et seq.)” after “United States.”

(c) Section 2305. CONFRONTING AMENDMENT CONCERNING MARIJUANA PLANTS.

Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 1908(b)(4)) is amended by striking “except in the case of 100 or more marijuana plants” and inserting “except in the case of 50 or more marijuana plants”.

(d) Section 2306. SERIOUS JUVENILE DRUG TRAFFICKING OFFENSES AS ARMED CRIMINAL ACT PREDICATES.

Section 922(a) of title 18, United States Code, is amended by inserting “or serious drug offense” after “violent felony.”

(e) Section 2307. INCREASED PENALTY FOR MANUFACTURING FALSELY FOR GROW TO GROW OR MANUFACTURE CONTROLLED SUBSTANCES.

(a) In General—Section 401(b)(5) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) is amended to read as follows:

“Any person who violates subsection (a) of this section by cultivating or manufacturing a controlled substance on any property in whole or in part owned or leased to the United States or any department or agency thereof shall, in addition to the maximum punishment otherwise authorized for the offense:—

(b) SENTENCING ENHANCEMENT.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall, in the absence of such a prior sentence, amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement for any offense under section 401(b)(5) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) that occurs on Federal property.

(2) CONSISTENCY.—In carrying out this section, the United States Sentencing Commission shall—

(A) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(B) avoid duplicative punishment for substantially the same offense.

(f) Section 2308. CLARIFICATION OF LENGTH OF SUPERSERVED RELEASE TERMS IN CONTROLLED SUBSTANCE CASES.

Subparagraphs (A) through (D) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) are each amended by striking “Any sentence and inserting “Notwithstanding section 3583 of title 18, any sen-

ence.”

(g) Section 2309. SUPERVISED RELEASE PERIOD AFTER CONVICTION FOR CONTINUING CRIMINAL ENTERPRISE.

Section 484(a) of title 21, United States Code, is amended by adding to the end of the following: “Any sentence under this para-

graph shall, in the absence of such a prior conviction, impose a supervised re-

lease of not less than 10 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a supervised re-

lease of not less than 15 years in addition to such term of imprisonment.”

(h) Section 2310. TECHNICAL CORRECTION TO ENSURE COMPLIANCE OF SENTENCING GUIDELINES WITH PROVISIONS OF ALL FEDERAL STATUTES.

Section 994(a) of title 28, United States Code, is amended by striking “consistent with all pertinent provisions of any Federal statute” and inserting “consistent with all pertinent provisions of any Federal statute”.

(i) Section 2311. IMPORT AND EXPORT OF CHEMICALS USED TO PRODUCE ILLICIT DRUGS.

(a) NOTIFICATION REQUIREMENTS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 951) is amended—

(1) by amending subsection (a) to read as follows:

“(a) Each person who proposes to engage in a transaction involving importation or exportation of a listed chemical which requires advance notification pursuant to the regulations of the Attorney General or the importation or exportation of a tableting machine or an encapsulating machine shall notify the Attorney General of the importation or exportation not later than 15 days before the transaction is to take place in such form and supplying such information as the Attorney General shall require by regulation; and

(2) in subsection (b)—

(A) by striking the phrase “other than a regulated transaction to which the require-

ment of subsection (a) of this section does not apply by reason of subsection (b) of this section”;

(B) by inserting “, a tableting machine or an encapsulating machine” after “a listed chemical”;

(C) by inserting “, tableting machine, or an encapsulating machine” after “the chemical”;

and

(iii) in subsection (c)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5); and

(B) by inserting after paragraph (1) new paragraphs (2) and (3) as follows:

“(2) The Attorney General may by regulation require that the 15-day notification require-

ment of subsection (a) apply to all im-

ports or exports of listed chemicals, regardless of the status of certain importers of that listed chemical as regular importers, if the Attorney General finds that such notification is necessary to support effective chemical di-

version control programs or is required by treaty or other international agreement to which the United States is a party.”

The Attorney General may require that the notification requirement of subsection (a) for certain importations or exportations, including those subject to section 1001 of this title, include additional informa-

tion to enable a determination to be made that the listed chemical being imported or exported will be used for a legitimate pur-

pose or when such importation or exportation is needed to satisfy requirements of the importing or exporting country. The Attorney General will provide notice of these additional require-

ments specifically identifying the listed chemicals and countries involved.”.

(b) TRANSPORTATION.—Section 1004 of the Controlled Substances Import and Export Act (21 U.S.C. 954) is amended to read as follows:

“954. Transshipment and in-transit ship-

ment of controlled substances;

(1) any controlled substance in schedule I may be imported into or brought into or for-
§ 1101. INJECTIONS

"In addition to any other applicable penalty, any person convicted of a felony viola-

tion of this title or any provision of section 1084 of this title, involving a

injection resulting in death or serious bodily injury, shall be sentenced to a term of

imprisonment of not more than 20 years or to death, if the death penalty is

authorized by the State in which the offense was committed."

Subtitle D—Deterring Cargo Theft

SEC. 2351. PUNISHMENT OF CARGO THEFT.

(a) In General.—The Attorney General of the United States, as amended by this

subsection, shall be required to impose a fine of not more than $100,000, a

term of not more than 5 years, or both, for each violation of this title.

(b) Enhanced Penalties.—The Attorney General, after a hearing, shall impose

fines of not more than $200,000, terms of not more than 10 years, or both, for

each violation of this title if the Attorney General finds that the offense was

committed to deter or prevent any such offense.

(c) Restitution.—The Attorney General shall require the defendant to make

restitution of any property damaged or lost as a result of the offense, including

any property that was used as a weapon or was used in the commission of the

offense.

(d) Other Remedies.—The Attorney General may order the defendant to

pay any civil penalties, fees, or other costs incurred by the United States as a

result of the offense, including any reasonable costs incurred by the United

States in collecting the fine.

(e) Pretrial Release.—The Attorney General shall not grant pretrial release

to a defendant charged with this offense, unless the defendant has been

granted a bond by a court.

(f) Postconviction Relief.—Any person convicted of this offense shall not

be entitled to postconviction relief unless the conviction is vacated or

reversed on appeal or on collateral review.

(g) Prisoner Transfer.—The Attorney General shall not transfer a

prisoner convicted of this offense to any territory or foreign country

without the written consent of the Attorney General of such territory

or foreign country.

(h) Immigration.—Any person convicted of this offense shall be

deemed to be subject to removal under the Immigration and

Nationality Act (8 U.S.C. 1101 et seq.).

(i) Exclusion.—Any person convicted of this offense shall be

deemed to be subject to exclusion under section 212(a)(3)(B) of the

Immigration and Nationality Act (8 U.S.C. 1182).
(b) DUTIES.—

(1) STUDY.—The Committee shall conduct a thorough study of, and develop recommendations with respect to, all matters relating to—

(A) the establishment of a national computer database for the collection and dissemination of information relating to violations of section 659 of title 18, United States Code (as added by section 3801(a) of this title); and

(B) the establishment of an office within the Federal Government to promote cargo security and to increase coordination between the Federal Government and the private sector with respect to cargo security.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit to the President and to Congress a report, which shall contain a detailed statement of results of the study and the recommendations of the Committee under paragraph (1).

(c) Rate.

(1) HEARINGS.—The Committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Committee may secure directly from any Federal department or agency such information as the Committee considers necessary for the performance of its duties under this section. Upon request of the Chairperson of the Committee, the head of such department or agency shall furnish such information to the Committee.

(3) POSTAL SERVICES.—The Committee may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Committee may accept, use, and dispose of gifts or donations of services or property.

(d) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily rate payable for level V of the Executive Schedule under section 5316 of such title. Any member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily rate payable for level V of the Executive Schedule under section 5316 of such title.

(2) STOPPAGE OF TESTIMONY.—The Committee may stop the testimony of any witness under oath.

(3) COMMITTEE OR DELEGATE.—The Committee may delegate to any member or to any other individual whom the Committee considers to be qualified to perform such duties.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to the Committee to carry out the purposes of this section.

(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation.

(f) AUTHORIZATION OF APPROPRIATIONS.

SEC. 2354. ADDITION OF ATTEMPTED THEFT AND COUNTERFEITING OFFENSES TO ELECTRONIC, COMPUTER, AND INCONSISTENCIES IN COVERAGE.

(a) IN GENERAL.—

(1) EMBEZZLEMENT AGAINST ESTATE.—Section 353(a) of title 18, United States Code, is amended by inserting “, or attempts so to appropriate, embezzle, spend, or transfer,” before “any property.”

(2) PUBLIC MONEY.—Section 641 of title 18, United States Code, is amended by striking “or” at the end of the first paragraph and by inserting after such paragraph the following: “Whoever attempts to commit an offense described in the preceding paragraph, or”.

(3) THEFT BY BANK EXAMINER.—Section 655 of title 18, United States Code, is amended by inserting “, or attempts so to steal or so take, after unlawfully takes,”.

(4) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 664(a)(1) of title 18, United States Code, are each amended—

(A) by inserting “, or attempts to embezzle, abstract, purloin, or willfully misapply,” after “willfully misapply,”

(B) by inserting “or attempts to be embezzled, abstracted, purloined, or misapplied” after “misapplied”.

(5) PROPIETY MONTRACED OR PLEDGED TO FARM CREDIT AGENCIES.—Section 658 of title 18, United States Code, is amended by inserting “or attempts so to remove, dispose of, or convert,” after “any property.”

(6) INTERSTATE OR FOREIGN SHIPMENTS.—Section 659 of title 18, United States Code, is amended—

(A) in the first and third paragraphs, by inserting “or attempts to embezzle, steal, or so take or carry away,” after “carries away,”

(B) in the fourth paragraph by inserting “or attempts to embezzle, steal, or so take,” before “from any railroad car.”

(7) WITHIN SPECIAL MARITIME AND TERRITIAL JURISDICTION.—Section 661 of title 18, United States Code, is amended—

(A) by inserting “or attempts so to take and carry away,” before “any personal property”;

(B) by inserting “or attempted to be taken” after “taken” each place it appears.

(8) THEFT OR EMBEZZLEMENT FROM EMPLOYEE BENEFIT PLANS.—Section 664 of title 18, United States Code, is amended by inserting “or attempts to embezzle, steal, or so attempt to convert,” before “any of the monies”.

(9) THEFT OR EMBEZZLEMENT FROM EMPLOYMENT AND TRAINING FUNDS.—Section 666(a) of title 18, United States Code, is amended—

(A) by inserting “, or attempts to embezzle, misappropriate, stolen, or obtained by fraud” after “obtain by fraud”; and

(B) by inserting “or attempts to be embezzled, abstracted, purloined, or take and carry away,” before “any money.”

(10) THEFT OR SHIRKING CONCERNING PROCEEDINGS RECEIVING FEDERAL FUNDS.—Section 666(a)(1A) of title 18, United States Code, is amended by inserting “or attempts to embezzle, steal, obtain by fraud, or so convert or misapply,” before “property.”

(11) FALSE PRETENCES ON HIGH SEAS.—Section 1025 of title 18, United States Code, is amended—

(A) by inserting “or attempts to obtain” after “obtains”; and

(B) by inserting “or attempted to be obtained” after “obtained”.

(12) EMBEZZLEMENT AND THEFT FROM INDIAN TRIBAL ORGANIZATIONS.—Section 1163 of title 18, United States Code, is amended by inserting “or attempts so to embezzle, steal, convert, or misapply,” after “was tried”.

(13) THEFT FROM GROUP ESTABLISHMENTS ON INDIAN LANDS.—Section 1167 (a) and (b) of title 18, United States Code, are each amended by inserting “or attempts so to abstract, purloin, misapply, or take and carry away,” before “any money.”

(14) THEFT BY OFFICERS AND EMPLOYEES OF GROUP ESTABLISHMENTS ON INDIAN LANDS.—Section 1168 (a) and (b) of title 18, United States Code, are each amended by inserting “or attempts so to embezzle, abstract, purloin, misapply, or take and carry away,” before “any money.”

(15) THEFT OF PROPERTY USED BY THE POSTAL SERVICE.—Section 1707 of title 18, United States Code, is amended by inserting “, or attempts to steal, purloin, or embezzle,” before “any property” and by inserting “or attempts so to appropriate” after “appropriates”.

(16) EMBEZZLEMENT OF POSTAL MATT.—Section 1708 of title 18, United States Code, is amended in the second paragraph by inserting “or attempts so to abstract,” after “abstract,” and by inserting “, or attempts so to obtain,” after “obtains”.

(17) THEFT OF MAIL MATTER BY OFFICER OR EMPLOYEE.—Section 1709 of title 18, United States Code, is amended—

(A) by inserting “or attempts to embezzle” after “embezzles”;

(B) by inserting “, or attempts to steal, abstract, or remove,” after “removes”.

(18) MISAPPROPRIATION OF POSTAL FUNDS.—Section 1711 of title 18, United States Code, is amended by inserting “or attempts to misappropriate, loan, use, pledge, hypothecate, or convert to his own use,” after “use”.

(19) BANK ROBBERY AND INCIDENTAL CRIMES.—Section 2119 of title 18, United States Code, is amended by inserting “or attempts to so sell, give, or deliver,” before “any such imprints”.

(20)lETING COUNTERFEIT FOREIGN OBIGATIONS OR SECURITIES.—Section 477 of title 18, United States Code, is amended by inserting “or attempts to utter or pass, after passing,” before “property”.

(21) MINOR COINS.—Section 490 of title 18, United States Code, is amended by inserting
“attempts to pass, utter, or sell,” before “or possesses”.

(4) SECURITY OF STATES AND PRIVATE ENITIES.—Section 513(a) of title 18, United States Code, is amended by inserting “or attempts to utter,” after “utters”.

SEC. 2355. CLARIFICATION OF SCIENTER REQUIREMENT FOR RECEIVING PROPERTY FRAUDULENTLY OBTAINED FROM AN INDIAN TRIBAL ORGANIZATION.

Section 1163 of title 18, United States Code, is amended in the second paragraph by striking “or”.

SEC. 2356. LARCENY INVOLVING POST OFFICE BOXES AND POSTAL STAMP VENDING MACHINES.

Section 2115 of title 18, United States Code, is amended—

(1) by striking “or” before “any building”;

(2) by inserting “or any post office box or postal stamp vending machine for the sale of stamps owned by the Postal Service,” after “used in whole or in part as a post office,”; and

(3) by inserting “or in such box or machine,” after “so used.”

SEC. 2357. EXPANSION OF FEDERAL THEFT OFFENSES TO COVER THEFT OF VESSELS.

(a) VESSEL DEFINED.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

“‘Vessel’ means any watercraft or other contrivance used or designed for transportation or navigation, on, under, or immediately above, water.”;

(b) TRANSPORTATION OF STOLEN VEHICLES; SALE OR RECEIPT OF STOLEN VEHICLES.—Sections 2212 and 2213 of title 18, United States Code, are each amended by striking “motor vehicle or aircraft” and inserting “motor vehicle, vessel, or aircraft”;

Title E—Improvements to Federal Criminal Law

PART 1—SENTENCING IMPROVEMENTS

SEC. 2411. APPLICATION OF SENTENCING GUIDE-LINES TO ALL PERTINENT STATUTES.

Section 994(a) of title 28, United States Code, is amended by striking “consistent with all pertinent provisions of this title and title 18, United States Code,” and inserting “consistent with all pertinent provisions of any Federal statute”.

SEC. 2412. DOUBLING MAXIMUM PENALTY FOR MURDER OR MANSlaughter.

Section 1112(b) of title 18, United States Code, is amended by striking “ten years” and inserting “20 years”.

SEC. 2413. AUTHORIZATION OF IMPOSITION OF BOTH A FINE AND IMPRISONMENT RATHER THAN ONLY EITHER PENALTY IN CERTAIN OFFENSES.

(a) POWER OF COURT.—Section 401 of title 18, United States Code, is amended by inserting “or both,” after “fine or imprisonment.”

(b) PROHIBITION OF LETTER BOXES ON MAIL.—Section 1705 of title 18, United States Code, is amended by inserting “or, both” after “whereof”;

(c) OTHER SECTIONS.—Sections 1915, 2224, and 2235 of title 18, United States Code, are each amended by inserting “or both” after “years”.

SEC. 2414. ADDITION OF SUPERVISED RELEASE VIOLATION AS PREDICATE FOR CERTAIN OFFENSES.

(a) IN GENERAL.—Sections 1512(a)(1)(C), 1512(b)(3), 1512(c)(2), 1513(a)(1)(B), and 1513(b) are each amended by striking “violation of conditions of probation, parole or release pending judicial proceedings” and inserting “violation of conditions of probation, supervised release, parole, or release pending judicial proceedings”;

(b) APPLICATION TO SENTENCING OF DEFENDANT PENDING TRIAL.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (d)(1)(A)(iii), by inserting “supervised release,” after “probation”;

(2) in subsection (g)(3)(B), by inserting “or supervised release,” after “probation”.

SEC. 2415. AUTHORITY OF COURT TO IMPose A SENTENCE OF PROBATION OR SUPERVISED RELEASE WHEN REDUCING A SENTENCE OF IMPRISONMENT IN CERTAIN CASES.

Section 3582(c)(1)(A) of title 18, United States Code, is amended by inserting “and may impose a sentence of probation or supervised release with the conditions” after “may reduce the term of imprisonment”.

SEC. 2416. ELIMINATION OF PROOF OF VALUE REQUIREMENT FOR FELONY THEFT OR CONVICTION OF GRAND JURY MATERIAL.

Section 641 of title 18, United States Code, is amended by striking “but if the value of such property does not exceed the sum of $1,000, he” and inserting “but if the value of such property, other than property constituting matters occurring before the grand jury within the meaning of Rule 6(e) of the Federal Rules of Criminal Procedure, does not exceed the sum of $1,000.”.

SEC. 2417. INCREASED MAXIMUM CORPORATE PENALTY FOR ANTI TRUST VIOLATIONS.

(a) RESTRAINT OF TRADE AMONG THE STATES.—Section 1 of the Sherman Act (15 U.S.C. 1) is amended by striking “$10,000,000” and inserting “$100,000,000”.

(b) MONOPOLIZING TRADE.—Section 2 of the Sherman Act (15 U.S.C. 2) is amended by striking “$10,000,000” and inserting “$100,000,000”.

(c) OTHER RESTRAINTS.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended by striking “$10,000,000” and inserting “$100,000,000”.

SEC. 2418. AMENDMENT OF FEDERAL SENTENCING GUIDELINES FOR COUNTERFEITING OR USE OF COUNTERFEIT COINS.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall, not later than 1001 days after the enactment of this Act, amend the Federal sentencing guidelines generally to enhance the penalty for offenses involving counterfeit bearer obligation of the United States.

(b) FACTORS FOR CONSIDERATION.—In carrying out this section, the Commission shall consider, with respect to the offenses described in subsection (a)—

(1) whether the base offense level in the current guidelines is adequate to address the serious nature of these offenses and the public interest in protecting the integrity of United States currency, especially in light of recent technological advancements in counterfeit methods that decrease the cost and increase the availability of such counterfeiting methods to criminals;

(2) whether the current specific offense characteristic applicable to manufacturing counterfeit obligations fails to take into account the range of offenses in this category; and

(3) any other factor that the Commission considers to be appropriate.

(c) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this section as soon as is practicable in accordance with the procedure set forth in section 3741 of the Sentencing Act of 1987, as though the authority under that Act had not expired.

PART 2—ADDITIONAL IMPROVEMENTS TO FEDERAL CRIMINAL LAW

SEC. 2421. VIOLENCE DIRECTED AT DWELLINGS IN INDIAN COUNTRY.

Section 1153(a) of title 18, United States Code, is amended by inserting “or 1363” after “section 661”.

SEC. 2422. CORRECTIONS TO AMBER HAGERMAN GET A WAY CHILD PROTECTION ACT.

(a) AGGRAVATED SEXUAL ABUSE.—Section 2241(c) of title 18, United States Code, is amended by striking “younger than that person” and inserting “younger than the person so engaging”;

(b) SEXUAL ABUSE OF A MINOR OR WARD.—Section 2245(a) of title 18, United States Code, is amended—

(1) by striking “Whoever” and inserting “Except as provided in section 2241(c) of this title, whoever”; and

(2) by striking “crosses a State line with intent to engage” in a sexual act with a person who has not attained the age of 12 years, or

(b) Definitions.—Section 2246 of title 18, United States Code, is amended—

(1) in paragraph (4), by striking the period and inserting a semicolon;

(2) in paragraph (5), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“6) the term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States.”

SEC. 2423. ELIMINATION OF ‘BODILY HARM’ ELEMENT IN ASSAULT WITH A DANGEROUS WEAPON OFFENSE.

Section 134(a)(3) of title 18, United States Code, is amended by striking “with intent to do bodily harm, and”.

SEC. 2424. APPEALS FROM CERTAIN DISMISSALS.

Section 3731 of title 18, United States Code, is amended by inserting “with intent to dislodge the United States or any agency there- of” after “to as any one or more counts”.

SEC. 2425. AUTHORITY FOR INJUNCTION AGAINST DISPOSAL OF ILL-GOTTEN GAINS FROM VIOLATIONS OF FRAUD STATUTES.

Section 1390(a)(2) of title 18, United States Code, is amended by inserting “violation of this chapter or section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency there- of)” after “as to any one or more counts”.

SEC. 2426. EXPANSION OF INTERSTATE TRAVEL FRAUD STATUTE TO COVER INTERSTATE TRAVEL FOR FRAUD.

Section 2314 of title 18, United States Code, is amended in the second undesignated paragraph—

(1) by inserting “travels in,” before “trans- ports or causes to be transported, or induce any person or persons to travel in”; and

(2) by inserting a comma after “trans- ports”.

SEC. 2427. CLARIFICATION OF SCOPE OF UNAUTHORIZED SELLING OF MILITARY MEDALS.

Section 704(b)(2) of title 18, United States Code, is amended by striking “with respect to a Congressional Medal of Honor”.

SEC. 2428. AMENDMENTS TO SECTION 669 TO CONFORM TO PUBLIC LAW 104–294.

Section 669 of title 18, United States Code, is amended by striking “$100” and inserting “$1,000”.

SEC. 2429. EXPANSION OF JURISDICTION OVER CHILD BUYING AND SELLING OF SERVICES.

Section 2251(c)(3) of title 18, United States Code, is amended by striking “in any territory or possession of the United States” and inserting “in the special maritime and territorial jurisdiction of the United States or in any commonwealth, territory, or possession of the United States”.

CONGRESSIONAL RECORD—SENATE January 22, 2001
TITLE III—PROTECTING AMERICANS AND SUPPORTING VICTIMS OF CRIME

Subtitle A—Crime Victims Assistance

SEC. 2301. SHORT TITLE.

This subtitle may be cited as the “Crime Victims Assistance Act of 2001.”

PART 1—VICTIM RIGHTS

SEC. 2311. RIGHT TO NOTICE AND TO BE HEARD CONCERNING DETENTION.

(a) IN GENERAL.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (g)—

(A) in paragraph (3), by striking “and” at the end;

(B) by redesignating paragraph (4) as paragraph (3); and

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

(4) the views of the victim; and;

(2) by adding at the end the following:

(1) the date and time of the hearing; and

(2) the right of the victim to be heard on the issue of detention and, if so, shall afford the victim such an opportunity;

(2) EXCEPTIONS.—The requirements of paragraph (1) shall not apply to any case in which the Government or the court reasonably believes—

(A) available evidence raises a significant expectation of physical violence or other retaliation by the victim against the defendant; or

(B) identification of the defendant by the victim is a fact in dispute, and no means of verification has been attempted.

(b) VICTIM DEFINED.—Section 3156(a) of title 18, United States Code, is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) in paragraph (5), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following:

(6) the term “victim”;

(A) means an individual harmed as a result of a commission of an offense involving death or bodily injury to any person, a threat of death or bodily injury to any person, a sexual assault, or an attempted sexual assault; and

(B) includes—

(1) in the case of a victim who is less than 18 years of age or incompetent, the parent or legal guardian of the victim;

(ii) in the case of a victim who is deceased or incapacitated, 1 or more family members designated by the court; and

(iii) any other person appointed by the court to represent the victim.

(c) NOTICE AND RIGHT TO BE HEARD.—(1) by redesignating subdivision (h) as subdivision (g);

(2) by redesignating subdivision (g) as subdivision (h); and

(3) by striking “shall not be limited to” and inserting “shall include”;

(d) PROVISIONS FOR ADVOCATES.—(1) in subsection (i), by striking paragraph (2), and inserting the following:

(2) the provision of advocacy services described in paragraph (1) shall not apply to any recommendation made by the Bureau of Prisons; and

(e)GOOD TIME CREDITS FOR FOREIGN PRISONERS TRANSFERRED TO THE UNITED STATES.—Section 4106A(b)(1)(A) of title 18, United States Code, is amended by adding at the end the following:

(1) by redesignating paragraph (4) as paragraph (3); and

(2) by adding a period at the end.

(f) CREDIT FOR ADMISSION TO PRACTICE.—(1) in paragraph (4), by redesignating paragraph (5) as paragraph (4); and

(2) by adding at the end the following:

(9) in paragraph (9), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following:

(10) the right of the offender to request to be released from any higher degree of confinement, if he has been sentenced to a term of imprisonment under section 4105(c) of title 18, United States Code.

(g) CREDIT FOR ADMISSION TO PRACTICE.—(1) in paragraph (4), by redesignating paragraph (5) as paragraph (4); and

(2) by adding a period at the end.

(h) NOTICE AND RIGHT TO BE HEARD.—(1) by redesignating subdivision (h) as subdivision (g);

(2) by redesignating subdivision (g) as subdivision (h); and

(3) by striking “shall not be limited to” and inserting “shall include”.

(i) CREDIT FOR ADMISSION TO PRACTICE.—(1) in paragraph (4), by redesignating paragraph (5) as paragraph (4); and

(2) by adding a period at the end.

(j) CREDIT FOR ADMISSION TO PRACTICE.—(1) in paragraph (4), by redesignating paragraph (5) as paragraph (4); and

(2) by adding a period at the end.

(k) NOTICE AND RIGHT TO BE HEARD.—(1) by redesignating subdivision (h) as subdivision (g);

(2) by redesignating subdivision (g) as subdivision (h); and

(3) by striking “shall not be limited to” and inserting “shall include”.

(l) CREDIT FOR ADMISSION TO PRACTICE.—(1) in paragraph (4), by redesigning paragraph (5) as paragraph (4); and

(2) by adding a period at the end.

(m) CREDIT FOR ADMISSION TO PRACTICE.—(1) in paragraph (4), by redesigning paragraph (5) as paragraph (4); and

(2) by adding a period at the end.
amendments made by subsection (a) shall become effective 30 days after the date on which the recommendations are submitted to Congress under paragraph (2); (b) in paragraph (2), in accordance with paragraph (2) containing recommendations described in that paragraph, and those recommendations are different in any respect from the recommendations made pursuant to paragraph (2), shall become effective 30 days after the date on which the recommendations are submitted to Congress under paragraph (2), unless an Act of Congress is passed overturning the recommendations; and (C) in paragraph (3), as redesignated— (1) in subparagraphs (E) through (H) as subparagrapghs (F) through (I), respectively; and (2) by inserting after paragraph (D) the following: "(E) any victim impact statement submitted by a victim to the probation officer;" (3) in subparagraph (E) and inserting the following: "(F) afford the victim, personally or through counsel, an opportunity to make a statement or present information in relation to the sentence, including information concerning the extent and scope of the victim's injury or loss, and the impact of the offense on the victim or the family of the victim, except that the court may reasonably limit the number of victims permitted to address the court if the number is so large that it would result in cumulative victim impact information or would unreasonably prolong the sentencing process;" and (3) in subdivision (f)— (A) by striking the "right of allocation under subdivision (c)(3)(E)" and inserting the "notice and participatory rights under subdivision (c)(3)(E)"; and (B) by striking "if such person or persons are present at the sentencing hearing, regardless of whether the victim is present;" (C) as redesignated— (1) in subdivision (b)— (A) submits a report in accordance with paragraph (2) containing recommendations for amending the Federal Rules of Criminal Procedure to provide enhanced opportunities for victims to participate during the presentencing and sentencing phase of the criminal process. (B) the right of the victim to attend the sentencing hearing and to address the court regarding the extent of the victim's injury or loss, and the impact of the offense of any revocation hearing; (2) the right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim at trial would be materially affected if the victim heard the testimony of other witnesses; and (2) by striking "attorney" and inserting "the attorney." SEC. 3115. RIGHT TO NOTICE AND TO BE HEARD CONCERNING SENTENCE. (a) AMENDMENT TO VICTIM RIGHTS CLARIFICATION ACT.—Section 3510 of title 18, United States Code, is amended by adding at the end the following: "(d) APPLICATION TO TELERECORDED PROCEEDINGS.—This section applies to any victim viewing proceedings pursuant to section 229 of title 18, United States Code, Effective Death Penalty Act of 1994 (42 U.S.C. 10668), or any rule issued thereunder. (b) AMENDMENT TO VICTIMS' RIGHTS AND RESTITUTION ACT OF 1990.—Section 502(b) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10666b) is amended— (1) by striking paragraph (4) and inserting the following: "(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim at trial would be materially affected if the victim heard the testimony of other witnesses; and (2) by striking "attorney" and inserting "the attorney." SEC. 3116. RIGHT TO NOTICE OF RELEASE OR ESCAPE. (a) IN GENERAL.—Subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following: "(A) NOTICE TO VICTIM.—The probation officer must, before submitting the presentence report, provide the victim as provided by section 3661(d)(2)(A) of title 18, United States Code;" and (C) in paragraph (2), as redesignated— (1) by redesignating paragraphs (3)(A) through (3)(D) as paragraphs (4)(A) through (4)(D), respectively; and (2) by inserting after paragraph (D) the following: "(E) any victim impact statement submitted by a victim to the probation officer;" (3) in paragraph (3) and inserting the following: "(F) afford the victim, personally or through counsel, an opportunity to make a statement or present information in relation to the sentence, including information concerning the extent and scope of the victim's injury or loss, and the impact of the offense on the victim or the family of the victim, except that the court may reasonably limit the number of victims permitted to address the court if the number is so large that it would result in cumulative victim impact information or would unreasonably prolong the sentencing process;" and (4) in subdivision (f)— (A) by striking the "right of allocation under subdivision (c)(3)(E)" and inserting the "notice and participatory rights under subdivision (c)(3)(E)"; and (B) by striking "if such person or persons are present at the sentencing hearing, regardless of whether the victim is present;" (c) Any amendment made pursuant to this section (including any amendment made pursuant to the recommendations of the Judicial Conference of the United States under paragraph (2)) shall apply in any proceeding commenced on or after the effective date of the amendment. SEC. 3117. RIGHT TO NOTICE OF RELEASE OR ESCAPE. (a) IN GENERAL.—Subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following:
§3627. Notice to victims of release or escape of defendants

(a) In General.—The Bureau of Prisons shall ensure that reasonable notice is provided to each victim of an offense for which a person is in custody pursuant to this subchapter—

(1) not less than 30 days before the release of such person under section 3624, assignment of such person to pre-release custody under section 3623(c), or transfer of such person under section 3623;

(2) not less than 18 days before the temporary release of such person under section 3622;

(3) not later than 12 hours after discovery that such person has escaped;

(4) not later than 12 hours after the return to custody of such person after an escape; and

(5) at such other times as may be reasonable before any other form of release of such person as may occur.

(b) Applicability.—This section applies to any escape, work release, furlough, or any other form of release from a psychiatric institution or other facility that provides mental or other health services to persons in the custody of the Bureau of Prisons.

(c) Victim Contact Information.—It shall be the responsibility of a victim to notify the Bureau of Prisons, by means of a form developed by the Attorney General, of any change in the mailing address of the victim, or other means of contacting the victim, while the defendant is in the custody of the Bureau of Prisons. The Bureau of Prisons shall ensure the confidentiality of any information relating to a victim.

SEC. 3118. RIGHT TO NOTICE AND TO BE HEARD CONCERNING EXECUTIVE Clemency.

(a) Definitions.—In this section—

(1) the term ‘executive clemency’ means any exercise by the President of the power to grant reprieves and pardons under clause 1 of section 2 of article II of the Constitution of the United States; and

(2) the term ‘victim’ has the same meaning given that term in section 503(e) of the Victims’ Rights and Restitution Act of 1990 (42 U.S.C. 10607(e)).

(b) Notice of Grant of Executive Clemency.—

(1) If a petition for executive clemency is granted, the Attorney General shall make reasonable efforts to notify any victim of any offense for which the subject of the grant of executive clemency that such grant has been made as soon as practicable after that grant is made.

(2) If a grant of executive clemency will result in the release of any person from custody, notice under paragraph (1) shall be prior to that release from custody, if practicable.

(c) Reporting Requirements.—The Attorney General shall submit biannually to the Committees on the Judiciary of the House of Representatives and the Senate a report on executive clemency petitions delegated for review or investigation to the Attorney General by the President, including for each year—

(1) the number of petitions so delegated;

(2) the number of reports submitted to the President;

(3) the number of petitions for executive clemency granted and the number denied;

(4) the name of each person whose petition for executive clemency was granted or denied and the instruction of that person for which executive clemency was granted or denied; and

(5) with respect to any person granted executive clemency, the date that any victim of an offense that was the subject of that grant of executive clemency was notified, pursuant to Department of Justice regulations, of a petition for executive clemency, and whether such victim submitted a statement concerning the petition.

(d) Sense of Congress Concerning the Right of Victims to Notice and to Be Heard Concerning Executive Clemency.—It is the sense of Congress that—

(1) victims should be notified about any petition for executive clemency filed by the perpetrators of that crime and provided an opportunity to submit a statement concerning the petition to the President; and

(2) the Attorney General should promulgate regulations or internal guidelines to ensure that such notification and opportunity to submit a statement are provided.

SEC. 3119. REMEDIES FOR NONCOMPLIANCE.

(a) General Limitation.—Any failure to comply with the requirements of this section—

(1) shall not give rise to a claim for damages, or any other action against the United States, or any employee of the United States, any court official or officer of the court, or an entity contracting with the United States, or any action seeking a rehearing or other reconsideration of action taken in connection with a defendant.

(b) Regulations to Ensure Compliance.—

(1) In general.—Notwithstanding subsection (a), not later than 1 year after the date of enactment of this Act, the Attorney General of the United States and the Chairman of the United States Parole Commission shall promulgate regulations to implement and enforce the amendments made by this title.

(2) CONTENTS.—The regulations promulgated under paragraph (1) shall—

(A) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice (including employees of the United States Parole Commission) who willfully or repeatedly violate the amendments made by this title, or willfully or repeatedly fail to comply with the requirements of this section concerning the treatment of victims of crime;

(B) include an administrative procedure through which parties can file formal complaints with the Department of Justice alleging violations of the amendments made by this title;

(C) provide that a complainant is prohibited from recovering monetary damages against the United States, or any employee of the United States, either in his official or personal capacity;

(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and shall promulgate such regulations as the Attorney General deems necessary to implement the decision of the Attorney General by a complainant.

SEC. 3121. PILOT PROGRAMS TO ESTABLISH OM- BUDSMAN PROGRAMS FOR CRIME VICTIMS.

(a) Definitions.—In this section—

(1) Director.—The term ‘Director’ means the Director of the Office of Victims of Crime.

(2) Office.—The term ‘Office’ means the Office for Victims of Crime.

(3) Qualified private entity.—The term ‘qualified private entity’ means a private entity that meets such requirements as the Attorney General, acting through the Director, may establish.

(4) Qualified unit of State or local government.—The term ‘qualified unit of State or local government’ means a unit of a State or local government, including a State court, that meets such requirements as the Attorney General, acting through the Director, may establish.

(5) Voice centers.—The term ‘Voice Centers’ means the Victim Ombudsman Information Centers established under the program under subsection (b).

(b) Pilot Programs.—

(1) In general.—Not later than 12 months after the date of enactment of this Act, the Attorney General, acting through the Director, shall establish and carry out a program to provide for pilot programs to establish and operate Victim Ombudsman Information Centers in each of the following States:

(A) Iowa.

(B) Massachusetts.

(C) Maryland.

(D) Vermont.

(E) Virginia.

(F) Washington.

(G) Wisconsin.

(h) AGREEMENTS.—

(A) In general.—The Attorney General, acting through the Director, shall enter into an agreement with a qualified private entity or unit of State or local government to conduct a pilot program referred to in paragraph (1). Under the agreement, the Attorney General, acting through the Director, shall provide for a grant to assist the qualified private entity or unit of State or local government in carrying out the pilot program.

(B) CONTENTS OF AGREEMENT.—The agreement referred to in paragraph (A) shall specify that—

(i) the VOICE Center shall be established in accordance with this section; and

(ii) consistent with respect to each applicable requirement of this section concerning carrying out the duties of a VOICE Center under this section (including the applicable requirements under subsection (c) and the terms of the agreement) each VOICE Center shall operate independently of the Office.

(C) NO AUTHORITY OVER DAILY OPERATIONS.—The Office shall have no supervisory or decisionmaking authority over the day-to-day operations of a VOICE Center.

(D) OBJECTIVES.—The mission of each VOICE Center established under this program under this section shall be to assist a victim of a Federal or State crime to ensure that—

(A) is fully apprised of the rights of that victim under applicable Federal or State law; and

(B) is provided the opportunity to participate in the criminal justice process to the fullest extent of the law.

(E) DUTIES.—The duties of a VOICE Center shall include—

(A) providing information to victims of Federal or State crime regarding the right of those victims to participate in the criminal justice process (including information concerning any right that exist under applicable Federal or State law);
SEC. 3122. INCREASED TRAINING FOR LAW ENFORCEMENT OFFICERS AND COURT PERSONNEL TO ADDRESS THE NEEDS OF CRIME VICTIMS.

Notwithstanding any other provision of law, amounts collected pursuant to sections 3761 through 3764 of title 18, United States Code (commonly known as the “False Claims Act”) may be used by the Office for Victims of Crime to make grants to States, States courts, units of local government, and qualified private entities, to provide training and information to prosecutors, judges, law enforcement officers, probation officers, and other officers and employees of Federal and State courts to assist them in responding effectively to the needs of victims of crime.

SEC. 3123. INCREASED RESOURCES TO DEVELOP STATE-OF-THE-ART SYSTEMS FOR NOTIFYING VICTIMS OF CRIME VICTIMS OF IMPORTANT DATES AND DEVELOPMENTS.

(a) IN GENERAL.—Subtitle A of title XXIII of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2977) is amended by adding at the end the following:

"SEC. 230106. STATE-OF-THE-ART SYSTEMS FOR NOTIFYING VICTIMS OF IMPORTANT DATES AND DEVELOPMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office for Victims of Crime for the Department of Justice such sums as may be necessary for grants to States, local governments, and local prosecutors’ offices and law enforcement agencies, Federal and State courts,
county jails, Federal and State correctional institutions, and qualified private entities, to develop and implement state-of-the-art systems for notifying victims of crime of important developments relating to the criminal proceedings at issue.

"(b) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the ‘False Claims Act’), may be used for purposes described in this section.

"(b) VIOLENT CRIME REDUCTION TRUST FUND.—Section 3100(d)(4) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 10601 et seq.) is amended—

(1) in the first paragraph designated as paragraph (15) (relating to the definition of the term ‘Federal law enforcement program’), by striking ‘and’ at the end of the section; and

(2) in the first paragraph designated as paragraph (16) (relating to the definition of the term ‘Federal law enforcement program’), by striking the period at the end and inserting ‘; and’; and

(3) by inserting after the first paragraph designated as paragraph (16) (relating to the definition of the term ‘Federal law enforcement program’ the following: ‘; and’; and

(4) by striking ‘the Federal law enforcement program’

SEC. 319. TRANSITIONAL HOUSING ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE.

Title III of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding the following new section:

(B) ASSISTANCE DESCRIPTION.—Assistance provided under this section may include—

(1) short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses, such as payment of security deposits and other costs incidental to relocation to transitional housing, in cases in which assistance described in this paragraph is necessary to prevent homelessness because an individual or dependent is fleeing a situation of domestic violence; and

(2) short-term support services, including payment of expenses and costs associated with transportation and job training referrals, child care, counseling, transitional housing identification and placement, and related services.

(c) TERM OF ASSISTANCE.—An individual or dependent assisted under this section may receive assistance for a period of time under this section for a total of more than 12 months.

(d) REPORTS.—

(A) IN GENERAL.—The Secretary shall annually prepare and submit to the Committee a report describing the number of individuals and dependents assisted, and the types of housing assistance and support services provided, under this section.

SEC. 3202. TRANSITIONAL HOUSING ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE.

Title III of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding the following new section:

(B) ASSISTANCE DESCRIPTION.—Assistance provided under this section may include—

(1) short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses, such as payment of security deposits and other costs incidental to relocation to transitional housing, in cases in which assistance described in this paragraph is necessary to prevent homelessness because an individual or dependent is fleeing a situation of domestic violence; and

(2) short-term support services, including payment of expenses and costs associated with transportation and job training referrals, child care, counseling, transitional housing identification and placement, and related services.

(c) TERM OF ASSISTANCE.—An individual or dependent assisted under this section may receive assistance for a period of time under this section for a total of more than 12 months.

(d) REPORTS.—

(A) IN GENERAL.—The Secretary shall annually prepare and submit to the Committee a report describing the number of individuals and dependents assisted, and the types of housing assistance and support services provided, under this section.

SEC. 3203. TRANSITIONAL HOUSING ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE.

Title III of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding the following new section:

(B) ASSISTANCE DESCRIPTION.—Assistance provided under this section may include—

(1) short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses, such as payment of security deposits and other costs incidental to relocation to transitional housing, in cases in which assistance described in this paragraph is necessary to prevent homelessness because an individual or dependent is fleeing a situation of domestic violence; and

(2) short-term support services, including payment of expenses and costs associated with transportation and job training referrals, child care, counseling, transitional housing identification and placement, and related services.

(c) TERM OF ASSISTANCE.—An individual or dependent assisted under this section may receive assistance for a period of time under this section for a total of more than 12 months.

(d) REPORTS.—

(A) IN GENERAL.—The Secretary shall annually prepare and submit to the Committee a report describing the number of individuals and dependents assisted, and the types of housing assistance and support services provided, under this section.

SEC. 3204. TRANSITIONAL HOUSING ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE.

Title III of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding the following new section:

(B) ASSISTANCE DESCRIPTION.—Assistance provided under this section may include—

(1) short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses, such as payment of security deposits and other costs incidental to relocation to transitional housing, in cases in which assistance described in this paragraph is necessary to prevent homelessness because an individual or dependent is fleeing a situation of domestic violence; and

(2) short-term support services, including payment of expenses and costs associated with transportation and job training referrals, child care, counseling, transitional housing identification and placement, and related services.

(c) TERM OF ASSISTANCE.—An individual or dependent assisted under this section may receive assistance for a period of time under this section for a total of more than 12 months.

(d) REPORTS.—

(A) IN GENERAL.—The Secretary shall annually prepare and submit to the Committee a report describing the number of individuals and dependents assisted, and the types of housing assistance and support services provided, under this section.

SEC. 3205. TRANSITIONAL HOUSING ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE.

Title III of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding the following new section:

(B) ASSISTANCE DESCRIPTION.—Assistance provided under this section may include—

(1) short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses, such as payment of security deposits and other costs incidental to relocation to transitional housing, in cases in which assistance described in this paragraph is necessary to prevent homelessness because an individual or dependent is fleeing a situation of domestic violence; and

(2) short-term support services, including payment of expenses and costs associated with transportation and job training referrals, child care, counseling, transitional housing identification and placement, and related services.

(c) TERM OF ASSISTANCE.—An individual or dependent assisted under this section may receive assistance for a period of time under this section for a total of more than 12 months.

(d) REPORTS.—

(A) IN GENERAL.—The Secretary shall annually prepare and submit to the Committee a report describing the number of individuals and dependents assisted, and the types of housing assistance and support services provided, under this section.

SEC. 3206. TRANSITIONAL HOUSING ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE.

Title III of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding the following new section:

(B) ASSISTANCE DESCRIPTION.—Assistance provided under this section may include—

(1) short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses, such as payment of security deposits and other costs incidental to relocation to transitional housing, in cases in which assistance described in this paragraph is necessary to prevent homelessness because an individual or dependent is fleeing a situation of domestic violence; and

(2) short-term support services, including payment of expenses and costs associated with transportation and job training referrals, child care, counseling, transitional housing identification and placement, and related services.

(c) TERM OF ASSISTANCE.—An individual or dependent assisted under this section may receive assistance for a period of time under this section for a total of more than 12 months.

(d) REPORTS.—

(A) IN GENERAL.—The Secretary shall annually prepare and submit to the Committee a report describing the number of individuals and dependents assisted, and the types of housing assistance and support services provided, under this section.

SEC. 3207. TRANSITIONAL HOUSING ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE.

Title III of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding the following new section:

(B) ASSISTANCE DESCRIPTION.—Assistance provided under this section may include—

(1) short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses, such as payment of security deposits and other costs incidental to relocation to transitional housing, in cases in which assistance described in this paragraph is necessary to prevent homelessness because an individual or dependent is fleeing a situation of domestic violence; and

(2) short-term support services, including payment of expenses and costs associated with transportation and job training referrals, child care, counseling, transitional housing identification and placement, and related services.

(c) TERM OF ASSISTANCE.—An individual or dependent assisted under this section may receive assistance for a period of time under this section for a total of more than 12 months.

(d) REPORTS.—

(A) IN GENERAL.—The Secretary shall annually prepare and submit to the Committee a report describing the number of individuals and dependents assisted, and the types of housing assistance and support services provided, under this section.
"(e) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated from the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) to carry out this section—

(1) $25,000,000 for each of fiscal years 2002 through 2005;

(2) $30,000,000 for each of fiscal years 2004 and 2005.”.

SEC. 2303. FAMILIY UNITY DEMONSTRATION PROJECT.

Section 31904(a) of the Family Unity Demonstration Project Act (42 U.S.C. 13883(a)) is amended—

(1) by striking “1997” and inserting “2002”;

(2) by striking “1998” and inserting “2003”;

(3) by striking “1999” and inserting “2004”; and

(4) by striking “2000” and inserting “2005”.

Subtitle C—Senior Safety

SEC. 3301. SHORT TITLE.

This subtitle may be cited as the “Seniors Safety Act of 2001”.

SEC. 3302. FINDINGS AND PURPOSES.

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

(1) The number of older Americans is growing both numerically and proportionally in the United States. Since 1990, the population of seniors has increased by almost 5,000,000, and is now 20.2 percent of the United States population.

(2) In 1997, 7 percent of victims of serious violent crime were age 50 or older.

(3) In 1997, 17.7 percent of murder victims were age 55 or older.

(4) According to the National Crime Victimization Survey, persons aged 50 and older experienced approximately 673,400 incidents of violent victimization, including rape and sexual assaults, robberies and general assaults, during 1997.

(5) Of all violent crimes, 21 percent were age 50 or older.

(6) Of approximately half of seniors who are 50 years old or older feel afraid to walk alone at night in their own neighborhoods.

(7) Seniors over the age of 50 reported 37 percent of the estimated $40,900,000,000 losses each year due to telemarketing fraud.

(8) In 1996, Congress enacted legislation to provide for increased penalties for telemarketing fraud that targets seniors.

(9) There has not been a comprehensive study of crimes committed against seniors since 1997.

(10) It has been estimated that approximately 14 percent of those turning 65 can expect to spend some time in a long-term care facility, and approximately 20 percent can expect to spend 5 years or longer in such a facility.

(11) In 1997, approximately $82,800,000,000 was spent on nursing home care in the United States and over half of this amount was spent by the medicaid and medicare programs.

(12) Losses to fraud and abuse in health care reportedly cost the United States an estimated $100,000,000,000 in 1996.

(13) The Inspector General for the Department of Health and Human Services has estimated that about $12,600,000,000 in improper medicare benefit payments, due to inadvertent mistake, fraud and abuse, were made during fiscal year 1998.

(14) Incidents of health care fraud and abuse remain high despite awareness of the problem.

(b) PURPOSES.—The purposes of this subtitle are to—

(1) combat nursing home fraud and abuse;

(2) enhance safeguards for pension plans and health care programs;

(3) develop strategies for preventing and punishing crimes that target or otherwise disproportionately affect seniors by collecting appropriate data to measure the extent of crimes committed against seniors and determine the extent of domestic and elder abuse;

(4) prevent and deter criminal activity, such as telemarketing fraud, that results in economic and physical harm against seniors and ensure appropriate restitution;

(5) support and promote the development of seniors services and programs in each State, including programs to serve seniors who are 55 years of age or older;

(6) improve the health and well-being of seniors by providing research and pilot grants to study the causes and characteristics of health care, including medical fraud and abuse, that results in economic or physical harm against seniors;

(7) reduce the occurrence of crimes committed against seniors;

(8) in cooperation with the Senior Health Insurance Services, improve the design and distribution of Medicare and Medicaid programs for seniors;

(9) improve access to health and other services by seniors through the provision of information and assistance services; and

(10) enhance the ability of seniors to maintain their independence.

SEC. 3311. ENHANCED SENTENCING PENALTIES BASED ON AGE OF VICTIM.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall (1) ensure reasonable consistency with the Federal sentencing guidelines to include the age of a victim, and (2) consult with individuals or groups representing seniors, law enforcement agencies, the health care industry, and the Federal judiciary as part of the review described in subsection (c).

(b) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the Federal sentencing guidelines and the policy statements of the Commission reflect the serious harms associated with health care fraud and the need for aggressive and appropriate law enforcement action to prevent such fraud;

(2) consider providing increased penalties for persons convicted of health care fraud in appropriate circumstances;

(3) consult with individuals or groups representing victims of health care fraud, law enforcement agencies, the health care industry, and the Federal judiciary as part of the review described in subsection (c);

(4) ensure reasonable consistency with other Federal sentencing guidelines and directives;

(5) account for any aggravating or mitigating circumstances that may justify exceptions, including circumstances for which the Federal sentencing guidelines provide sentencing enhancements;

(6) make any necessary conforming changes to the Federal sentencing guidelines; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) REPORT.—Not later than December 31, 2002, the Commission shall submit to Congress a report on issues relating to offenses described in subsection (a), which shall include—

(1) an explanation of any changes to sentencing policy made by the Commission under this section; and

(2) any recommendations of the Commission for retention or modification of penalty levels, including statutory penalty levels, for those offenses.

SEC. 3313. INCREASED PENALTIES FOR FRAUD RESULTING IN SERIOUS INJURY OR DEATH.

Sections 1341 and 1343 of title 18, United States Code, are each amended by inserting before the last sentence the following: “If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title, imprisoned not more than 20 years, or both, and if the violation results in death, such person shall be fined under this title, imprisoned for any term of years or life, or both.”

SEC. 3314. SAFEGUARDING PENSION PLANS FROM FRAUD AND THEFT.

(a) In General.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“§1348. Fraud in relation to retirement arrangements.

(3) RETIREMENT ARRANGEMENT DEFINED.—In this section—

“(1) IN GENERAL.—The term ‘retirement arrangement’ means—

“(A) any employee pension benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974; and

“(B) any qualified retirement plan within the meaning of section 497(c) of the Internal Revenue Code of 1986;
amended by inserting
by the victim; or
for chapter 63 of title 18, United States
section does not preclude any other statu-
for purposes of providing information as part
they have a reasonable belief that they have
the conduct of telemarketing (as that term is
to appropriate entities, including
sections 1348, 1351, and 1352 of title 18,
of a person with actual or apparent in-
genre on the sponsor
in section 2325 of title 18, United States
on telemarketing fraud to appro-
charities and appropriate law enforcement agen-
for potential violations of section 3316 of title
in connection with an employee benefit plan;
prosecute a person with apparent or apparent
influence or decisionmaking authority in re-
and to any other persons, infor-
attend to any particular companies for which a specific re-
for purposes of providing information as part
they have a reasonable belief that they have
the conduct of telemarketing (as that term is
to appropriate entities, including
sections 1348, 1351, and 1352 of title 18,
the procedures under paragraph (1) shall be
or any other provision of Federal law.”.
(b) DEFINITIONS. — In this section—
(b) DEFINITIONS. — In this section—
(1) to defraud any retirement arrange-
section 585 of the Internal Revenue Code of 1954.
A CTION BY ATTORNEY GENERAL.
(a) IN GENERAL.— Subject to paragraph (2),
by any employee benefit plan sponsor, or
the Vermont Council on the Arts.
the Vermont Council on the Arts.
the Vermont Council on the Arts.
the Vermont Council on the Arts.
(b) TECHNICAL AMENDMENT.—Section
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s as may be necessary to carry out this section.

sec. 3322. blocking of telemarketing fraud

(a) expansion of scope of telemarketing fraud subject to enhanced criminal penalties—section 2521(1) of title 18, United States Code, is amended by—

(1) inserting after “telephone calls” and inserting “wire communications utilizing a telephone service”;

(b) blocking or termination of telephone service associated with telemarketing fraud—

(1) in general—chapter 113A of title 18, United States Code, is amended by adding at the end the following:

“§ 2328. Blocking or termination of telephone service

(a) In general.—If a common carrier subject to the jurisdiction of the Federal Communications Commission is notified in writing by the Attorney General, acting within the Attorney General’s jurisdiction, that any wire or communication facility furnished by such common carrier is being used or will be used by a subscriber for the purpose of transmitting or receiving a wire communication in interstate or foreign commerce for the purpose of executing any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or by obtaining the conduct of the telecommunication, the common carrier shall discontinue the telephone service for purposes of the transmission, receipt, forwarding, or delivery of wire communications.

(b) prohibiting or discontinuation of telephone service associated with telemarketing fraud—

(1) in general—chapter 113A of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting “wire communication” after “telephone communication”;

(B) by striking “telecommunications facility” and inserting “wire communications facility”;

(2) in subparagraph (C) by striking “telephone calls” and inserting “wire communications utilizing a telephone service”;

(3) by adding at the end the following:

“§ 2328. Blocking or termination of telephone service.

PART 3—PREVENTING HEALTH CARE FRAUD

sec. 3323. injunction of authority relating to false claims and illegal kickback schemes involving federal health care programs

(a) in general—section 1345(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting “wire communication” after “telephone communication”;

(B) by striking “telecommunications facility” and inserting “wire communications facility”;

(2) in paragraph (2), by inserting “the provision of health care to an individual; and

(c) relief—

(1) in general—nothing in this section may be construed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court, that

(A) the leasing, furnishing, or maintaining of a facility shall not be discontinued or refused under this section; or

(B) the leasing, furnishing, or maintaining of a facility shall not be discontinued or refused.

(2) supporting information—In any action brought under this subsection, the court may order from the Attorney General present evidence in support of the notice made under subsection (a) to which such action relates.

(d) definitions.—In this section:

(1) reasonable notice to the subscriber

(A) in general.—The term ‘reasonable notice to the subscriber’, in the case of a subscriber of a common carrier, means any information necessary to provide notice to the subscriber of

(i) the wire communications facilities furnished by the common carrier may not be used for the purpose of transmitting, receiving, forwarding, or delivering a wire communication in interstate or foreign commerce for the purpose of executing any scheme or artifice to defraud in connection with the conduct of telecommunications; and

(ii) such use constitutes sufficient grounds for the immediate discontinuance or refusal of the leasing, furnishing, or maintaining of the facilities to or for the subscriber.

(B) included matters.—The term includes any tariff filed by the common carrier with the Federal Communications Commission that contains the information specified in subparagraph (A).

“(2) wire communication.—the term ‘wire communication’ has the meaning given that term in section 2510(1) of this title.

“(3) wire communication facility.—the term ‘wire communication facility’ means any facility (including instrumentalities, personnel, and services) used by a common carrier for purposes of the transmission, receipt, forwarding, or delivery of wire communications.”.

(c) confining amendment.—the analysis for this chapter is amended by adding at the end the following:

“§ 2328. Blocking or termination of telephone service.”

sec. 3331. injunctive authority relating to false claims and illegal kickback schemes involving federal health care programs

(a) in general—section 1345(a) of title 18, United States Code, is amended by adding at the end the following:

“(2) wire communication.—the term ‘wire communication’ has the meaning given that term in section 2510(1) of this title.

“(3) wire communications facility.—the term ‘wire communications facility’ means any facility (including instrumentalities, personnel, and services) used by a common carrier for purposes of the transmission, receipt, forwarding, or delivery of wire communications.”.

(b) conforming amendment.—the analysis for this chapter is amended by adding at the end the following:

“§ 2328. Blocking or termination of telephone service.”

sec. 3332. authorized investigative demands

(a) in general—section 2510(1) of this title is amended by—

(1) inserting at the end the following:

“(1) IN GENERAL.—Any action under paragraph (1), and all copies of any record described in paragraph (1), the attorney for the government may request that the presiding judicial officer enter an order limiting the disclosure of the record to the maximum extent practicable, including redacting the personally identifiable health information from publicly disclosed or filed pleadings or records.

(2) EFFECT OF VIOLATION.—Any person who knowingly fails to comply with this subsection may be punished as in contempt of court.

(c) personally identifiable health information defined.—In this section, the term ‘personally identifiable health information’ means any information, including genetic information, demographic information, and tissue samples collected from an individual, whether oral or recorded in any form or medium, that

(1) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and

(2) either—

(A) identifies an individual; or
“(B) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.”.

SEC. 3333. EXTENDING ANTI FRAUD SAFEGUARDS TO FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM.

Section 1128B(r)(1) of the Social Security Act (42 U.S.C. 1320a-7(r)(1)) is amended by striking “other than the health insurance program under chapter 89 of title 5, United States Code”.

SEC. 3334. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

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

(2) GRAND JURY DISCLOSURE.—Subject to section 3328(b) (as so amended), upon ex parte motion of an attorney for the government showing that such disclosure would be of assistance to enforce any provision of Federal law, a court may direct the disclosure of any matter occurring before a grand jury during an investigation of a Federal health care offense (as defined in section 156(h)(7) of the Social Security Act (42 U.S.C. 1320a-7(m)(7))).

SEC. 3335. INCREASING THE EFFECTIVENESS OF CIVIL INVESTIGATIVE DEMANDS IN FALSE CLAIMS INVESTIGATIONS.

Section 3733 of title 31, United States Code, is amended—

(1) in subsection (a)(1), in the second sentence, by inserting “except to the Deputy Attorney General or to an Assistant Attorney General” before the period at the end; and

(2) in subsection (b)(2)(C), by adding at the end the following:

“(C) in paragraph (1) of section 3729(f)(1), the term ‘victims’ includes—

(1) persons other than a person with a legal right, title, or interest in the property; or

(2) any personal injury that results in pecuniary loss to a financial institution or regulatory agency.”.

SEC. 3336. FORFEITURE FOR RETIREMENT OFFENSES.

(a) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

“(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

“111. False claims.

“'No transfer on account of a debt owed to the United States for violating section 3729 of title 31, or under a compromise order or other agreement resolving such a debt may be avoided under section 544, 545, 547, 549, 550, or 570(a).’.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

“111. False claims.”.

SEC. 3344. FORFEITURE FOR RETIREMENT OFFENSES.

(a) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end the following:

“(B) CRIMINAL FORFEITURE.—

“(A) IN GENERAL.—The court, in imposing sentence on a person convicted of a retirement offense, shall order the person to forfeit property, real or personal, that constitutes or that is derived, directly or indirectly, from proceeds traceable to the commission of the offense.

(b) RETIREMENT OFFENSE DEFINED.—In this paragraph, the term ‘retirement offense’ means a violation of any of the following provisions of law, if the violation, conspiracy, or solicitation relates to a retirement arrangement (as defined in section 1348 of title 18, United States Code):

(1) Section 664, 1001, 1027, 1343, 1348, 1951, 1952, or 1954 of title 18, United States Code;

(2) Sections 411, 501, or 511 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111, 1131, 1134); or

(c) CERTAIN DEBTS NOT DISCHARGEABLE IN BANKRUPTCY.

(1) with respect to fiscal year 2002, $8,169,000,000; and

(2) for fiscal year 2003, $8,316,000,000; and

(3) for fiscal year 2004, $8,458,000,000; and

(4) for fiscal year 2005, $8,615,000,000.”

SEC. 3401. EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) IN GENERAL.—Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211) is amended by inserting paragraphs (1) through (5) and inserting the following:

“(d) for fiscal year 2002, $8,169,000,000; and

“(e) for fiscal year 2003, $8,316,000,000; and

“(f) for fiscal year 2004, $8,458,000,000; and

“(g) for fiscal year 2005, $8,615,000,000.”

(b) DISCRETIONARY LIMITS.—Title XX of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211 et seq.) is amended by inserting after section 310001 the following:

“(c) DISCRETIONARY LIMITS.—Title XXI of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211 et seq.) is amended by inserting after section 310001 the following:

“(d) DISCRETIONARY LIMITS.—For the purposes of allocations made for the discretionary category under section 302(a) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)), the term ‘discretionary spending limit’ means

‘(1) with respect to fiscal year 2002, $18,546,000,000; and

(2) for the discretion ary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subgrants as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

(3) for the violent crime reduction category, $6,169,000,000 in new budget authority and $6,020,000,000 in outlays;
′′(2) with respect to fiscal year 2003—

′′(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

′′(B) for the violent crime reduction category, $6,316,000,000 in new budget authority and $6,101,000,000 in outlays;′′

′′(3) with respect to fiscal year 2004—

′′(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

′′(B) for the violent crime reduction category, $6,459,000,000 in new budget authority and $6,303,000,000 in outlays;′′

′′(4) with respect to fiscal year 2005—

′′(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

′′(B) for the violent crime reduction category, $6,616,000,000 in new budget authority and $6,452,000,000 in outlays;′′

′′as adjusted in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)) and section 314 of the Congressional Budget Act of 1974.′′

TITLE IV—BREAKING THE CYCLE OF DRUGS AND VIOLENCE

Subtitle A—Drug Courts, Drug Treatment, and Alternative Sentencing

PART 1—DRUG COURTS

SEC. 4111. REALLOCATION OF DRUG COURTS PROGRAM.

(a) REPEAL.—Section 114(b)(1)(A) of title I of Public Law 100–680 is repealed.

(b) REAUTHORIZATION.—Section 1003(a)(20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789(a)(20)) is amended—

(1) in subparagraph (E), by striking ′′and at the end;′′

(2) in subparagraph (F), by striking ′′at the end;′′

(3) with respect to fiscal year 2001—

′′(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

′′(B) for the violent crime reduction category, $6,430,000,000 in new budget authority and $6,166,000,000 in outlays;′′

′′(4) with respect to fiscal year 2002—

′′(A) for the discretionary category, amounts of budget authority and outlays necessary to adjust the discretionary spending limits to reflect the changes in subparagraph (B) as determined by the Chairman of the Committee on the Budget of the House of Representatives and the Chairman of the Committee on the Budget of the Senate; and

′′(B) for the violent crime reduction category, $6,453,000,000 in new budget authority and $6,166,000,000 in outlays;′′

′′as adjusted in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)) and section 314 of the Congressional Budget Act of 1974.′′

PART 2—JUVENILE DRUG COURTS

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding after part BB the following:

"'′′PART Z—JUVENILE DRUG COURTS"

"'′′SEC. 2976. GRANT AUTHORITY.

′′(a) APPROPRIATE DRUG COURT PROGRAMS.—The Attorney General may make grants to States, local governments, units of local government, and Indian tribes to establish programs that—

(1) involve continuous early judicial supervision over juvenile offenders, other than violent juvenile offenders with substance abuse, or substance abuse-related problems; and

(2) integrate administration of other sanctions and services, including—

(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervision to detect the use of controlled substances or other addictive substances of alcohol; and

(B) substance abuse treatment for each participant;′′

"'′′(C) diversion, supervision, or other super-

vised release or probation for each partici-

pant;′′

"'′′(D) programmatic, offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child support services; and

(5) payment by the offender of treatment costs, to the extent practicable, such as costs for urinalysis or counseling; or

(6) payment by the offender of restitu-

tion, to the extent practicable, to either a victim of the offense at issue or to a restitution or similar victim support fund.

(3) Continued Availability of Grant Funds.—Amounts made available under this part shall remain available until expended.

(4) Definitions.—In this part—

A. The term ′′violent offender′′ means an individual charged with an offense during the course of which—

(1) the individual carried, possessed, or used a firearm or dangerous weapon; or

(2) the death of or serious bodily injury of another person occurred as a direct result of the commission of such offense; or

(3) the individual used force against the person of another.

(5) Regulations.—The Attorney General shall issue regulations necessary to carry out this part.

(6) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary for each fiscal year 2002 and 2003, for the purposes of this part.

SEC. 2978. REPEAL.

Sec. 314 of the Congressional Budget Act of 1985 (2 U.S.C. 901(b)) is repealed.

SEC. 2979. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for each fiscal year 2002 and 2003, for the purposes of this part.
SEC. 4122. ADMINISTRATION.
(a) CONSULTATION/COORDINATION.—In carrying out section 4121, the Attorney General shall coordinate with the other Justice Department initiatives that address drug testing and interventions in the criminal justice system.

(b) GUIDELINES.—The Attorney General may issue guidelines necessary to carry out section 4121.

(c) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under section 4121 shall:

(1) recognize that the comprehensive approach that recognizes the importance of collaboration and a continuum of testing, treatment, and other interventions;

(2) include a long-term strategy and detailed implementation plan;

(3) address the applicant’s capability to continue the proposed program following the conclusion of Federal support;

(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

(5) certify that there has been appropriate consultation with affected agencies and key stakeholders throughout the criminal justice system and that there will be continued coordination throughout the implementation of the program; and

(6) describe the methodology that will be used in evaluating the program.

SEC. 4123. APPLICATIONS.
To request funds under section 4121, interested applicants shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require. Federal funding shall be awarded on a competitive basis based on criteria established by the Attorney General and specified in program guidelines.

SEC. 4124. FEDERAL SHARE.
The Federal share of a grant made under section 4121 may not exceed 75 percent of the total cost of the program described in the application submitted for the fiscal year for which the program receives assistance under section 4121, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section. In-kind support may constitute a portion of the non-federal share of a grant.

SEC. 4125. GEOGRAPHIC DISTRIBUTION.
The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards under section 4121 is made, with rural and tribal jurisdiction represented.

SEC. 4126. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.
(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General shall provide technical assistance and training in furtherance of the purposes of section 4121.

(b) EVALUATION.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for a rigorous evaluation of the programs that receive support under section 4121.

(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General or through grants, contracts, or cooperative agreements with other entities.

SEC. 4127. AUTHORIZATION OF APPROPRIATIONS.
There are authorized to be appropriated to carry out sections 4121 through 4126 $75,000,000 for fiscal year 2003 and such sums as may be necessary for fiscal years 2003 through 2006.

SEC. 4128. PERMANENT SET-ASIDE FOR RESEARCH AND EVALUATION.
The Attorney General shall reserve not less than 1 percent and no more than 3 percent of the sums appropriated under section 4127 in each fiscal year for research and evaluation of this program.

SEC. 4129. ADDITIONAL REQUIREMENTS FOR THE USE OF FUNDS TO CONTROL VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING GRANT PROGRAMS.
Section 20106(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13765(b)) is amended to read as follows:

“(b) ADDITIONAL REQUIREMENTS.—

(1) ELIGIBILITY FOR GRANT.—To be eligible to receive a grant under section 20103 or section 20104, a State shall—

(A) provide assurances to the Attorney General that the State has implemented or will implement not later than 18 months after the date of the effective date of this subtitle, policies that provide for the recognition of the rights of crime victims; and

(B) no later than September 1, 2002, have a program of drug testing and intervention for appropriate categories of convicted offenders during periods of incarceration and criminal justice supervision, with sanctions included for any violation of release for positive drug tests, consistent with guidelines issued by the Attorney General.

(2) USE OF FUNDS.—Funds provided under section 20103 or section 20104 of this subtitle may be applied to the cost of offender drug testing and appropriate intervention programs during periods of incarceration and criminal justice supervision, only to the extent consistent with guidelines issued by the Attorney General. Further, such funds may be used by the Attorney General to pay the costs of providing to the Attorney General a baseline study on their prison drug abuse problem. Such studies shall be consistent with guidelines issued by the Attorney General.

(3) SYSTEM OF SANCTIONS AND PENALTIES.—Beginning in fiscal year 2002, and thereafter, States receiving funds pursuant to section 20103 or section 20104 of this subtitle shall have a system of sanctions and penalties that address drug trafficking within and into correctional facilities under their jurisdiction. Such systems shall be in accordance with guidelines issued by the Attorney General. Beginning in fiscal year 2002, and each year thereafter, any State that the Attorney General determines, in compliance with the provisions of this paragraph shall have the funds it would otherwise been eligible to receive under section 20103 or section 20104 on each fiscal year for which the Attorney General determines it does not comply. Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.”

PART 3—DRUG TREATMENT

SEC. 4131. DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS ADMINISTERED BY STATE OR LOCAL PROSECUTORS.
(a) PROSECUTION DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (22 U.S.C. 1401 et seq.) is amended by adding at the end the following new part:

“PART CC—PROSECUTION DRUG TREATMENT ALTERNATIVE TO PRISON PROGRAMS

SEC. 2901. PROGRAM AUTHORIZED.
“(a) IN GENERAL.—The Attorney General may make grants to State or local prosecutors for the purpose of developing, implementing, or expanding drug treatment alternative to prison programs that comply with the requirements of this part.

(b) USE OF FUNDS.—A State or local prosecutor who receives funds under this part shall use amounts provided under the grant to develop, implement, or expand the drug treatment alternative to prison program for which the grant was made, which may include payment of the following expenses:

(1) Salaries, personnel costs, equipment costs, and other costs directly related to the operation of the program, including the enforcement unit.

(2) Payments to licensed substance abuse treatment providers for providing treatment to offenders participating in the program for which the grant was made, including aftercare supervision, vocational training, education, and job placement services directly related to the operation of the program.

(3) Payments to public and nonprofit private entities for providing treatment to offenders participating in the program for which the grant was made.

(4) SUPPLEMENT AND NOT SUPPLANT.—Grant amounts received under this part shall be used to supplement, and not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

SEC. 2902. PROGRAM REQUIREMENTS.
A drug treatment alternative to prison program with respect to which a grant is made under this part shall comply with the following requirements:

“(1) A State or local prosecutor shall administer the program.

(2) An eligible offender may participate in the program only with the consent of the State or local prosecutor.

(3) Each eligible offender who participates in the program shall serve a sentence of imprisonment with respect to the underlying crime if that offender does not successfully complete treatment with the residential substance abuse provider.

(4) Each residential substance abuse provider treating an offender under the program shall—

(A) make periodic reports of the progress of treatment of that offender to the State or local prosecutor carrying out the program and the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(B) notify the probation or parole officer or other official in whose custody the offender is in custody of the violation of the terms and conditions of the program.

(6) The program shall have an enforcement unit comprised of law enforcement officers under the supervision of the State or local prosecutor.

SEC. 2903. APPLICATIONS.
The Attorney General to request a grant under this part, a State or local prosecutor shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(b) CERTIFICATIONS.—Each such application shall contain the certification that the State or local prosecutor that the program for which the grant is requested shall meet each of the requirements of this part.

(c) GEOGRAPHIC DISTRIBUTION.—The Attorney General shall ensure that, to the extent practicable, the distribution of
grant awards is equitable and includes State or local prosecutors—

‘‘(1) in each State; and

(2) in rural, suburban, and urban jurisdic-

tions.’’

SEC. 2905. REPORTS AND EVALUATIONS.

‘‘For each fiscal year, each recipient of a grant under this part during that fiscal year shall submit to the Attorney General a re-
port on the effectiveness of activity carried out using that grant. Each report shall include an evaluation in such form and
containing such information as the Attorney General may reasonably require. The Attorney
General shall specify the dates on which such reports shall be submitted.’’

SEC. 2906. DEFINITIONS.

‘‘In this part—

‘‘(1) ELIGIBLE OFFENDER.—The term ‘eligi-
ble offender’ means an individual who—

(A) has been convicted of, or pled guilty to,
or admitted guilt with respect to a crime for which a sentence of imprisonment is re-
quired and has not completed such sentence;

(B) has never been convicted of, or pled guilty to, and is not presently charged with, a felony
crime of violence or a major drug offense or a crime that is a violent felony under State law;

and

(C) has been found by a professional sub-
stance abuse screener to be in need of sub-
stance abuse treatment because that of-
stance abuse is a significant contributing factor to that offender’s criminal conduct.

(2) FELONY CRIME OF VIOLENCE.—The term ‘felony crime of violence’ has the meaning
given such term in section 924(c)(3) of title 18, United States Code.

(3) MAJOR DRUG OFFENSE.—The term ‘major drug offense’ has the meaning given such
term in section 36(a) of title 18, United States Code.

(4) STATE OR LOCAL PROSECUTOR.—The term ‘State or local prosecutor’ means any
district attorney, State attorney general, county attorney, or corporation counsel who has authority to prosecute criminal offenses under State or local law.’’

(b) AUTHORIZATION OF APPROPRIATIONS.—

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 376ff) is amended by adding at the end the following:

‘‘(c) ADDITIONAL USE OF FUNDS.—States that demonstrate that they have existing in-
prison treatment programs that are in compliance with Federal requirements may use funds awarded under this part for treat-
ment and sanctions both during incarcer-
ation and after release.’’

SEC. 4134. DRUG TREATMENT FOR JUVENILES.

Title V of the Public Health Service Act (42 U.S.C. 295oa et seq.) is amended by adding at the end the following:

‘‘PART G.—RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES.

SEC. 575. RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES.

‘‘(a) IN GENERAL.—The Director of the Center for Sub-
stance Abuse Treatment shall award grants to, or enter into cooperative agreements or contracts, with public and
nonprofit private entities for the purpose of providing treatment to juveniles for sub-
stance abuse through programs in which, during the course of receiving such treat-
ment the juveniles reside in facilities made available by the programs.

‘‘(b) AVAILABLE SERVICES FOR EACH PARTICIPANT.—A funding agreement for an
award under subsection (a) for an applicant that is, in the program operated pursuant to such sub-
section, will include—

(1) treatment services will be available through the applicant, either directly or through agreements with other public or
nonprofit private entities and

(2) the services will be made available to each person admitted to the program.

‘‘(c) INDIVIDUALIZED PLAN OF SERVICES.—A funding agreement under sub-
section (a) for an applicant that is—

(1) in providing authorized services for an eligible person pursuant to such subsection, the applicant will, in consultation with the
juvenile and, if appropriate the parent or guardian of the juvenile, prepare an individual-
ized plan for the provision to the juvenile or young adult of the services; and

(2) treatment services under the plan will include—

(A) individual, group, and family counsel-
ing, as appropriate, regarding substance abuse; and

(B) followup services to assist the juve-
nile or young adult in preventing a relapse into such abuse.

‘‘(d) ELIGIBLE SUPPLEMENTAL SERVICES.—Grants under subsection (a) may be used to provide an eligible juvenile, the following
services:

(1) HOSPITAL REFERRALS.—Referrals for
necessary hospital services.

(2) HIV AND AIDS COUNSELING.—Counseling
on the human immunodeficiency virus and
on acquired immune deficiency syndrome.

(3) DOMESTIC VIOLENCE AND SEXUAL ABUSE
COUNSELING.—Counseling on domestic vio-

lence and sexual abuse.

(4) PREPARATION FOR REENTRY INTO SOCIETY.—Planning for and counseling to assist
reentry into society, both before and after dis-
charge, including referrals to any public or
nonprofit private entities in the commu-

nity involved that provide services appro-
riate for the juvenile.

‘‘(e) MINIMUM QUALIFICATIONS FOR RECEIPT OF AWARD.—

‘‘(1) CERTIFICATION BY RELEVANT STATE AGENCY.—With respect to the principal agen-
cies operating such programs relating to substance abuse, the Director may award a grant to, or enter into a cooperative agreement or contract with, only if the agency of the

Indian tribe has certified to the Director that—

(A) the applicant has the capacity to carry out a program described in subsection (a);

(B) the plans of the applicant for such a program are consistent with any policies of such agency regarding the treatment of sub-
stance abuse; and

(C) the applicant, or any entity through which the applicant will be provided services, meets all applicable State licensure or certification requirements regarding the provision of the services involved.

‘‘(2) STATUS AS MEDICARE PROVIDER.—

‘‘(A) IN GENERAL.—Subject to subpara-
graphs (B) and (C), the Director may make a
grant, or enter into a cooperative agreement or contract, under paragraph (1) only if, in the case of any authorized service that is available pursuant to the State plan ap-
proved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for the State in-

volved—

(i) the applicant for the grant, coopera-
tive agreement, or contract will provide the
service directly, and the applicant has en-
tered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(ii) the applicant will enter into an agree-
ment with a public or nonprofit private enti-
ty under which the entity will provide the service, and the entity has entered into such participation agreement and is qual-
ified to receive such payments.

‘‘(B) SERVICES.—

(i) IN GENERAL.—In the case of an entity making an agreement pursuant to subpara-
graph (A)(ii) regarding the provision of serv-
ices, the requirements established in such sub-
paragraph regarding a participation agreement shall be waivable if, at the option of the entity does not, in providing health care services, impose a charge or accept reim-
bursement available from any third party payors including reimbursement under any insurance policy or under any Federal or State health benefits plan.

(ii) VOLUNTARY DONATIONS.—A determina-
tion by the Director of whether an entity re-
tained in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

‘‘(C) MENTAL DISEASES.—With respect to any au-
thorized service that is available pursuant to the State plan described in subparagraph (A), the requirements established in such sub-
paragraph shall not apply to the provision of such service by any institution for mental
diseases to an individual who has attained 21
years of age and who has not attained 65
years of age.

‘‘(D) DEPARTMENT OF JUSTICE.—In this subpara-
graph, the term ‘department for mental diseases’ has the same meaning as in section 1905(i) of the So-
cial Security Act (42 U.S.C. 1396d(i)).’’

‘‘(f) REQUIREMENTS FOR MATCHING FUNDS.—

‘‘(1) IN GENERAL.—With respect to the costs of the program to be carried out by an appli-
cant pursuant to subsection (a), a funding agreement for an award under such sub-
section is that the applicant will make avail-
ble (directly or through donations from public or private entities) non-Federal con-
tributions toward such costs in an amount that

(A) for the first fiscal year for which the applicant receives payment under such subsection, is not less than $1 for each $9 of Federal funds provided in the award;

(B) for any second such fiscal year, is not less than $1 for each $9 of Federal funds pro-
vided in the award; and
"(C) for any subsequent such fiscal year, is not less than $1 for each $3 of Federal funds provided in the award.

(2) DETERMINATION OF AMOUNT CONTRIBUTED.—If the contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(g) OUTFRONT.—A funding agreement for an award under subsection (a) for an applicant is that the applicant will provide outfront assistance to community involved to identify juveniles who are engaging in substance abuse and to encourage the juveniles to undergo treatment for such abuse.

(h) ACQUISIBILITY OF PROPERTY.—A funding agreement for an award under subsection (a) for an applicant is that the program operated pursuant to such subsection will be operated at a location that is accessible to low income juveniles.

(i) CONTINUING EDUCATION.—A funding agreement for an award under subsection (a) is that the applicant involved will provide for continuing education in treatment services for the individuals who will provide treatment services to be operated by the applicant pursuant to such subsection.

(j) IMPOSITION OF CHARGES.—A funding agreement for an award under subsection (a) for an applicant is that if charges are imposed for the provision of authorized services to or on behalf of an eligible juvenile, such charges:

(1) will be made according to a schedule of charges that is made available to the public;
(2) will be adjusted to reflect the economic condition of the juvenile involved; and
(3) will not be imposed on any such juvenile whose family has an income of less than 185 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

(k) REPORTS TO DIRECTOR.—A funding agreement for an award under subsection (a) is that the applicant involved will submit to the Director a report—

(1) describing the utilization and costs of services provided under the award;
(2) number of juveniles served, and the type and costs of services provided; and
(3) providing such other information as the Director determines to be appropriate.

(1) REQUIREMENT OF APPLICATION.—The Director may make an award under subsection (a) only if an application is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurance of information as the Director determines to be necessary to carry out this section.

(m) EQUITABLE ALLOCATION OF AWARDS.—In making awards under subsection (a), the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, as well as among Indian tribes, subject to the availability of qualified applicants for the awards.

(n) DURATION OF AWARD.—

(1) GENERAL.—The period during which payments are made to an entity from an award under this section may not exceed 5 years.

(2) APPROVAL OF DIRECTOR.—The provision of payments described in paragraph (1) shall be subject to—

(1) an annual approval by the Director of the payments; and
(2) the availability of appropriations for the fiscal year at issue to make the payments.

(2) LIMITATION.—This subsection may not be construed to establish a limitation on the number of awards that may be made to an entity under this section.

(g) EVALUATIONS: DISSEMINATION OF FINDINGS.—The Director shall, directly or through contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a) and shall disseminate to the States the findings made as a result of the evaluations.

(h) REOYTS TO CONGRESS—

(1) INITIAL REPORT.—Not later than October 1, 2002, the Director shall submit to the Committee on the Judiciary of the House of Representatives, and to the Committee on the Judiciary of the Senate, a report describing programs carried out pursuant to this section.

(2) PERIODIC REPORTS.—

(A) IN GENERAL.—Not less than biennially after the date of this section, the Director shall prepare a report describing programs carried out pursuant to this section during the preceding 2-year period, and shall submit the report to the Administrator for inclusion in the biennial report under section 501(k).

(B) SUMMARY.—Each report under this subsection shall include a summary of any evaluations conducted under subsection (m) during the period with respect to which the report is prepared.

(q) DEFINITIONS.—In this section:

(1) AUTHORIZED SERVICES.—The term ‘‘authorized services’’ means treatment services and supplemental services.

(2) JUVENILE.—The term ‘‘juvenile’’ means anyone 18 years of age or younger at the time of admission to a program operated pursuant to subsection (a).

(3) ELIGIBLE JUVENILE.—The term ‘‘eligible juvenile’’ means a juvenile who has been admitted to a program operated pursuant to subsection (a).

(4) FUNDING AGREEMENT UNDER SUBSECTION (a).—The term ‘‘funding agreement under subsection (a),’’ with respect to an award under subsection (a), means that the Director may make the award to the applicant makes the agreement involved.

(5) TREATMENT SERVICES.—The term ‘‘treatment services’’ means treatment for substance abuse counseling and services described in subsection (c)(2).

(6) SUPPLEMENTAL SERVICES.—The term ‘‘supplemental services’’ means the services described in subsection (d).

(7) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For the purpose of carrying out this section and section 576 there is authorized to be appropriated such sums as may be necessary to carry out provisions of this section and section 576.

(2) TRANSFER.—For the purpose described in paragraph (1), in addition to the amounts authorized in such paragraph to be appropriated for fiscal years 2002 and 2003. There is authorized to be appropriated from the Violent Crime Reduction Trust Fund $300,000,000 in each of fiscal years 2004 and 2005.

(3) ELIGIBLE RECIPIENT.—The term ‘‘eligible recipient’’ means a community-based organization—

(A) that is a nonprofit organization, as that term is defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5693(23)); and

(B) is an organization that involves the participation, as appropriate, of members of the community and community institutions, including—

(i) business and civic leaders actively involved in providing employment and business development opportunities in the community;

(ii) educators;

(iii) religious organizations (which shall not provide any sectarian instruction or sectarian worship in connection with program activities funded under this subtitle);

(iv) law enforcement agencies; and

(v) other interested parties.

(2) ELIGIBLE COMMUNITY.—The term ‘‘eligible community’’ means a community—

(A) that has a history of drug abuse or misuse;

(B) that has a history of drug abuse or misuse;

(C) that has a history of drug abuse or misuse;

(D) that has a history of drug abuse or misuse;

(E) that has a history of drug abuse or misuse;

(F) that has a history of drug abuse or misuse;

(G) that has a history of drug abuse or misuse;

(H) that has a history of drug abuse or misuse;

(I) that has a history of drug abuse or misuse;

(J) that has a history of drug abuse or misuse;

(K) that has a history of drug abuse or misuse;

(L) that has a history of drug abuse or misuse;

(M) that has a history of drug abuse or misuse;

(N) that has a history of drug abuse or misuse;

(O) that has a history of drug abuse or misuse;

(P) that has a history of drug abuse or misuse;

(Q) that has a history of drug abuse or misuse;

(R) that has a history of drug abuse or misuse;

(S) that has a history of drug abuse or misuse;

(T) that has a history of drug abuse or misuse;

(U) that has a history of drug abuse or misuse;

(V) that has a history of drug abuse or misuse;

(W) that has a history of drug abuse or misuse;

(X) that has a history of drug abuse or misuse;

(Y) that has a history of drug abuse or misuse;

(Z) that has a history of drug abuse or misuse;

(a) GRANTS.—The Secretary of Health and Human Services, acting through the Director of the Center for Substance Abuse Treatment, shall make grants to establish projects for the outpatient treatment of substance abuse among juveniles.

(b) PREVENTION.—Entities receiving grants under this section shall engage in activities to prevent substance abuse among juveniles.

(c) EVALUATION.—The Secretary of Health and Human Services shall evaluate projects carried out under subsection (a) and shall disseminate to the public and private entities information on effective projects.

PART 4—FUNDING FOR DRUG-FREE COMMUNITY PROGRAMS

SEC. 4141. EXTENSION OF SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES PROGRAM.

(a) Title IV.—The Elementary and Secondary Education Act (20 U.S.C. 7101) is amended to read as follows:

TITLE IV—AUTHORIZATIONS

SEC. 4001. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for State programs under subpart 1 and national programs under subpart 2, $555,000,000 for fiscal years 2002 and 2003, and $555,000,000 for fiscal years 2004 through 2006 with the following amounts may be appropriated from the Violent Crime Reduction Trust Fund:

1. $300,000,000 for fiscal year 2004;

2. $300,000,000 for fiscal year 2005.

SEC. 4142. SAY NO TO DRUGS COMMUNITY CENTERS.

(a) Title IV—Title.—This section may be cited as the ‘‘Say No to Drugs Community Centers Act of 2001’’.

(b) DEFINITIONS.—In this section:

(1) COMMUNITY-BASED ORGANIZATION.—The term ‘‘community-based organization’’ means a private, locally initiated organization that—

(A) is a nonprofit organization, as that term is defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5693(23)); and

(B) receives the support of the community, as appropriate, of members of the community and community institutions, including—

(i) business and civic leaders actively involved in providing employment and business development opportunities in the community;

(ii) educators;

(iii) religious organizations (which shall not provide any sectarian instruction or sectarian worship in connection with program activities funded under this subtitle);

(iv) law enforcement agencies; and

(v) other interested parties.

(2) ELIGIBLE COMMUNITY.—The term ‘‘eligible community’’ includes—

(A) the community described in subsection (b)(1); and

(B) an area that meets such criteria as the Attorney General may, by regulation, establish, including criteria relating to poverty, juvenile delinquency, and crime.

(3) ELIGIBLE RECIPIENT.—The term ‘‘eligible recipient’’ means a community-based organization or public school that is—

(A) approved by the Attorney General upon application submitted to the Attorney General in accordance with subsection (e) and

(B) demonstrated that the projects and activities it seeks to support in an eligible community involve the participation, when feasible and appropriate, of—

(i) parents, family members, and other members of the eligible community;
(ii) civic and religious organizations serving the eligible community;
(iii) school officials and teachers employed at schools located in the eligible community;
(iv) adult educational programs for at-risk youth and protective services, or other human services to low income, at-risk youth and their families;
(v) public and private nonprofit organizations and organizations serving youth that provide after school and weekend and protective services, or other human services to low income, at-risk youth and their families;
(4) POVERTY LINE.—The term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.
(5) PUBLIC SCHOOL.—The term "public school" means a public elementary school, as defined in section 120(1) of the Higher Education Act of 1965 (20 U.S.C. 1141(i)), and a public secondary school, as defined in section 1201(d) of that Act (42 U.S.C. 1141(d)).
(c) GRANT REQUIREMENTS.—The Attorney General may make grants to eligible recipients, which grants may be used to provide to youth living in eligible communities during after school hours or summer vacations, the following services:
(1) Rigorous drug prevention education.
(2) Drug counseling and treatment.
(3) Education in law and law enforcement.
(4) Activities promoting interaction between youth and law enforcement officials.
(5) Vaccinations and other basic preventive health care.
(6) Sexual abstinence education.
(7) Other activities and instruction to reduce youth violence and substance abuse.
(d) LOCATION AND USE OF AMOUNTS.
(1) GRANT—Any grant awarded under this section shall be used solely to support the following
(A) describe the drug education and drug prevention programs that will be implemented;
(B) specify measurable goals and outcomes for the proposed program;
(C) describe in detail the drug education and drug prevention programs that will be implemented;
(D) contain an assurance that the applicant will use grant amounts received under this subtitle to provide youth in the eligible community with activities and services consistent with subsection (c);
(2) Vaccinations and other basic preventive health care—
(A) in a location easily accessible to youth in the community; and
(B) in another appropriate local facility that—
(i) shall ensure that the stated program is carried out:
(A) when appropriate, in the facilities of a public school during nonschool hours; or
(B) in another appropriate local facility that—
(ii) in a location easily accessible to youth in the community; and
(iii) in compliance with all applicable State and local ordinances;
(3) Shall use the grant amounts to provide to youth in the eligible community services and activities that include extracurricular and after school programs, or as part of a daily full day programs (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.
(4) Shall not use such amounts to provide sectarian worship or sectarian instruction; or the Federal share of the costs of programs or projects funded under this subtitle, the Attorney General shall allocate not less than 0.75 percent for grants under subparagraph (B) to eligible recipients in each State.
(5) Other Fiscal Years.—The Attorney General shall allocate 0.75 percent of amounts made available under this subtitle for grants to Indian tribes.
(5) PRIORITY.—In determining eligibility under this section, the Attorney General shall give priority to applicants that submit applications that demonstrate the greatest local support for the programs they seek to support.
(6) PAYMENTS.—Each grant shall be allocated not less than 0.75 percent of the amount made available under this subtitle, the Attorney General shall allocate 0.75 percent of amounts made available under this subtitle for grants to Indian tribes.
(7) GRANT PROGRAM FOR RUNAWAY AND HOMELESS YOUTH.—Section 3515 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11805) is amended to read as follows:
"SEC. 3515. AUTHORIZATION OF APPROPRIATIONS.
(1) In general.—There is authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002, 2003, 2004, 2005, and 2006.
(2) Other fiscal years.—There is authorized to be appropriated to carry out this section for each of fiscal years 2003, 2004, 2005, and 2006, $20,000,000, from the amount made available to carry out this section in any fiscal year which in which the amount made available to carry out this section is equal to or less than $20,000,000, the Attorney General may award grants on a competitive basis to eligible recipients to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle.
(8) ADMINISTRATIVE COSTS.—The Attorney General may use not more than 3 percent of the amounts made available under this subtitle in any fiscal year for administrative costs, including training and technical assistance.
(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002, 2003, 2004, 2005, and 2006.
SEC. 4143. DRUG EDUCATION AND PREVENTION PROGRAM FOR RUNAWAY AND HOMELESS YOUTH.
Section 3515 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11805) is amended to read as follows:
"SEC. 3515. AUTHORIZATION OF APPROPRIATIONS.
(1) In general.—There is authorized to be appropriated to carry out this chapter such sums as may be necessary for each of fiscal years 2002, 2003, 2004, 2005, and 2006.
(2) Other fiscal years.—There is authorized to be appropriated to carry out this chapter such sums as may be necessary for each of fiscal years 2002, 2003, 2004, 2005, and 2006."
SEC. 4211. GRANT PROGRAM.

The Attorney General may make grants to States, Indian tribes, and national or statewide nonprofit organizations in crime prone areas, such as Boys and Girls Clubs, Police Athletic Leagues, 4-H Clubs, YMCA Big Brothers and Big Sisters, and Kids ‘N Kops programs, for the purpose of—

(1) providing constructive activities to youth on a daily basis during after school hours, weekends, and school vacations;
(2) providing supervised activities in safe environments to youth in crime prone areas;
(3) providing and expanding educational materials to expand D.A.R.E. America’s middle school campaign; or
(4) providing constructive activities to youth in a safe environment through parks and other public recreation areas.

SEC. 4212. GRANTS TO NATIONAL ORGANIZATIONS.

(a) APPLICATIONS.—(1) ELIGIBILITY.—In order to be eligible to receive a grant under this section, the chief operating officer of a national or statewide non-profit organization shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(2) APPLICATION REQUIREMENTS.—Each application submitted in accordance with paragraph (1) shall include—

(A) a request for a grant to be used for the purposes described in this subtitle;
(B) a description of the communities to be served by the grant, including the nature of juvenile crime, violence, and drug use in the communities;
(C) written assurances that Federal funds received under this subtitle will be used to supplement and not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle;
(D) written assurances that all activities will be supervised by an appropriate number of responsible adults;
(E) a plan for assuring that program activities will take place in a secure environment that is free of crime and drugs; and
(F) any additional statistical or financial information that the Attorney General may reasonably require.

(b) GRANT AWARDS.—In awarding grants under this section, the State shall consider—

(1) the ability of the applicant to provide the stated services;
(2) the history and establishment of the applicant in providing youth activities on a national or statewide basis; or
(3) the extent to which the organizations shall achieve an equitable geographic distribution of the grant awards.

SEC. 4213. GRANTS TO STATES.

(a) APPLICATIONS.—(1) IN GENERAL.—The Attorney General may make grants under this section to States for distribution to units of local government community-based organizations shall submit for the purposes set forth in section 4211.

(2) GRANTS.—To request a grant under this section, the chief executive of a State shall submit to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(b) APPLICATION REQUIREMENTS.—Each application submitted in accordance with paragraph (2) shall include—

(A) a request for a grant to be used for the purposes described in this subtitle;
(B) a description of the communities to be served by the grant, including the nature of juvenile crime, violence, and drug use in the community;
(C) written assurances that Federal funds received under this subtitle will be used to supplement and not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle;
(D) written assurances that all activities will be supervised by an appropriate number of responsible adults;
(E) a plan for assuring that program activities will take place in a secure environment that is free of crime and drugs; and
(F) any additional statistical or financial information that the Attorney General may reasonably require.

(c) GRANT AWARDS.—In awarding grants under this section, the State shall consider—

(1) the ability of the applicant to provide the stated services;
(2) the history and establishment of the applicant in providing youth activities on a national or statewide basis; or
(3) the extent to which the organizations shall achieve an equitable geographic distribution of the grant awards.

(d) REPORT AND EVALUATION.

(a) REPORT TO THE ATTORNEY GENERAL.—Not later than October 1, 2002 and October 1 of each year thereafter, each grant recipient under this section shall submit to the Attorney General a report that describes, for the year to which the report relates—

(1) the activities provided;
(2) the number of youth participating; and
(3) the extent to which the grant enabled the provision of activities to youth that would not otherwise be available; and
(b) EVALUATION AND REPORT TO CONGRESS.—Not later than March 1, 2003, and March 1 of each year thereafter, the Attorney General shall submit to Congress an evaluation and report in a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by grant recipients under this part, and an evaluation of programs established by grant recipients under this part.

(c) CRITERIA.—In assessing the effectiveness of the programs established and operated by grant recipients pursuant to this part, the Attorney General shall consider—

(1) the number of youth served by the grant recipient;
(2) the percentage of youth participating in the program charged with acts of delinquency or crime compared to youth in the community at large;
(3) the percentage of youth participating in the program that uses drugs compared to youth in the community at large; and
(4) the percentage of youth participating in the program that are victimized by acts of crime or delinquency compared to youth in the community at large.

(d) DOCUMENTS AND INFORMATION.—Each grant recipient under this part shall provide the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this part.

SEC. 4214. ALLOCATION; GRANT LIMITATION.

(a) ALLOCATION.—(1) STATE ALLOCATIONS.—The Attorney General shall allot not less than 0.75 percent of the total amount made available each fiscal year to carry out this section to each State that has applied for a grant under this section.

(2) INDIAN TRIBES.—The Attorney General shall allot not less than 0.75 percent of the total amount made available each fiscal year to the Indian tribes, in accordance with the criteria set forth in subsections (a) and (b).

(b) GRANT AWARDS.—(1) E LIGIBILITY.—The Attorney General shall allot not less than a specific percentage of Federal funds that would otherwise be available for activities funded under this subtitle;

(2) MATCHING REQUIREMENT.—The Attorney General shall make grants in accordance with this section to public and private agencies to fund effective after school juvenile crime prevention programs.

(c) MATCHING REQUIREMENT.—The Attorney General shall make grants in accordance with this section to public and private agencies to fund effective after school juvenile crime prevention programs.

(d) C ONSIDERATION.—In making grants under this section, the Attorney General shall give priority to funding requests that—

(1) are targeted to high crime neighborhoods or at-risk juveniles;
“(2) operate during the period immediately following normal school hours; and
“(3) provide educational or recreational activities designed to encourage law-abiding conduct, reduce the incidence of criminal activity, and teach juveniles alternatives to crime; and
“(4) coordinate with State or local juvenile crime prevention centers and juvenile offender accountability programs.

“(d) FUNDING.—There are authorized to be appropriated for grants under this section $520,000,000 for each of fiscal years 2002, 2003, 2004, 2005, and 2006.”.

PART 2—REAUTHORIZATION OF INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

SEC. 4231. INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.

Section 506 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5758) is amended to read as follows:

“SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

“(a) In General.—There is authorized to be appropriated to the Attorney General for providing training and technical assistance under this title; and

“(b) A MOUNT AND DURATION.

“(1) 10 percent shall be used by the Administrator for training and technical assistance under this title; and

“(2) such sums as may be necessary for each of fiscal years 2002, 2003, 2004, 2005, and 2006.”.

SEC. 4222. RESEARCH, EVALUATION, AND TRAINING.

Title V of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5781 et seq.) is amended by adding at the end the following:

“SEC. 507. RESEARCH, EVALUATION, AND TRAINING.

“(a) Presidential awards.—Of the amounts made available by appropriations pursuant to section 506—

“(1) 2 percent shall be used by the Administrator for providing training and technical assistance under this title; and

“(2) such sums as may be necessary for each of fiscal years 2002, 2003, 2004, and 2005.”.

PART 3—JUMP AHEAD

SEC. 4231. SHORT TITLE.

This part may be cited as the “JUMP Ahead Act of 2001”.

SEC. 4232. FINDINGS.

Congress finds that—

(1) millions of young people in America live in areas in which drug use and violent and property crimes are pervasive;

(2) unfortunately, many of these young people are not participating in school or community activities, and experience in conducting evaluations, for the purposes of determining the impact of the programs and activities assisted under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5676e-2) (as amended by this title), which shall provide for the evaluation of the implementation of the program or activity, and the effect of the program or activity on participants, schools, communities, and youth served by the program or activity.

(3) MENTORING PROGRAM OF THE YEAR.—The Attorney General shall, on an annual basis, based on the most recent evaluation under this subsection and such other criteria as the Attorney General shall establish by regulation—

(A) designate a program or activity assisted under this Act as the “Jvenile Mentoring Program of the Year;” and

(B) publish notice of such designation in the Federal Register.

(4) REPORTS.—

(A) GRANT RECIPIENTS.—Each entity receiving a grant under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5676e-2) (as amended by this title) shall submit to the Attorney General an annual report regarding any program or activity assisted under this Act or under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5676e-2) (as amended by this title). Each report under this paragraph shall be submitted at such time, in such manner, and shall be accompanied by such information, as the Attorney General reasonably requires.

(B) COMPTROLLER GENERAL.—Not later than 4 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report evaluating the effectiveness of grants awarded under this Act and under section 228B of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5676e-2) (as amended by this title), in—

(A) reducing juvenile delinquency and gang participation;

(B) reducing the dropout rate; and

(C) improving academic performance of juveniles.

PART 4—TRUANCY PREVENTION

SEC. 4241. SHORT TITLE.

This part may be cited as the “Truancy Prevention and Juvenile Crime Reduction Act of 2001”.

SEC. 4242. FINDINGS.

Congress makes the following findings:

(1) TRUANCY is often the first sign of trouble—the first indicator that a young person is getting up and losing his or her education; and

(2) Many students who become truant eventually drop out of school, and high school drop outs are two and a half times more likely to be on welfare, than high school graduates, twice as likely to be unemployed, or if employed, earn lower salaries.

(3) Truancy is the top-ranking characteristic of criminals who have committed crimes than such factors as coming from single-parent families and being abused as children.

(4) High rates of truancy are linked to high daytime burglary and vandalism, and high school dropouts.

(5) As much as 44 percent of violent juvenile crime takes place during school hours.

(6) As much as 44 percent of violent juvenile crime takes place during school hours.
(6) As many as 75 percent of children ages 13 to 16 who are arrested and prosecuted for crimes are truant.

(7) Some cities report as many as 70 percent of school-aged children are truant, and the total number of absences in a single city can reach 4,000 per day.

(8) Society pays a significant social and economic cost directly to truancy; only 34 percent of inmates have completed high school education; 17 percent of youth under age 18 entering adult prisons have not completed grade school or less; 25 percent completed 10th grade, and 2 percent completed high school.

(9) Truants and later high school drop out cost society $10,000,000,000 in lost earnings and foregone taxes over their lifetimes, and the cost of crime control is staggering.

(10) In many instances, parents are unaware a child is truant.

(11) Effective truancy prevention, early intervention, and accountability programs can improve school attendance and reduce daytime crime rates.

(12) There is a lack of targeted funding for effective truancy prevention programs in current law.

**SEC. 4251. GRANTS.**

(a) Definitions.—In this section:

(1) Eligible partnership.—The term “eligible partnership” means a partnership between two or more qualified units of local government and 1 or more local educational agencies.

(2) Local educational agency.—The term “local educational agency” means a unit of local government that has in effect, as of the date on which the eligible partnership submits an application for a grant under this section, a statute or regulation that meets the requirements of paragraph (3).

(3) Qualified unit of local government.—The term “qualified unit of local government” means a unit of local government that has in effect, as of the date on which the eligible partnership submits an application for a grant under this section, a statute or regulation that meets the requirements of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2801).

(4) Unit of local government.—The term “unit of local government” means any city, county, town, borough, parish, village, or other general purpose political subdivision of a State, or any Indian tribe.

(b) Grant Authority.—The Attorney General, in consultation with the Secretary of Education, shall make grants in accordance with this section on a competitive basis to eligible partnerships to reduce truancy and the incidence of daytime juvenile crime.

(c) Maximum Amount; Allocation; Renewal.—

(1) Maximum Amount.—The total amount awarded to an eligible partnership under this section in any fiscal year shall not exceed $100,000.

(2) Allocation.—Not less than 25 percent of each grant made under paragraph (1) shall be awarded to a highly truant eligible partnership.

(3) Renewal.—A grant awarded under this section for a fiscal year may be renewed for an additional period of not more than 2 fiscal years.

(4) Use of Funds.—

(a) In general.—Grant amounts made available under this section may be used by an eligible partnership to comprehensively address truancy through the use of:

(A) Parental involvement in prevention activities, including meaningful incentives for parental responsibility;

(B) Programs including community services, or drivers’ license suspension for students who are habitually truant;

(C) Parental accountability, including fines, teacher-aid duty, or community service;

(D) In-school truancy prevention programs, including alternative education and in-school suspension;

(E) Involvement of the local law enforcement, social services, judicial, business, and religious communities, and nonprofit organizations;

(F) Technology, including automated telephone notice to parents and computerized attendance systems;

(G) Elimination of 40-day count and other unintended incentives to allow students to be truant after a certain time of school year.

(b) Programs that meet the requirements of paragraph (3)(A) may include:

(A) The Truancy Intervention Program of the Fulton County, Georgia, Juvenile Court.

(B) The TABS (Truancy Abatement and Burglary Suppression) Program of Milwaukee, Wisconsin.

(C) The Roswell Daytime Curfew Program of Roswell, New Mexico.

(D) The Straight and Narrow Return Program of Rohnert Park, California.


(F) The Atlantic County Project Helping Hand of Atlantic County, New Jersey.

(G) The THRIVE (Truancy Habits Reduced Increasing Valuable Education) initiative of Oklahoma City, Oklahoma.

(H) The Norfolk, Virginia project using computer software and data collection.

(I) The Community Service Early Intervention Program of Columbus, Ohio.

(J) The Truancy Reduction Program of Bakersfield, California.

(K) The Grade Court program of Farmington, New Mexico.

(L) Any other model program that the Attorney General determines to be appropriate.

(c) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, $25,000,000 for each of fiscal years 2002, 2003, and 2004.

**PART 5—JUVENILE CRIME CONTROL AND DELINQUENCY PREVENTION ACT**

**SEC. 4251. SHORT TITLE.**

This part may be cited as the “Juvenile Crime Control and Delinquency Prevention Act of 2002.”

**SEC. 4252. FINDINGS.**

Section 101 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631) is amended to read as follows:

"SEC. 101. FINDINGS.

(a) Congress finds that the juvenile crime problem should be addressed through a 2-track common sense approach that addresses the needs of individual juveniles and society at large by promoting—

(1) quality prevention programs that—

(A) work with juveniles, their families, local public agencies, and community-based organizations, and take into consideration such factors as whether juveniles have ever been the victims of family violence (including child abuse and neglect); and

(B) are designed to reduce risks and develop competencies in at-risk juveniles that will prevent or reduce the rate of, violent delinquent behavior; and

(2) programs that assist in holding juveniles accountable for their actions, including interventions that respond appropriately to each delinquent act, requiring juveniles to make restitution, or perform community service, for the damage caused by their delinquent acts by providing victim satisfaction with respect to the penalties imposed on juveniles for their acts.

(b) Congress must act now to reform this program by focusing on juvenile delinquency prevention programs, as well as programs that hold juveniles accountable for their delinquent behavior.

"SEC. 102. PURPOSES."

The purposes of this title are—

(1) to support State and local programs that prevent juvenile involvement in delinquent behavior;

(2) to assist State and local governments in promoting public safety by encouraging graduated sanctions for acts of juvenile delinquency; and

(3) to assist State and local governments in addressing juvenile crime through the provision of technical assistance, research, training, evaluation, and the dissemination of information on effective programs for combating juvenile delinquency."

**SEC. 4254. DEFINITIONS.**

Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended

(1) in paragraph (3), by striking “to help prevent juvenile delinquency” and inserting “designed to reduce known risk factors for juvenile delinquency behavior, provide activities that build protective factors for, and develop competencies in, juveniles to prevent, and reduce the rate of, delinquent juvenile behavior”;

(2) in paragraph (4), by inserting “Title I” before the Omnibus” each place it appears;

(3) in paragraph (7), by striking “the Trust Territory of the Pacific Islands” and inserting “the Trust Territories of the Pacific Islands”;

(4) in paragraph (9), by striking “justice” and inserting “criminal justice”;

(5) in paragraph (12)(B), by striking “, . . or nonoffender,”;

(6) in paragraph (13)(B), by striking “, . . or nonoffender,”;

(7) in paragraph (14), by inserting “drug trafficking,” after “assault,”;

(8) in paragraph (16)—

(A) in subparagraph (A), by adding “and” at the end, and

(B) by striking subparagraph (C),

(9) by striking paragraph (17),

(10) in paragraph (22)—

(A) by redesignating subparagraphs (1), (11), and (12) as subparagraphs (A), (B), and (C), respectively, and

(B) by striking “and” at the end,

(11) in paragraph (23), by striking the period at the end and inserting “; and

(12) by redesignating paragraphs (18), (19), (20), (21), (22), and (23) as paragraphs (17) through (22), respectively, and

(13) by adding at the end the following:

"(23) the term ‘boot camp’ means a residential facility (excluding a private residence) at which there are provided—

(A) highly regimented schedule of discipline, physical training, work, drill, and ceremony characteristic of military basic training;

(B) regular, remedial, special, and vocational education; and

(C) counseling and treatment for substance abuse and other health and mental health problems; and

(24) the term ‘graduated sanctions’ means an accountability-based, graduated series of sanctions (including incentives and services) applicable to juveniles within the juvenile justice system to hold such juveniles accountable for their actions and to protect communities from the effects of juvenile delinquency, including graduated sanctions for every act for which a juvenile is adjudicated delinquent, by inducing their law-
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abiding behavior, and by preventing their
subsequent involvement with the juvenile
justice system;
‘‘(25) the term ‘violent crime’ means—
‘‘(A)
murder
or
nonnegligent
manslaughter, forcible rape, or robbery, or
‘‘(B) aggravated assault committed with
the use of a firearm;
‘‘(26) the term ‘co-located facilities’ means
facilities that are located in the same building, or are part of a related complex of buildings located on the same grounds; and
‘‘(27) the term ‘related complex of buildings’ means 2 or more buildings that share—
‘‘(A) physical features, such as walls and
fences, or services beyond mechanical services (heating, air conditioning, water and
sewer); or
‘‘(B) the specialized services that are allowable under section 31.303(e)(3)(i)(C)(3) of
title 28 of the Code of Federal Regulations,
as in effect on December 10, 1996.’’.
SEC. 4255. NAME OF OFFICE.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611
et seq.) is amended—
(1) in part A, by striking the part heading
and inserting the following:
‘‘PART A—OFFICE OF JUVENILE CRIME
CONTROL AND DELINQUENCY PREVENTION’’;
(2) in section 201(a), by striking ‘‘Justice
and Delinquency Prevention’’ and inserting
‘‘Crime Control and Delinquency Prevention’’; and
(3) in section 299A(c)(2) by striking ‘‘Justice and Delinquency Prevention’’ and inserting ‘‘Crime Control and Delinquency Prevention’’.
SEC. 4256. CONCENTRATION OF FEDERAL EFFORT.

Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C.
5614) is amended—
(1) in subsection (a)(1), by striking the last
sentence;
(2) in subsection (b)—
(A) in paragraph (3), by striking ‘‘and of
the prospective’’ and all that follows through
‘‘administered’’;
(B) by striking paragraph (5); and
(C) by redesignating paragraphs (6) and (7)
as paragraphs (5) and (6), respectively;
(3) in subsection (c), by striking ‘‘and reports’’ and all that follows through ‘‘this
part’’, and inserting ‘‘as may be appropriate
to prevent the duplication of efforts, and to
coordinate activities, related to the prevention of juvenile delinquency’’;
(4) by striking subsection (i); and
(5) by redesignating subsection (h) as subsection (f).
SEC. 4257. ALLOCATION.

Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C.
5632) is amended—
(1) in subsection (a)—
(A) in paragraph (2)—
(i) in subparagraph (A)—
(I) by striking ‘‘amount, up to $400,000,’’
and inserting ‘‘amount up to $400,000’’;
(II) by inserting a comma after ‘‘1992’’ the
first place it appears;
(III) by striking ‘‘the Trust Territory of
the Pacific Islands,’’; and
(IV) by striking ‘‘amount, up to $100,000,’’
and inserting ‘‘amount up to $100,000’’;
(ii) in subparagraph (B)—
(I) by striking ‘‘(other than part D)’’;
(II) by striking ‘‘or such greater amount,
up to $600,000’’ and all that follows through
‘‘section 299(a) (1) and (3)’’;
(III) by striking ‘‘the Trust Territory of
the Pacific Islands,’’;
(IV) by striking ‘‘amount, up to $100,000,’’
and inserting ‘‘amount up to $100,000’’; and
(V) by inserting a comma after ‘‘1992’’;

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(B) in paragraph (3) by striking ‘‘allot’’ and
inserting ‘‘allocate’’; and
(2) in subsection (b) by striking ‘‘the Trust
Territory of the Pacific Islands,’’.
SEC. 4258. STATE PLANS.

Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C.
5633) is amended—
(1) in subsection (a)—
(A) in the second sentence, by striking
‘‘challenge’’ and all that follows through
‘‘part E’’, and inserting ‘‘, projects, and activities’’;
(B) in paragraph (3)—
(i) by striking ‘‘, which—’’ and inserting
‘‘that—’’;
(ii) in subparagraph (A)—
(I) by striking ‘‘not less’’ and all that follows through ‘‘33’’, and inserting ‘‘the attorney general of the State or such other State
official who has primary responsibility for
overseeing the enforcement of State criminal laws, and’’;
(II) by inserting ‘‘, in consultation with the
attorney general of the State or such other
State official who has primary responsibility
for overseeing the enforcement of State
criminal laws’’ after ‘‘State’’;
(III) in clause (i), by striking ‘‘or the administration of juvenile justice’’ and inserting ‘‘, the administration of juvenile justice,
or the reduction of juvenile delinquency’’;
(IV) in clause (ii), by striking ‘‘include—’’
and all that follows through the semicolon
at the end of subclause (VIII), and inserting
the following:
‘‘represent a multidisciplinary approach to
addressing juvenile delinquency and may include—
‘‘(I) individuals who represent units of general local government, law enforcement and
juvenile justice agencies, public agencies
concerned with the prevention and treatment of juvenile delinquency and with the
adjudication of juveniles, representatives of
juveniles, or nonprofit private organizations,
particularly such organizations that serve
juveniles; and
‘‘(II) such other individuals as the chief executive officer considers to be appropriate;
and’’; and
(V) by striking clauses (iv) and (v);
(iii) in subparagraph (C), by striking ‘‘justice’’ and inserting ‘‘crime control’’;
(iv) in subparagraph (D)—
(I) in clause (i), by inserting ‘‘and’’ at the
end; and
(II) in clause (ii), by striking ‘‘paragraphs’’
and all that follows through ‘‘part E’’, and
inserting ‘‘paragraphs (11), (12), and (13)’’;
and
(v) in subparagraph (E), by striking
‘‘title—’’ and all that follows through ‘‘(ii)’’
and inserting ‘‘title,’’;
(C) in paragraph (5)—
(i) in the matter preceding subparagraph
(A), by striking ‘‘, other than’’ and inserting
‘‘reduced by the percentage (if any) specified
by the State under the authority of paragraph (25) and excluding’’ after ‘‘section 222’’;
and
(ii) in subparagraph (C), by striking ‘‘paragraphs (12)(A), (13), and (14)’’ and inserting
‘‘paragraphs (11), (12), and (13)’’;
(D) by striking paragraph (6);
(E) in paragraph (7), by inserting ‘‘, including in rural areas’’ before the semicolon at
the end;
(F) in paragraph (8)—
(i) in subparagraph (A)—
(I) by striking ‘‘for (i)’’ and all that follows
through ‘‘relevant jurisdiction’’, and inserting ‘‘for an analysis of juvenile delinquency
problems in, and the juvenile delinquency
control and delinquency prevention needs
(including educational needs) of, the State’’;

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(II) by striking ‘‘justice’’ the second place
it appears and inserting ‘‘crime control’’;
and
(III) by striking ‘‘of the jurisdiction; (ii)’’
and all that follows through the semicolon
at the end, and inserting ‘‘of the State; and’’;
(ii) by striking subparagraph (B) and inserting the following:
‘‘(B) contain—
‘‘(i) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency;
‘‘(ii) a plan for providing needed services
for the prevention and treatment of juvenile
delinquency in rural areas; and
‘‘(iii) a plan for providing needed mental
health services to juveniles in the juvenile
justice system;’’; and
(iii) by striking subparagraphs (C) and (D);
(G) by striking paragraph (9) and inserting
the following:
‘‘(9) provide for the coordination and maximum utilization of existing juvenile delinquency programs, programs operated by public and private agencies and organizations,
and other related programs (such as education, special education, recreation, health,
and welfare programs) in the State;’’;
(H) in paragraph (10)—
(i) in subparagraph (A), by striking ‘‘, specifically’’ and inserting ‘‘including’’; and
(ii) by striking subparagraph (B) and inserting the following:
‘‘(B) programs that assist in holding juveniles accountable for their actions, including
the use of graduated sanctions and of neighborhood courts or panels that increase victim satisfaction and require juveniles to
make restitution for the damage caused by
their delinquent behavior;’’;
(iii) in subparagraph (C), by striking ‘‘juvenile justice’’ and inserting ‘‘juvenile crime
control’’;
(iv) by striking subparagraph (D) and inserting the following:
‘‘(D) programs that provide treatment to
juvenile offenders who are victims of child
abuse or neglect, and to their families, in
order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law;’’;
(v) in subparagraph (E)—
(I) by redesignating clause (ii) as clause
(iii); and
(II) by striking ‘‘juveniles, provided’’ and
all that follows through ‘‘provides; and’’, and
inserting the following:
‘‘juveniles—
‘‘(i) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations;
‘‘(ii) to provide services to assist juveniles
in making the transition to the world of
work and self-sufficiency; and’’;
(vi) by striking subparagraph (F) and inserting the following:
‘‘(F) expanding the use of probation officers—
‘‘(i) particularly for the purpose of permitting nonviolent juvenile offenders (including
status offenders) to remain at home with
their families as an alternative to incarceration or institutionalization; and
‘‘(ii) to ensure that juveniles follow the
terms of their probation;’’;
(vii) by striking subparagraph (G) and inserting the following:
‘‘(G) one-on-one mentoring programs that
are designed to link at-risk juveniles and juvenile offenders, particularly juveniles residing in high-crime areas and juveniles experiencing educational failure, with responsible
adults (such as law enforcement officers,
adults working with local businesses, and
adults working with community-based organizations and agencies) who are properly
screened and trained;’’;

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(vii) in subparagraph (H) by striking "handicapped youth" and inserting "juvenile with disabilities";
(ix) by striking subparagraph (K) and inserting the following:
"(K) boot camps for juvenile offenders;"
(x) by striking subparagraph (L) and inserting the following:
"(L) programs that utilize multidisciplinary interagency case management and information sharing, that enable the juvenile justice and law enforcement agencies, schools, and social service agencies to make more informed decisions regarding early identification, control, supervision, and treatment of juveniles who repeatedly commit violent juvenile delinquent acts; and"
"(M) other activities (such as court-appointed advocates) that the State determines will hold juveniles accountable for their acts and decrease juvenile involvement in delinquent activities;"
(xii) in subparagraph (O)—
(1) in striking "cultural" and inserting "other;" and
(2) by striking the period at the end and inserting a semicolon; and
(xiii) by adding at the end the following:
"(P) programs that utilize multidisciplinary interagency case management and information sharing, that enable the juvenile justice and law enforcement agencies, schools, and social service agencies to make more informed decisions regarding early identification, control, supervision, and treatment of juveniles who repeatedly commit violent juvenile delinquent acts; and"
"(Q) programs designed to prevent and reduce hate crimes committed by juveniles;"
(x) by striking paragraph (12) and inserting the following:
"(12) shall, in accordance with rules issued by the Administrator, provide that—
(A) juveniles who are charged with or who have committed an offense that would not be criminal if committed by an adult, excluding—
(i) juveniles who are charged with or who have committed a violation of section 922(x)(2) of title 18, United States Code, or of a similar State law;
(ii) juveniles who are charged with or who have committed a violation of a valid court order; and
(iii) juveniles who are held in accordance with the Interstate Compact on Juveniles, as enacted by the State, shall not be placed in secure detention facilities or secure correctional facilities; and
(B) juveniles—
(i) who are not charged with any offense; and
(ii) who are—
(I) aliens; or
(II) alleged to be dependent, neglected, or abused;
shall not be placed in secure detention facilities or secure correctional facilities;"
(J) by striking paragraph (13) and inserting the following:
"(13) provide that—
(A) juveniles alleged to be or found to be delinquent, and juveniles within the purview of parole or probation service who are detained or confined in any institution in which they have prohibited physical contact or sustained oral communication (as defined in subparagraphs (D) and (E)) with adults incarcerated because such adults have been convicted of a crime or are awaiting trial on criminal charges; and
(B) to the extent practicable, violent juvenile delinquents shall be kept separate from non-violent juveniles within the State and from adults in correctional facilities that have been trained and certified to work with juveniles;"
(J) the term "proximity that provides an opportunity for physical contact between a juvenile and an adult inmate; and"
"(I) communication that is accidental or incidental;"
"(II) words or noises that cannot reasonably be considered to be speech; or"
"(III) does not include—
(I) communication that is brief and incidental or accidental; and
(II) the term ‘sustained oral communication’ means the imparting or interchange of speech by or between an adult inmate and a juvenile;"
(K) by striking paragraph (14) and inserting the following:
"(14) provide that no juvenile will be detained or confined in any jail or lockup for adults except—
(A) juveniles who are accused of non-violent offenses, who are detained or confined in such a jail or lockup for a period not to exceed 6 hours—
(i) for processing or release;
(ii) while awaiting transfer to a juvenile facility; or
(iii) in which period such juveniles make a court appearance;
(B) juveniles who are accused of non-violent offenses, who are awaiting an initial court appearance that will occur within 48 hours after being taken into custody (excluding Saturdays, Sundays, and legal holidays), and who are detained or confined in a jail or lockup—
(i) in which—
(1) such juveniles do not have prohibited physical contact or sustained oral communication (as defined in subparagraphs (D) and (E)) with adults incarcerated because such adults have been convicted of a crime or are awaiting trial on criminal charges;
(2) to the extent practicable, violent juveniles shall be kept separate from non-violent juveniles; and
(3) there is in effect in the State a policy to the extent practicable, violent juveniles shall be kept separate from non-violent juveniles; and
(III) there is in effect in the State a policy that requires individuals who work with both such juveniles and such adults in co-located facilities have been trained and certified to work with juveniles;"
(L) in paragraph (15)—
(i) by striking "paragraph (12)(A), paragraph (13), and paragraph (19)" and inserting "paragraphs (11), (12), and (13)"; and
(ii) by striking "paragraph (12)(A) and paragraph (13)" and inserting "paragraphs (11) and (12)";
(M) in paragraph (16) by striking "mentally, emotionally, or physically handicapped youth;" and
"(O) by striking paragraph (19) and inserting the following:
"(O) address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system;"
(P) by striking paragraph (24) and inserting the following:
"(P) provide that if a juvenile is taken into custody for violating a valid court order issued for committing a status offense—
(A) an appropriate public agency shall be promptly notified that such juvenile is held in custody for violating such order;
(B) not later than 24 hours after the juvenile is taken into custody and during which the juvenile is so held, an authorized representative of such agency shall interview, in person, such juvenile; and
(C) not later than 48 hours after the juvenile is taken into custody and during which the juvenile is so held—
(i) such representative shall submit an assessment to the court that issued such order, regarding the immediate needs of such juvenile; and
(ii) such court shall conduct a hearing to determine—
(1) whether there is reasonable cause to believe that such juvenile violated such order; and
(2) the appropriate placement of such juvenile pending disposition of the violation alleged;"
(Q) in paragraph (25) by striking the period at the end and inserting a semicolon;
(R) by redesignating paragraphs (7) through (25) as paragraphs (6) through (24), respectively; and
(S) by adding at the end the following:
"(25) specify a percentage (if any), not to exceed 5 percent, of funds received by the State under section 222 (other than funds made available to the State advisory group under section 222(d)) that the State will reserve for expenditure by the State to provide incentive grants to units of general local government that reduce the number of probation officers within such units;" and
(2) by striking subsection (c) and inserting the following:
"(c) If a State fails to comply with any applicable requirement of paragraph (11), (12), (13), or (22) of subsection (a) in any fiscal year beginning after September 30, 1999, then the amount allocated to such State for the subsequent fiscal year shall be reduced by not less than 12.5 percent for each such paragraph that applies with respect to which the failure occurs, unless the Administrator determines that the State—
(1) has achieved substantial compliance with all applicable requirements with respect to which the State was not in compliance; and
Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part 4 as added by section 4217 of this title, the following:

SEC. 292A. AUTHORITY TO MAKE GRANTS.

‘‘The Administrator may make grants to eligible States, from funds allocated under section 292A, for the purpose of providing financial assistance to eligible entities to carry out projects designed to prevent juvenile delinquency, including—

(1) projects that assist in holding juveniles accountable for their actions, including the use of neighborhood courts or panels that increase victim satisfaction and reduce juvenile delinquency, violence, or delinquency-related crime; (2) projects that provide treatment to juvenile offenders who are victims of child abuse or neglect, and to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law; (3) educational projects or supportive services for delinquent or other juveniles—

(A) to encourage juveniles to remain in elementary or secondary schools or in alternative learning situations in educational settings; (B) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency; (C) to assist in identifying learning difficulties (including learning disabilities); (D) to prevent unarranted and arbitrary suspensions and expulsions; (E) to encourage new approaches and techniques with respect to the prevention of school vandalism; (F) which assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other disabled juveniles; or (G) which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies;

(4) projects which expand the use of probation officers—

(A) particularly for the purpose of permitting violent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

(B) to ensure that juveniles follow the terms of their probation;

(5) one-on-one mentoring projects that are designed to link at-risk juveniles and juvenile offenders who did not commit the crime, particularly juveniles residing in high-crime areas and juveniles experiencing educational failure, with responsible adults (such as law enforcement officers, adults working with local businesses, and adults working for community-based organizations and agencies) who are properly screened and trained;

(6) community-based projects and services (including literacy and social service programs) which work with juvenile offenders, including those from families with limited English-speaking proficiency, their parents, their siblings, and other family members, to prevent the recidivism of juvenile offenders, in order to strengthen families, to allow juvenile offenders to be retained in their homes, and to prevent the involvement of juvenile family members in delinquent activities;

(7) projects designed to provide for the treatment of juveniles for dependence on or abuse of alcohol, drugs, or other harmful substances;

(8) projects which leverage funds to provide scholarships for postsecondary education for at-risk juvenile offenders who reside in neighborhoods with high rates of poverty, violence, and drug-related crimes;

(9) projects which provide for an initial intake screening of each juvenile taken into custody—

(A) to determine the likelihood that such juvenile will commit a subsequent offense; and

(B) to provide appropriate interventions, including mental health services and substance abuse services, to prevent such juvenile from committing subsequent offenses;

(10) projects (including school- or community-based projects) that are designed to prevent, reduce, or the participation of juveniles in gangs that commit crimes (particularly violent crimes), that unlawfully traffic in drugs and that involve, to the extent practicable, families and other community members (including law enforcement personnel and members of the business and community) in the activities conducted under such projects;

(11) comprehensive juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local systems juvenile encounters, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering services to juveniles;

(12) to develop, implement, and support, in conjunction with public and private agencies, organizations, and businesses, projects for the employment of juveniles and referral to job training programs, including reference to Federal job training programs;

(13) delinquency prevention activities which involve youth clubs, sports, recreation and enrichment programs, the arts, leadership development, community service, volunteer service, before- and after-school programs, violence prevention activities, mediation skills training, camping, environmental education, ethnic or cultural enrichment, tutoring, and academic enrichment;

(14) family strengthening activities, such as mutual support groups for parents and their children;

(15) programs that encourage social competencies, problem-solving skills, and communication skills, youth leadership, and civic involvement;

(16) programs that focus on the needs of young girls at-risk of delinquency or status offenses; and

(17) other activities that are likely to prevent juvenile delinquency.’’

SEC. 292A. ALLOCATION.

‘‘Funds appropriated to carry out this part shall be allocated among eligible States as follows:

(1) 0.75 percent shall be allocated to each State.

(2) Of the total amount remaining after the allocation under paragraph (1), there shall be allocated to each State as follows:

(A) 30 percent of such amount shall be allocated proportionately based on the annual average number of arrests for serious crimes committed in the eligible States by juveniles during the then most recently completed period of consecutive fiscal years for which sufficient information is available to the Administrator.

(B) 50 percent of such amount shall be allocated proportionately based on the annual average number of arrests for serious crimes committed in the eligible States by juveniles during the then most recently completed period of consecutive fiscal years for which sufficient information is available to the Administrator.

(C) 20 percent of such amount shall be allocated proportionately based on the annual average number of arrests for serious crimes committed in the eligible States by juveniles during the then most recently completed period of consecutive fiscal years for which sufficient information is available to the Administrator.

SEC. 292B. ELIGIBILITY OF STATES.

‘‘(A) APPLICATION.—To be eligible to receive a grant under section 292, a State shall submit to the Administrator an application that contains the following:

(i) An assurance that the State will use—

(A) not more than 5 percent of such grant, in the aggregate, for—

(I) the costs incurred by the State to carry out this part; and

(ii) to evaluate, and provide technical assistance relating to, projects and activities carried out with funds provided under this part; and

(B) the remainder of such grant to make grants under section 292C.

(ii) An assurance that, and a detailed description of how, such grant will support, and not supplant State and local efforts to prevent juvenile delinquency.

(iii) An assurance that such application was prepared after consultation with and participation by community-based organizations, and organizations in the local juvenile justice system, that carry out programs, projects, or activities to prevent juvenile delinquency.

(iv) An assurance that each eligible entity described in section 292C(a) that receives an initial grant under section 292 to carry out a project or activity shall also receive an assurance from the State that such entity will receive from the State, for the subsequent fiscal year to carry out such project or activity, a grant under such section in an amount that is proportional, based on such initial grant and on the amount of the grant received under section 292 by the State for such subsequent fiscal year, but that does not exceed the amount of such subsequent fiscal year in such application as approved by the State.

Such other information and assurances as the Administrator may reasonably require by rule.

(B) APPROVAL OF APPLICATIONS.—Subject to paragraph (2), the Administrator shall approve an application, and amendments to such application submitted in subsequent fiscal years, which satisfy the requirements of subsection (a).

(2) LIMITATION.—The Administrator may not approve such application (including any amendment to such application) for a fiscal year unless—

(A) the State submitted a plan under section 223 for such fiscal year; and

(B) such plan is approved by the Administrator for such fiscal year; or

(C) the Administrator waives the application of subparagraph (A) to such State for such fiscal year, after finding good cause for such a waiver.

SEC. 292C. GRANTS FOR LOCAL PROJECTS.

(A) SELECTION FROM AMONG APPLICATIONS.—

(1) IN GENERAL.—Using a grant received under section 292, a State may make grants to eligible entities whose applications are reviewed by the State in accordance with subsection (b) to carry out projects and activities described in section 292.
‘(2) For purposes of making grants under this section, the State shall give special consideration to eligible entities that—

‘(A) propose to carry out such projects in geographical areas which are not already being served by Federal, State, and local government, or social service provider, including prosecutors, police officers, judges, probation officers, parole officers, and public defender or public defense education authority (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 and including a school within such authority), non-profit private organization, unit of general local government, or social service provider, and or other entity with a demonstrated history of involvement in activities designed to prevent juvenile delinquency; and

‘(B) describes a project or activity to be carried out in the geographical area under the jurisdiction of such unit.

‘(3) The amount of resources (in cash or in kind) such entities will provide to carry out such projects and activities.

‘(b) Receipt of Applications.—

‘(1) In General. Subject to paragraph (2), a unit of general local government shall submit to the State simultaneously all applications, as specified in paragraph (1), such entity may submit such application directly to the State.

‘(A) timely received by such unit from eligible entities; and

‘(B) determined by such unit to be consistent with a current plan formulated by such unit for the purpose of preventing, and reducing the rate of, juvenile delinquency in the geographical area under the jurisdiction of such unit.

‘(2) Direct Submission to State.—If an application submitted to such unit by an eligible entity satisfies the requirements specified in subparagraphs (A) and (B) of paragraph (1), such entity may submit such application directly to the State.

‘SEC. 292D. ELIGIBILITY OF ENTITIES.

‘(a) Eligibility.—Subject to subsections (b) and except as provided in subsection (c), to be eligible to receive a grant under section 292C, a community-based organization, local juvenile justice system officials (including prosecutors, police officers, judges, probation officers, parole officers, and public defender or public defense education authority (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 and including a school within such authority), non-profit private organization, unit of general local government, or social service provider, and or other entity with a demonstrated history of involvement in the prevention of juvenile delinquency, shall submit to a unit of general local government an application that contains the following:

‘(1) An assurance that such applicant will use such grant, and such grant received for the subsequent fiscal year, to carry out throughout a 2-year period a project or activity described in reasonable detail, and of a kind described in 1 or more of paragraphs (1) through (14) of section 292 as specified in such application,

‘(2) A statement of the particular goals such project or activity is designed to achieve, and the methods such entity will use to achieve, and assess the achievement of, each such goal,

‘(3) A statement identifying the research (if any) such entity relied on in preparing such application,

‘(b) Review and Submission of Applications.—Except as provided in subsection (c), an entity shall not be eligible to receive a grant under section 292C unless—

‘(1) such entity submits to a unit of general local government an application that—

‘(A) satisfies the requirements specified in subsection (a); and

‘(B) indicates that such entity shall provide to carry out such projects or activities that are multidisciplinary and involve other entities or organizations (if any) such entity relied on in preparing such application.

‘(2) such application contains the following:

‘(i) a project or activity consistent with a current plan formulated by such unit for the purpose of preventing, and reducing the rate of, juvenile delinquency in the geographical area under the jurisdiction of such unit.

‘(ii) Limitation.—If an entity that receives a grant under section 292C to carry out a project or activity for a 2-year period, and receives technical assistance from the State or the Administrator after requesting such technical assistance (if any), fails to demonstrate, before the expiration of such 2-year period, such entity has achieved substantial success in achieving the goals specified in the application submitted by such entity to receive such grants, then such entity shall not be eligible to receive any subsequent grant under such section to continue to carry out such project or activity.

‘SEC. 292O. RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING.

‘Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by adding after section 2959 of this title, the following:

‘PART K—RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING.

‘SEC. 292O. RESEARCH; EVALUATION; STATISTICAL ANALYSES; INFORMATION DISSEMINATION.

‘(a) RESEARCH AND EVALUATION.—(1) The Administrator may—

‘(A) plan and identify, after consultation with the Director of the National Institute of Justice, the purposes and goals of all agreements carried out with funds provided under this subsection; and

‘(B) make agreements with the National Institute of Justice or, subject to the approval of the Attorney General for the Office of Justice Programs, with another Federal agency authorized by law to conduct research or evaluation in juvenile justice matters, for the purpose of providing research and evaluation relating to—

‘(i) the prevention, reduction, and control of juvenile delinquency and serious crime committed by juveniles;

‘(ii) the link between juvenile delinquency and the incarceration of members of the families of such persons;

‘(iii) successful efforts to prevent first-time minor offenders from committing subsequent involvement in serious crime;

‘(iv) successful efforts to prevent recidivism;

‘(v) the juvenile justice system;

‘(vi) juvenile violence; and

‘(vii) other purposes consistent with the purposes of this title and title I.

‘(2) The Administrator shall ensure that an equitable amount of funds available to carry out the purposes of this subpart is used for research and evaluation relating to the prevention of juvenile delinquency.

‘(b) STATISTICAL ANALYSES.—The Administrator may—

‘(1) plan and identify, after consultation with the Director of the Bureau of Justice Statistics, the purposes and goals of all agreements carried out with funds provided under this subsection; and

‘(2) make agreements with the Bureau of Justice Statistics, or subject to the approval of the Assistant Attorney General for the Office of Justice Programs, with another Federal agency authorized by law to undertake statistical work in juvenile justice matters, for the purpose of providing technical assistance, analysis, and dissemination of statistical data and information relating to juvenile delinquency and serious crimes committed by juveniles, to the juvenile justice system, to juvenile violence, and to other purposes consistent with the purposes of this title and title I.

‘(c) COMPETITIVE SELECTION PROCESS.—The Administrator shall use a competitive process, established by rule by the Administrator, to carry out subsection (b).

‘(d) IMPLEMENTATION OF AGREEMENTS.—A Federal agency that makes an agreement under subsections (a)(1)(B) and (b) with the Administrator may carry out such agreement directly or by making grants to or contracts with public and private agencies, institutions, and organizations.

‘(e) INFORMATION DISSEMINATION.—The Administrator may—

‘(1) review reports and data relating to the juvenile justice system in the United States and in foreign nations (as appropriate), collect data and information from studies and research into all aspects of juvenile delinquency (including the causes, prevention, and treatment of juvenile delinquency) and serious crimes committed by juveniles;

‘(2) establish and operate, directly or by contract, a clearinghouse and information center for the preparation, and dissemination of information relating to juvenile delinquency, including State and local prevention and treatment programs, plans, training, and technical assistance programs; and

‘(3) make grants and contracts with public and private agencies, institutions, and organizations, for the purpose of disseminating information to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts, corrections, related services, in the establishment, implementation, and operation of projects and activities for which financial assistance is provided under this title.

‘SEC. 292A. TRAINING AND TECHNICAL ASSISTANCE.

‘(a) Training.—The Administrator may—

‘(1) develop and carry out projects for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts, corrections, related services, to carry out the purposes specified in section 102; and

‘(2) make grants to and contracts with public and private agencies, institutions, and organizations for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts, corrections, related services, to carry out the purposes specified in section 102.

‘(b) Technical Assistance.—The Administrator may—

‘(1) develop and implement projects for the purpose of providing technical assistance to representatives and personnel of public and private agencies and organizations, including practitioners in juvenile justice, law enforcement, courts, corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title; and

‘(2) make grants to and contracts with public and private agencies, institutions, and organizations, for the purpose of providing technical assistance to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts, corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title.”."
SEC. 4261. DEMONSTRATION PROJECTS.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part K, as added by section 4260 of this title, the following:

"PART L—DEVELOPING, TESTING, AND DEMONSTRATING PROMISING NEW INITIATIVES AND PROGRAMS"

"SEC. 294. GRANTS AND PROJECTS.

"(a) AUTHORITY To Make Grants. —The Administrator may make grants to and contracts with States, units of general local government, officials of tribal governments, public and private agencies, organizations, and individuals, or combinations thereof, to carry out projects for the development, testing, or demonstration of promising initiatives and programs for preventing, control, or reduction of juvenile delinquency. The Administrator shall ensure that, to the extent reasonable and practicable, such grants are made to achieve an equitable geographical distribution of such projects throughout the United States.

"(b) USE Of GRANTS. —A grant made under subsection (a) may be used to pay all or part of the cost of the project for which such grant was made.

"SEC. 294A. GRANTS FOR TECHNICAL ASSISTANCE.

"The Administrator may make grants to and contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local government, Indian tribal governments, local private entities or agencies, or any combination thereof, to carry out the projects for which grants are made under section 261.

"SEC. 294B. ELIGIBILITY.

"To be eligible to receive a grant made under this part, a public or private agency, Indian tribal government, organization, institution, individual or combination thereof shall submit an application to the Administrator at such time, in such form, and containing such information as the Administrator may require by rule.

"SEC. 294C. REPORTS.

"(1) Recipients of grants made under this part shall submit to the Administrator such reports as may be requested by the Administrator to describe progress achieved in carrying the projects for which such grants are made.

"SEC. 4262. AUTHORIZATION OF APPROPRIATIONS.

Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (e)—

(A) by striking “may be used for”; and

(B) in paragraph (1), by inserting “may be used for” after “(1);” and

(C) by striking paragraph (2) and inserting the following:

“(2) may not be used for the cost of construction of any short- or long-term facilities for juveniles offenders, except that not more than 15 percent of the funds received under this title by a State for a fiscal year may be used for the purpose of removing or replacing juvenile facilities.”;

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

"SEC. 4263. LIMITATION ON USE OF FUNDS.

Part M of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as redesignated by section 4217 of this title, is amended by adding at the end the following:

"SEC. 299F. LIMITATION ON USE OF FUNDS.

“None of the funds made available to carry out this title may be used to advocate for, or support, the unsecured release of juveniles who are charged with a violent crime.”

"SEC. 4266. RULES OF CONSTRUCTION.

"Nothing in this title or title II may be construed—

(1) to prevent financial assistance from being awarded through grants under this title to any other eligible organization; or

(2) to modify or affect any Federal or State law relating to collective bargaining rights of employees.”

"SEC. 4267. LEASING SURPLUS FEDERAL PROPERTY.

Part M of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as amended by section 4265 of this title, is amended by adding at the end the following:

"SEC. 299H. LEASING SURPLUS FEDERAL PROPERTY.

“The Administrator may receive surplus Federal property (including facilities) and may lease such property to States and units of general local government for use in or as facilities for rehabilitation, or for use as facilities for delinquency prevention and treatment activities.”

"SEC. 4268. ISSUANCE OF RULES.

Part M of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as amended by section 4267 of this title, is amended by adding at the end the following:

"SEC. 299I. ISSUANCE OF RULES.

“The Administrator shall issue rules to carry out this title, including rules that establish priorities and methods for making grants and contracts, and distributing funds available, to carry out this title.”

"SEC. 4269. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TECHNICAL AMENDMENTS.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended—

(1) in section 222(b), by striking “prescribed for GS-18 of the General Schedule by section 5332” and inserting “payable under section 5336”;

(2) in section 221(b)(2), by striking the last sentence; and

(3) in section 299D, by striking subsection (d).

(b) CONFORMING AMENDMENTS.—

(1) Title IV—Section 5315 of title 5, United States Code, is amended by striking “Office of Juvenile Justice and Delinquency Prevention” and inserting “Office of Juvenile Crime Control and Delinquency Prevention”.

(2) Title VIII.—Section 835(b) of title 18, United States Code, is amended by striking “Juvenile Justice and Delinquency Prevention” and inserting “Office of Juvenile Crime Control and Delinquency Prevention”.

(3) Title XI.—Sections 111(a)(1), (3), (4), and (5) of title 11, United States Code, is amended by striking “Office of Juvenile Justice and Delinquency Prevention” and inserting “Office of Juvenile Crime Control and Delinquency Prevention”.


"SEC. 4270. REFERENCES.

In any Federal law (excluding this Act and the Acts amended by this Act)—

(1) a reference to the Office of Juvenile Justice and Delinquency Prevention shall be deemed to include a reference to the Office of Juvenile Crime Control and Delinquency Prevention; and

(2) a reference to the National Institute for Juvenile Justice and Delinquency Prevention shall be deemed to include a reference to Office of Juvenile Crime Control and Delinquency Prevention.

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CONGRESSIONAL RECORD—SENATE

January 22, 2001
PART 6—LOCAL GUN VIOLENCE PREVENTION PROGRAMS

SEC. 4271. COMPETITIVE GRANTS FOR CHILDREN’S FIREARM SAFETY EDUCATION.

(a) PURPOSE.—The purposes of this section are—

(1) to award grants to assist local educational agencies, in consultation with community groups and law enforcement agencies, in educating children about preventing gun violence; and

(2) to assist communities in developing partnerships between public schools, community law enforcement agencies, and parents in educating children about preventing gun violence.

(b) DEFINITIONS.—In this section:

(1) LOCAL EDUCATIONAL AGENCY.—The term ‘‘local educational agency’’ has the same meaning given such term in section 4101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101 et seq.).

(2) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of Education.

(3) STATE.—The term ‘‘State’’ means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

(c) ALLOCATION OF COMPETITIVE GRANTS.—

(1) GRANTS BY THE SECRETARY.—For any fiscal year in which the amount appropriated to carry out this section does not equal or exceed $50,000,000, the Secretary of Education may award competitive grants described under subsection (d).

(2) GRANTS BY THE STATES.—For any fiscal year in which the amount appropriated to carry out this section exceeds $50,000,000, the Secretary of Education shall make allotments to State educational agencies pursuant to paragraph (3) to award competitive grants described in subsection (d).

(3) FORMULA.—Except as provided in paragraph (4), funds appropriated to carry out this section shall be allocated among the States as follows:

(A) MINORS.—75 percent of such amount shall be allocated proportionately based upon the population that is less than 18 years of age in the State.

(B) INCARCERATED MINORS.—25 percent of such amount shall be allocated proportionately based upon the population that is less than 18 years of age in the State that is incarcerated.

(4) MINIMUM ALLOTMENT.—Of the amounts appropriated to carry out this section, 0.50 percent shall be allocated to each State.

(d) AUTHORIZATION OF COMPETITIVE GRANTS.—The Secretary or the State educational agency, as the case may be, may award grants to eligible local educational agencies for the purposes of educating children about preventing gun violence, in accordance with the following:

(1) ASSURANCES.—

(A) AMOUNT OF FUNDS DISTRIBUTED.—The Secretary or the State educational agency, as the case may be, shall ensure, to the maximum extent practicable—

(i) a reasonable geographic distribution of grant awards;

(ii) an equitable distribution of grant awards among programs that serve elementary and secondary school students, and a combination of both; and

(iii) that urban, rural and suburban areas are represented within the grants that are awarded.

(B) PRIORITY.—In awarding grants under this section, the Secretary or the State educational agency, as the case may be, shall give priority to a local educational agency that—

(A) coordinates with other Federal, State, and local programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.);

(B) serves a population with a high incidence of firearm school and other school property or students suspended or expelled for bringing a weapon onto school grounds or engaging in violent behavior on school grounds; and

(C) forms a partnership that includes not less than 1 local educational agency working in consultation with not less than 1 public or private nonprofit agency or organization with experience in violence prevention or 1 local law enforcement agency.

(2) PEER REVIEW; CONSULTATION.—

(A) IN GENERAL.—

(i) PEER REVIEW PANEL.—Before grants are awarded, the Secretary shall submit grant applications to a peer review panel for evaluation.

(ii) COMPOSITION OF PANEL.—The panel shall be composed of not more than 1 representative from a local educational agency, State educational agency, a local law enforcement agency, and a public or private nonprofit organization with experience in violence prevention.

(B) CONSULTATION.—The Secretary shall submit grant applications to the Attorney General for consultation.

(3) ELIGIBLE GRANT RECIPIENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), an eligible grant recipient is a local educational agency that may work in partnership with 1 or more of the following:

(A) a public or private nonprofit agency or organization with experience in violence prevention;

(B) a local law enforcement agency;

(C) an institution of higher education.

(2) EXCEPTION.—A State educational agency may, with the approval of the local educational agency or a consortium of such agencies, award grants to a local educational agency that serves a population with a high incidence of firearm school and other school property or students suspended or expelled for bringing a weapon onto school grounds or engaging in violent behavior on school grounds.

(4) LOCAL APPLICATIONS; REPORTS.—

(1) APPLICATIONS.—Each local educational agency that wishes to receive a grant under this section shall submit an application to the Secretary and the State educational agency that includes—

(A) a description of the proposed activities to be funded by the grant and how each activity will further the goal of educating children about preventing gun violence;

(B) how the program will be coordinated with other programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.); and

(C) the age and number of children that the programs will serve.

(2) REPORTS.—Each local educational agency that receives a grant under this section shall submit a report to the Secretary and to the State educational agency not later than 18 months after the grant is awarded and submit an additional report to the Secretary and to the State not later than 36 months after the grant is awarded. Each report shall include information that—

(A) the activities conducted to educate children about gun violence;

(B) how the program will continue to educate children about gun violence in the future; and

(C) how the grant is being coordinated with other Federal, State, and local programs that educate children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.).

(5) AUTHORIZED ACTIVITIES.—

(1) REQUIRED ACTIVITIES.—Grants authorized under subsection (d) shall be used for the following activities:

(A) Educating children about personal health, safety, and responsibility, including programs carried out under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.).

(B) Educating children about the effects of gun violence.

(C) Educating children to identify dangerous situations in which guns are involved and how to avoid and prevent such situations.

(D) Educating children how to identify themselves and other indicators that their peers are in possession of a gun and may use a gun, and what steps they can take in such situations.

(E) Developing programs to give children access to adults to whom they can report, in a confidential manner, any problems relating to guns.

(F) NONFINANCIAL ACTIVITIES.—Grants authorized under subsection (d) may be used for the following:

(A) Encouraging schoolwide programs and partnership plans that educate teachers, students, parents, administrators, other staff, and members of the community in reducing gun incidents in public elementary and secondary schools.

(B) Establishing programs that assist parents in helping educate their children about firearm safety and the prevention of gun violence.

(C) Providing ongoing professional development for public school staff and administrators to identify the causes and effects of gun violence and risk factors and student behavior that may result from partnering training sessions to review and update school crisis response plans and school policies for preventing the presence of guns on school grounds and facilities.

(D) Providing technical assistance for school psychologists and counselors to provide timely counseling and evaluations, in accordance with State and local laws, of students who possess a weapon on school grounds.

(E) Improving security on public elementary and secondary school campuses used to prevent outside persons from entering school grounds with firearms.

(F) Assisting public schools and community organizations in developing crisis response plans when firearms are found on school campuses and when gun-related incidents occur.

(g) AUTHORIZED ACTIVITIES; CONTENTS.—

(1) STATE APPLICATIONS.—

(A) CONTENTS.—Each State desiring to receive funds under this section shall, through its State educational agency, submit an application to the Secretary of Education at such time and in such form as the Secretary shall require. Such application shall describe—

(i) the manner in which funds under this section will be used to support State activities and competitive grants will be used to fulfill the purposes of this section;
(ii) the manner in which the activities and projects supported by this section will be coordinated with other State and Federal education, law enforcement, and juvenile justice programs, including the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.);

(iii) the manner in which States will ensure adequate accountability, geographic distribution of grants, and:

(iv) the criteria which will be used to determine the impact and effectiveness of the funds provided under this section.

(b) FORM.—A State educational agency may submit an application to receive a grant under this section under paragraph (i) or as an amendment to an application for the educational agency submits under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.).

(2) STATE ACTIVITIES.—Of appropriated amounts allocated to the States under subsection (c)(2), the State educational agency may reserve not more than 10 percent for activities to further the goals of this section, including—

(A) providing technical assistance to eligible grant recipients in the State;

(B) performing ongoing research into the causes of gun violence among children and methods to prevent gun violence among children;

(C) providing ongoing professional development for public school staff and administrators to identify the causes and indications of gun violence.

(3) STATE REPORTS.—Each State receiving an allotment under this section shall submit a report to the Secretary and to the Committees on Health, Education, Labor, and Pension to the Judiciary of the Senate and the Committees on Education and Workforce and the Judiciary of the House of Representatives, not later than 12 months after receipt of the grant and shall submit an additional report to those committees not later than 36 months after receipt of the grant award. Each report shall include information regarding—

(A) the progress of local educational agencies that received a grant award under this section in the State in educating children about firearms;

(B) the progress of State activities under paragraph (1) to advance the goals of this section; and

(C) how the State is coordinating funds allocated under this section with other State and Federal educational, law enforcement, and juvenile justice programs, including the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.).

(i) SUPPLEMENT NOT SUPPLANT.—A State or local educational agency shall use funds received under this section only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for reducing gun violence among children and educating children about firearms, and not to supplant such funds.

(ii) DISPLACEMENT.—A local educational agency that receives a grant award under this section shall ensure that persons hired to carry out activities under this section do not displace persons already employed.

(k) HOME SCHOOLS.—Nothing in this section shall be construed to affect home schools.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for this section $1,000,000 for each of fiscal years 2002, 2003, and 2004.

SEC. 4272. DISSEMINATION OF BEST PRACTICES VIA THE INTERNET.

(a) MODERNIZATION.—The Secretary of Education shall include on the Internet site of the Department of Education a description of programs that receive grants under section 4271.

(b) GRANT PROGRAM NOTIFICATION.—The Secretary shall publicize the competitive grant program and post on the Internet site, the publication, and public service announcements.

SEC. 4273. GRANT PRIORITY FOR TRACING OF GUNS USED IN CRIMES BY JUVENILES.

Section 517 of the Omnibus Crime Control and Safe Streets Acts of 1968 (22 U.S.C. 7365) is amended by adding at the end the following:

‘‘(c) Gun violence. —In awarding discretionary grants under section 511 to public agencies to undertake law enforcement initiatives relating to gang crimes, including, but not limited to, an initiative involving expansion of risk of involvement in gangs, the Director shall give priority to a public agency that includes in its application a description of strategies or programs of that public agency (either in effect or proposed) that provide cooperation between Federal, State, and local law enforcement authorities, through the use of firearms and ballistic identification systems, to disrupt illegal sale or transfer of firearms to or between juveniles through tracing the sources of guns used in crime that were provided to juveniles.’’.

21ST CENTURY LAW ENFORCEMENT, CRIME PREVENTION, AND VICTIM ASSISTANCE ACT—SEC. 2101. TITLE: SUPPORTING LAW ENFORCEMENT AND THE EFFECTIVE ADMINISTRATION OF JUSTICE

Subtitle A. Support for Community Personnel

Sec. 1101. 21st century community policing initiative. —The Omnibus Crime Control and Safe Streets Act of FY2007. Authorizes funds for up to 50,000 police officers, 10,000 additional prosecutors, and 10,000 indigent defense attorneys. Authorizes $550 million for new law enforcement technology designed to improve police communications and promote comprehensive crime analysis.

Subtitle B. Protecting Federal, State, and Local Law Enforcement Officers and the Judiciary

Sec. 1201. Expansion of protection of Federal and State officers and employees from murder due to the performance of official duties. —Amends the criteria which will be used to determine if it is a crime to murder a Federal employee because of his or her status, as well as because of his or her official duties, with the same protection applies to a State or local government employee who is assisting a Federal official.

Sec. 1202. Assaulting, resisting, or impeding officers. —Amends the definition of an ‘‘official act’’ to include certain acts by Federal, State, and local officials or employees engaged in their official duties.

Sec. 1203. Influencing, intimidating, or retaliating against Federal, State, and local law enforcement officers. —Amends the definition of influencing or intimidating an official to include any instance where an individual verifiably threatens or makes a credible threat of physical violence against the official.

Sec. 1204. Multiple threats against a family. —Increases the maximum penalties for simple assault (from 1 to 3 years) and other assaults (from 10 to 20 years) on Federal officials acting in performance of their official duties, or persons acting in concert with a Federal employee.

Sec. 1205. Amendment of the sentencing guidelines for assaults and threats against Federal judges. —Decreases the maximum penalty for threatening a Federal judge by threatening or injuring a family member. Increases the maximum penalties for actual or attempted influencing, intimidating, or retaliating against a Federal official by threatening a family member of the employee, from 5 to 10 years, and from 3 to 6 years if the threat is to commit an assault.

Sec. 1206. Establishment of protective function on behalf of the President. —Declares that the President is a ‘‘Federal official.’’ Increases the maximum penalty for transferring a handgun to a juvenile or for a juvenile to unlawfully possess a handgun from 1 to 5 years.

Sec. 1207. Establishing protective function privilege. —Establishes a privilege against testimony by Secret Service officers charged with protecting the President, those in direct line for the Presidency, and visiting foreign heads of state.

Part I. Extension of Project Exile

Sec. 1311. Authorization of funding for additional State and local gun prosecutors. —Authorizes $150,000,000 in FY2002 to hire additional local and State prosecutors to expand the Project Exile program in high crime areas. Requires interdisciplinary team approach to prevent, reduce, and respond to firearm related crimes in partnership with communities.

Sec. 1312. Authorization of funding for additional Federal firearms prosecutors and gun enforcement teams. —Authorizes the Attorney General to hire 114 additional Federal prosecutors to prosecute violations of Federal firearms in up to 20 jurisdictions designated as high crime areas. Authorizes $70,000,000 for FY2002.

Part 2. Expansion of the Youth Crime Gun Interdiction Initiative

Sec. 1321. Youth Crime Gun Interdiction Initiative. —Directs the Secretary of the Treasury to expand participation in the Youth Crime Gun Interdiction Initiative (‘‘YCIGI’’). Authorizes grants to States and localities for purposes of assisting them in the tracing of firearms and participation in the YCIGI.

Part 3. Gun Offenses

Sec. 1331. Gun ban for dangerous juvenile offenders. —Prohibits juveniles adjudged delinquent for a serious violent felony from receiving or possessing a firearm, and makes it a crime for any person to sell or provide a firearm to someone they have reason to believe has been adjudged delinquent. This section applies only prospectively, and access to firearms may be restored under State restoration of rights provisions, but only if such restoration is on a case-by-case, rather than automatic basis.

Sec. 1332. Improving firearms safety. —Requires gun dealers to have secure gun storage devices available for sale, including any device or attachment to prevent a gun’s use by one not having regular access to the firearm, or a lockable safe or storage box.

Sec. 1333. Youth Possession of a Prohibited Device. —Increases the maximum penalty for transferring a firearm to a juvenile or a juvenile to unlawfully possess a handgun from 1 to 5 years.

Sec. 1334. Serious juvenile drug offenses as armed career criminal predicates. —Permits the use of an adjudication of juvenile delinquency for a serious drug offense as a predicate offense for determining whether a defendant falls within the Armed Career Criminal Act. That act provides additional penalties to offend for crimes of violence or drug crimes.

Sec. 1335. Prohibiting Federal employees from possessing a firearm or ammunition while on official duties. —Prohibits any Federal employee from possessing a firearm or ammunition while on official duties.
Sec. 1335. Increased penalty for transferring a firearm to a minor for use in crime of violence or drug trafficking crime. Increases the maximum penalty for providing a firearm to a juvenile that one knows will be used in a serious crime from 10 to 15 years.

Sec. 1336. Increased penalty for firearms conspiracy. Subjects conspirators to the same enhanced penalty for providing firearm to a minor that one knows will be used in a serious crime.

Part 4. Closing the Gun Show Loophole

Sec. 1341. Extension of Brady background checks to gun shows. Eliminates the gun show loophole by requiring criminal background checks on all gun sales at gun shows; clarifies that gun sellers and buyers are not subject to penalties unless they knowingly attempt to sell the bought firearm to someone who fails background checks; and amends the Brady law to prevent the Federal government from keeping records on qualified purchasers for more than 180 days.

Subtitle D. Assistance to States for Prosecuting and Punishing Juvenile Offenders, and Reducing Juvenile Crime

Sec. 1401. Juvenile and violent offender incarceration reduction strategy. Authorizes the Attorney General to make grants to States, local governments, or any combination thereof, to assist them in planning, establishing, and operating juvenile justice facilities, staff secure facilities detention centers, and other correctional programs for violent juvenile offenders.

Sec. 1402. Certain punishment and graduated punishment authority. Authorizes the Attorney General to make grants to States, local governments, or any combination thereof, to assist them in planning, establishing, and operating juvenile justice facilities, staff secure facilities detention centers, and other correctional programs for violent juvenile offenders.

Subtitle E. Ballistics, Law Assistance, and Safety Technology

Sec. 1501. Short title. This subtitle may be cited as the “Ballistics, Law Assistance, and Safety Technology Act” (“BLAST”).


Sec. 1511. Definition of ballistics. Defines terms used in this subtitle.

Sec. 1512. Test firing and automated storage of firearms. Requires a licensed manufacturer or importer to test fire firearms, prepare ballistics images, make records available to the Secretary of the Treasury, store all data on a computerized database, and store the fired bullet and cartridge casings. Directs the Attorney General and the Secretary to assist firearm manufacturers and importers in complying. Specifies that nothing herein creates a cause of action against any Federal firearms licensee or any other person for any civil liability except for imposition of a civil penalty under this section.

Sec. 1513. Privacy rights of law abiding citizens. Prohibits the use of ballistics information of individual guns for (1) investigatory purposes, unless law enforcement officials have a reasonable belief that a crime has been committed and that ballistics information would assist in the investigation of that crime, or (2) the creation of a national firearms registry.

Sec. 1514. Demonstration firearm crime reduction strategy. Directs the Secretary and the Attorney General to establish in the jurisdictional selection firearm crime reduction strategy. Requires the Secretary and the Attorney General to select the jurisdiction that does not fewer than ten jurisdictions for participation in the program. Sets forth provisions regarding selection criteria.

Subtitle F. Offender Reentry and Community Safety

Section 1601. Short title. This subtitle may be cited as the “Offender Reentry and Community Safety Act of 2001.”

Section 1602. Findings. Legislative findings in support of this subtitle. Sec. 1603. Purposes. Statement of legislative purposes.


Section 1611. Federal Reentry Center Demonstration. Establishes the Federal Reentry Center Demonstration project to assist participating Federal reentry jurisdictions in preparing for and adjusting to reentry into the community; details project duration and selection of districts in which to carry out programs.

Section 1612. Federal High-Risk Offender Reentry Demonstration. Establishes the Federal High-Risk Offender Reentry Demonstration project to assist participating Federal reentry jurisdictions in preparing for and adjusting to reentry into the community; details project duration and selection of districts in which to carry out programs.

Section 1613. District of Columbia Intensive Supervision, Tracking, and Reentry Training (DC iSTART) Demonstration. Establishes the District of Columbia Intensive Supervision, Tracking, and Reentry Training (DC iSTART) project. Uses intensive supervision to promote effective reentry into the community; notifies victims of prisoner reentry; details project duration and selection of districts in which to carry out programs.

Section 1614. Federal Intensive Supervision, Tracking, and Reentry Training (FED iSTART) Demonstration. Establishes the Federal Intensive Supervision, Tracking, and Reentry Training (FED iSTART) project. Uses intensive supervision to promote high risk parolees’ successful reentry into the community.

Section 1615. Federal Enhanced In-Prison Vocational Assessment and Training Demonstration. Establishes the Federal Enhanced In-Prison Vocational Assessment and Training Demonstration project to provide in-prison assessment of prisoners’ vocational needs, including education, readiness, and other programs to prepare Federal prisoners for reentry into the community.

Section 1616. Research and reports to Congress. Defines requirements for reporting on the effectiveness of the programs established in this subtitle.

Section 1617. Definitions. Defines terms used in this subtitle.


Part 2. State Reentry Grant Programs

Section 1621. Amendments to the Omnibus Crime Control and Safe Streets Act of 1968. Establishes adult offender reentry demonstration projects; State and local reentry courts; juvenile offender State and local reentry programs; and State reentry program research, development, and evaluation.
Sec. 2114. Expansion of definition of “racketeering activity” to affect gangs in Indian country. Expands the definition of racketeering activity to include acts or threats committed in Indian Country.

Sec. 2115. Increased penalties for violence in the course of riot offenses. Changes the current 5 year maximum penalty for violence in a riot to a maximum of life imprisonment where death results, or 20 years where serious bodily injury results.

Sec. 2116. Expansion of Federal jurisdiction over crime occurring in private penal facilities housing Federal prisoners or prisoners from other States. Expands the definition of prison and § 18 U.S.C. § 1346 (Title 18) to include, in addition to Federal prisons, the facilities used to house Federal prisoners or for interstate housing of prisoners.

Part 2. Targeting Gang-Related Gun Offenses

Sec. 2121. Transfer of firearm to commit a crime of violence. Increases the ability of prosecutors to punish those who facilitate crimes of violence by providing firearms to criminals. Specifies that it is a crime for a person to transfer a weapon to another when the person has “reason to know,” or actual knowledge, that the recipient of the weapon will use it to commit a crime of violence.

Sec. 2122. Increased penalty for knowingly receiving firearm with obliterated serial number. Increases from 5 to 10 years the maximum term of imprisonment for receiving a firearm with an obliterated serial number; makes the maximum penalty the same as for receiving a firearm known to be stolen.

Sec. 2123. Amendment of sentencing guidelines for transfers of firearms to prohibited persons. Directs the United States Sentencing Commission to enhance penalties for the transfer of a firearm to a person whom the defendant has reasonable cause to believe is prohibited from possessing the firearm.

Part 3. Using and Protecting Witnesses to Help Prosecute Gangs and Other Violent Criminals

Sec. 2131. Interstate travel to engage in witness intimidation or obstruction of justice. Adds witness bribery, witness intimidation, obstruction of justice, and related conduct in State criminal proceedings to the list of predicates under the Travel Act.

Sec. 2132. Directs the United States Sentencing Commission to enhance penalties for the crime of witness tampering for a particular person.

Sec. 2133. Conspiracy penalty for obstruction of justice offenses involving victims, witnesses, and informants. Makes a conspiracy to obstruct justice or obstruct the operation of a witness protection program a violation of the general conspiracy statute.

Sec. 2134. Allowing a reduction in sentence for crimes of violence. Provides that a defendant need only show that he was coerced into committing a crime, that he acted under duress or coercion, and that the defendant was attempting to withdraw from participation in the crime.

Part 4. Gang Paraphernalia

Sec. 2141. Streamlining procedures for law enforcement access to clone numeric pagers. Allows the use of clone pagers (devices used to capture numbers sent to another pager) with consent or on application to a court.

Sec. 2142. Sentencing enhancement for using body armor in commission of a felony. Requires the Sentencing Commission to adopt an appropriate sentencing enhancement for crimes committed by persons wearing body armor, and provides an exception where the defendant is a law enforcement officer, who often wears such armor in the course of official duties.

Sec. 2143. Sentencing enhancement for using laser sight devices in commission of a felony. Requires the Sentencing Commission to adopt an appropriate sentencing enhancement for the use or possession of a laser sighting device in the commission of a felony.

Sec. 2144. Government access to location information. Requires that mobile electronic communications service is to provide the real-time physical location of a customer’s cell phone only upon a court order finding probable cause connecting the subscriber to a felony.

Sec. 2145. Limitation on obtaining transactional information from pen registers or trap and trace devices. Provides that in other than calls or messages, the use of wiretap orders when the devices are used so as to minimize the interception of information other than that involved in processing the call (i.e. telephone numbers).

Subtitle B. Combating Money Laundering

Sec. 2201. Short title. This subtitle may be cited as “the Money Laundering Enforcement Act of 2001”.

Sec. 2202. Illegal money transmitting businesses. Provides that a defendant need only know that a money transmitting business lacked a license required by the State law, not that the operation of the business without the license was a criminal violation of State law. The government does not have to provide actual knowledge of State law.

Sec. 2203. Restraint of assets of persons arrested as a result of a money laundering prosecution. Responds to the ease with which money can be transferred from country to country by electronic means, and provides that any restraint of assets held within the United States when a person has been arrested or charged in a foreign country.

Sec. 2204. Civil money laundering jurisdiction over foreign persons. Provides “long arm” jurisdiction over foreign banks engaged in money laundering that have accounts in the United States, so that the foreign bank cannot claim that it lacks the minimum contacts with the United States for in personam jurisdiction.

Sec. 2205. Punishing money laundering through foreign banks. Amends civil money laundering provisions to include foreign as well as domestic banks in the definition of “financial institutions”.

Sec. 2206. Addition of serious foreign crimes to list of money laundering predicates. Expands the list of money laundering “specified unlawful activity,” or crimes for which money laundering prosecutions can be brought. Includes the following foreign crimes as predicate money laundering prosecution: (1) all crimes of violence not currently covered; (2) fraud against a foreign government; (3) bribery of or theft by a foreign official; (4) money laundering statutes as a single count.

Part 5. Gang Paraphernalia

Sec. 2211. Vendor in money laundering cases. Establishes that a money laundering prosecution can be brought in any district in which the transaction is conducted, where a prosecution for the underlying specified unlawful activity could be brought, or where an act in any conspiracy took place.

Sec. 2212. Technical amendment to restore wiretap authority for certain money laundering offenses. Restores Federal authority to obtain wiretaps in cases involving illegal structuring of currency transactions.

Sec. 2213. Criminal penalties for violations of anti-money laundering orders. Clarifies that criminal penalties apply to violations of Department of Treasury “geographic targeting orders” (temporary orders in enforcement of the Bank Secrecy Act). Violations occur where there are no money laundering reports or failures to make required reports.

Sec. 2214. Encouraging financial institutions to notify law enforcement of suspicious transactions. Requires financial institutions to make reports of suspicious financial transactions to law enforcement officials. The bill also includes electronic communications services that facilitate international transfer.
Sec. 2215. Coverage of foreign bank branches in the territories. Expands the definition of "State" to include commonwealths, territories, and possessions of the United States and territories of the International Banking Act of 1978.

Sec. 2216. Conforming statute of limitations amendment for certain bank fraud offenses. Provides a withholding requirement to conform section number references.

Sec. 2217. Jurisdiction over certain financial crimes committee abroad. Clarifies United States Semiconductor Export Hondafraud (credit card, debit card and telecommunications fraud) where the fraud has an effect on an entity within the United States.

Sec. 2218. Knowledge that property is the process of a felony. Clarifies the law regarding a defendant's knowledge of the source of money in a money laundering transaction. Although the offense must in fact be a felony, it is not necessary that the defendant be aware that the legislature has so classified the offense.

Sec. 2219. Money laundering transactions; commingled accounts. Clarifies the requirement in 18 U.S.C. §1967 that the monetary transaction exceed $10,000 in a criminally derived property. Discusses the impact on money laundering cases of commingled accounts, which contain both money and money in criminally derived property.

Sec. 2220. Laundering the process of terrorism. Provides an exception in the Antiterrorism and Effective Death Penalty Act of 1996 by making it an offense to launder money which was raised for the material support of a foreign terrorist organization. Current law makes it an offense to raise such funds but not to launder the same.

Sec. 2221. Violations of sections 6001. Requires any trade or business receiving more than $10,000 in cash to report the transaction to the IRS on Form 8300. Violations of the Form 8300 requirement will be treated the same as CTI and CMIR violations for forfeiture purposes.

Sec. 2222. Including agencies of tribal governments in the definition of a financial institution. Prevent tribes from offering "offshore banking" on Indian reservations by forming tribal banks that may conceal deposits from Federal Government. Clarifies that the state that issues a depository institution charter and money laundering statutes apply to banks owned or operated by Indian tribes.

Sec. 2223. Penalties for violations of geographic distractions and certain record keeping requirements. Correct ambiguity regarding reporting under the Bank Secrecy Act (BSA). Eliminates doubt concerning the applicability of reporting provisions in reports required by GTOs issued under 31 U.S.C. §5326.

Subtitle C. Antidrug Provisions

Sec. 2301. Amendments concerning temporary registration. Authorizes the Attorney General to schedule controlled substances on an emergency basis when that substance poses an immediate threat to health or public safety. Provides protections for legitimate researchers.

Sec. 2302. Amendment to reporting requirement for transactions involving certain listed chemicals and reporting of certain transactions involving ephedrine, pseudoephedrine and phenylpropanolamine to be exempted from reporting requirements with no negative impact on law enforcement goals.

Sec. 2303. Drug paraphernalia. Adds "packaging" to the list of uses included in the definition of "paraphernalia" in the Controlled Substances Act (21 U.S.C. §863(d)). Facilitates prosecution of those who manufacture packaging materials, sell them, and possess them.

Sec. 2304. Counterfeit substances/imitation controlled substances. Expands the definition of "counterfeit substance" to apply to any controlled substance which is represented to be or which imitates a controlled substance regardless of whether that controlled substance is of licit or illicit origin. Adds a new definition for imitation controlled substances.

Sec. 2305. Conforming amendment concerning marijuana plants. Corrects an inconsistency in the penalties relating to marijuana plants cited in 21 U.S.C. §841(b) and 21 U.S.C. §960(b). The former statute applies to domestically controlled substance trafficking violations and the latter to controlled substance offenses. The correction would make identical the number of marijuana plants cited in the provisions.

Sec. 2306. Sequencing illegal drug trafficking offenses as armed career criminal act predicates. Permits the use of an adjudication of juvenile delinquency based on a serious drug trafficking offense as a predicate offense under 18 U.S.C. §924(c).

Sec. 2307. Clarification of length of supervised release terms in controlled substance cases. Resolves a conflict in the circuits as to the permissible length of supervised release terms in controlled substance cases.

Sec. 2308. Clarification of scienter requirement for transactions involving certain listed chemicals. A new definition of "active participation" in maintaining a drug producing area of the world document transferred stations. Makes such a theft a felony in all criminal statutes. Adopts Federal law protecting the coverage of theft of vessels.

Sec. 2309. Increased penalties for using Federal property to grow or manufacture controlled substances. Increases the penalty for cultivating or manufacturing a controlled substance on Federal owned or leased land. Federal law enforcement agencies believe that the use of Federal lands for cultivating and manufacturing controlled substances is a new criminal offense. There is no possibility that the land will be forfeited as if the cultivation or manufacture took place on private property.

Sec. 2310. Clarification of scienter requirement for transactions involving certain listed chemicals. To include commonwealths, territories, and possessions of the United States. Clarifies that it is a crime to steal from a post office box or stamp vending machine irrespective of whether it is in a building used by the Postal Service.

Sec. 2311. Expansion of Federal theft offenses to cover theft of vehicles. Expands Federal law covering the transportation of stolen vehicles to include watercraft.

Subtitle E. Improvements to Federal Crimes Act

Part 1. Sentencing Improvements

Sec. 2411. Application of sentencing guidelines to all pertinent statutes. Clarifies that the rules and regulations promulgated by the United States Sentencing Commission are required to be consistent with all pertinent Federal statutes, not just the Federal criminal statutes within titles 18 and 28 of the United States Code.

Sec. 2412. Doubling maximum penalty for voluntary manslaughter. Increases the maximum penalty for voluntary manslaughter within the special maritime and territorial jurisdiction of the United States from 10 to 20 years. Brings it in line with related Federal penalties and the higher penalty for voluntary manslaughter under state law.

Sec. 2413. Authorization of imposition of both a fine and imprisonment rather than only either penalty in certain offenses. Provides that in any criminal statute or the rules and regulations promulgated by the United States Sentencing Commission are required to be consistent with all pertinent Federal statutes, not just the Federal criminal statutes within titles 18 and 28 of the United States Code.

Sec. 2414. Authorization of imposed sentences to be served as a prison sentence or as home confinement. Clarifies that it is a crime to issue a parole or supervised release for a term of years where it is the case if the cultivation or manufacture took place on private property.

Sec. 2415. Application of supervised release as a mitigating circumstance. Clarifies that if the cultivation or manufacture took place on private property.

Sec. 2416. Authority of court to impose a sentence of probation or supervised release when reducing a sentence of imprisonment in the case of a violation of probation or parole. Allows for a violation of probation or parole to be served as a prison sentence or as home confinement where a prisoner has a terminal illness that is contagious.

Sec. 2417. Elimination of sentence value requirement for felony theft or conviction of grand jury material. Eliminates the $1,000
felony threshold for thefts of government property under 18 U.S.C. § 641 where the material stolen is grand jury material.

Sec. 2417. Increased maximum corporate penalties for antitrust violations. In a false the maximum statutory fine for corporations convicted of criminal antitrust violations from the current Sherman Act maximum of $10,000,000 to a new maximum of $100,000,000.

Sec. 2418. Amendment of Federal sentencing guidelines for counterfeit bearer obligations. Directs the United States Sentencing Commission to amend the Sentencing Guidelines to enhance penalties for counterfeiting offenses, to address the recent increase of computer-generated counterfeit U.S. currency produced by inkjet printers and color copiers.

Part 2—Additional Improvements to Federal Criminal Law

Sec. 2421. Violence directed at dwellings in Indian country. Allows the prosecution of Indians as well as non-Indians who commit acts of violence directed at dwellings on Indian reservations. Such crimes currently are not among those specifically listed as prosecutable in the Major Crimes Act.

Sec. 2422. Correction to Amber Hagerman Child Protection Act. Clarifies that the government appeal statute also covers a person who poses a threat to a witness, and the travel statute to cover situations where the perpetrator travels in interstate commerce, in addition to situations where the perpetrator travels in Indian country.

Sec. 2424. Appeals from certain dismissals. Clarifies that the government appeal statute authorizes the government to appeal a district court’s decision when a court dismisses any part of an indictment or information, so long as the appeal is consistent with the Double Jeopardy Clause. The decision to appeal is to be made by the Solicitor General.

Sec. 2425. Authority for injunction against disposal of ill-gotten gains from violations of fraud statutes. Allows injunctions for fraud when a person is disposing of or about to dispose of property obtained not only as a result of fraud, but also as a result of violations of antitrust fraud statutes. Includes a provision that a district court shall have jurisdiction under 18 U.S.C. § 1001, a false claim under 18 U.S.C. § 287, or a conspiracy to defraud the United States or violate the law under 18 U.S.C § 371.

Sec. 2426. Expansion of interstate travel fraud statute to cover interstate travel by perpetrator. Closes a gap in the interstate travel fraud statute to cover situations where the perpetrator travels in interstate commerce, in addition to situations where the perpetrator travels for business.

Sec. 2427. Clarification scope of unauthorized selling of military medals or decorations. Clarifies that such unauthorized selling does not extend to the unauthorized selling of military decorations also covers a person who “trades, bars or exchanges for . . . value.”

Sec. 2428. Amendment to section 669 to conform to Public Law 104-294. Changes the threshold amount for a felony involving health care fraud from $10,000 to $30,000.

Sec. 2429. Expansion of jurisdiction over child buying and selling offenses. Expands Federal jurisdiction over child buying and selling offenses. In addition to any territory or possession of the United States, the special maritime and territorial jurisdiction of the United States, and commonwealths and territories of the United States.

Sec. 2430. Limits on disclosure of wiretap orders. Provides that only an “agreed-upon party” may have access to Title III applications and orders for wiretaps. Only such aggrieved persons have standing to seek suppression of the resulting intercepted communications.

Sec. 2431. Prison credit and aging prisoner reform. Eliminates inappropriate accrual of good time in prison credit sentencing rules resulting use of a longer time served by Federal offenders. Eliminates disparities in the treatment of foreign and domestic prisoners by excluding prisoners with respect to whom the maximum penalty is not more than 15 years, permits the Director of the Federal Bureau of Prisons to release inmates of non-dangerous Federal prisoners over the age of 70 to be released after they have served at least 30 years in custody, upon approval of the Bureau of Prisons and a Federal court.

Sec. 2432. Miranda reaffirmation. Repeals 18 U.S.C. § 3501, which purported to overturn the Supreme Court’s Miranda decision; the Court has held §3501 to be unconstitutional.

TITLE III: PROTECTING AMERICANS AND SUPPORTING VICTIMS OF CRIME

Subtitle A. Crime Victims Assistance

Sec. 3101. Short title. This subtitle may be cited as the “Crime Victims Assistance Act of 2001”.

Part 1. Victim Rights

Sec. 3111. Right to notice and to be heard concerning death penalty. Requires the government to make reasonable efforts to notify victims of upcoming death penalty hearings and of their right to attend and address the court. Where identification of the defendant remains at issue, provides flexibility to the presiding judge to protect the integrity of the identity determination.

Sec. 3112. Right to a speedy trial. Requires courts to take into account the interests of the victim in the prompt and appropriate disposition of the case.

Sec. 3113. Right to notice and to be heard concerning plea. Require the government to make reasonable efforts to notify victims of upcoming plea proceedings and of their right to attend and address the court.

Sec. 3114. Enhanced participatory rights at trial. Extends the Victim Rights Clarification Act to apply to televised proceedings. Amends the Victims’ Rights and Restitution Act of 1990 to strengthen the right of crime victims to be present at court proceedings, including trials.

Sec. 3115. Right to notice and to be heard concerning sentencing. Requires the government to make reasonable efforts to notify victims of upcoming hearings concerning revocation or modification of probation or supervised release and of their right to attend and address the court.

Sec. 3117. Right to notice of release or escape. Requires the Bureau of Prisons to ensure that victims are notified of an offender’s release or escape. Requires the notification of the victim of the offender’s release or escape and the date of the notification.

Sec. 3118. Right to notice and to be heard concerning sentence adjustment. Directs the government to make reasonable efforts to notify victims of upcoming hearings concerning sentence adjustment. The notification includes the date of the hearing, the time it will take place, and a description of the hearing.

Sec. 3121. Right to notice and to be heard concerning executive clemency. Requires the Attorney General to make reasonable efforts to notify victims of the grant of executive clemency. The notification includes the date of the executive clemency matters delegated for review or investigation to the Attorney General.

Sec. 3119. Remedies for noncompliance. Establishes a mechanism for addressing violations of the newly created statutory rights of crime victims.

Part 2. Victim Assistance Initiatives

Sec. 3121. Pilot programs to establish ombudsmen programs for crime victims. Authorizes the establishment of pilot programs to operate Victim Ombudsman Information Centers in seven States, which would provide information to victims concerning their rights and allow individuals to participate in the sentencing process, identify and respond to violations of victims’ rights, and educate public officials concerning the rights of victims.


Sec. 3123. Increased training for law enforcement and court personnel to respond to the needs of crime victims. Authorizes the use of False Claims Act funds to make grants to provide victim-related training.

Sec. 3124. Increased resources to develop state-of-the-art systems for notifying crime victims of important dates and developments concerning their cases. Authorizes grants to develop crime victim notification systems, using False Claims Act funds and amounts available in the Violent Crime Reduction Trust Fund.


Sec. 3301. Pilot program and study of restorative justice approach for offender rehabilitation. Authorizes grants for pilot programs in restorative justice in juvenile court settings. Includes a study of existing programs. Requires that participation in pilot programs be voluntary.

Subtitle B. Violence Against Women Act

Sec. 3301. Study and report on health care fraud sentences. Directs the U.S. Sentencing Commission to review and, if appropriate,
amend the sentencing guidelines applicable to health care fraud offenses. Encourages such review to reflect the serious harms associated with health care fraud and the need for laws and regulations that prevent such fraud, and to consider enhanced penalties for persons convicted of health care fraud.

Sec. 3313. Increased penalties for fraud resulting in serious injury or death. Increases the penalties under the mail fraud statute and the wire fraud statute for fraudulent schemes that result in serious injury or death. The maximum penalty if serious bodily harm occurred would be up to twenty years; if a death occurred, the maximum penalty would be a life sentence.

Sec. 3314. Blocking of telemarketing plans from fraud and theft. Punishes, with up to 10 years’ imprisonment, the act of defrauding telephone companies, upon notification, of the gain to be shared with an offender or a loss to the victim, whichever is greatest.

Part 2. Preventing Telemarketing Crime

Sec. 3321. Centralized complaint and consumer education service for victims of telemarketing fraud. Requires the Federal Trade Commission (FTC) to establish a central information clearinghouse for victims of telemarketing fraud and procedures for logging complaints submitted in response to calls, letters, or other communications by victims, providing information on telemarketing fraud schemes, referring complainants to appropriate law enforcement officials, or granting a complaint to suppress information. Directs the Attorney General to establish a database of telemarketing fraud convictions secured against corporations or companies, for uses described above.

Sec. 3322. Blocking of telemarketing scams. Requires telemarketing fraud schemes executed using cellular telephone services are subject to the enhanced penalties for such fraud under 18 U.S.C. §1343.

Sec. 3323. Injunctive authority relating to false claims and illegal kickback schemes involving Federal health care programs. Authorizes the Attorney General to bring a civil action for treble damages and anti-kickback schemes against Federal employees for violations of the False Claims Act of 1996 through FY2005.

Part 3. Protecting the Rights of Elderly Crime Victims

Sec. 3341. Use of forfeited funds to pay restitution to crime victims and regulatory agencies.

Sec. 3342. Forfeiture for restitution. Allows the government to move to dismiss forfeiture proceedings to allow the defendant to use the property subject to forfeiture for the payment of restitution for victims of the offense. If forfeiture proceedings are complete, Government may return the forfeited property so it may be used for restitution.

Sec. 3343. Forfeiture of wrongfully used funds. Limits proceeds not used to shield illegal gains from false claims. Allows an action under the False Claims Act despite concurrent bankruptcy proceedings. Provides that no debt owed for a violation of the False Claims Act or other agreement may be avoided under bankruptcy provisions.

Sec. 3344. Forfeiture for retirement offenses. Requires forfeiture of proceeds of a criminal retirement offense. Permits the civil forfeiture of proceeds from a criminal retirement offense.

Sec. 3345. Anti-Kickback Trust Fund. Provides that the anti-kickback provisions of the Social Security Act are subject to the enhanced penalties for Federal employees for violations of the False Claims Act of 1996 through FY2005.

Title VI: Breaking the Cycle of Drugs and Violence

Subtitle A. Drug Courts, Drug Treatment, and Related Matters

Part 1. Expansion of Drug Courts

Sec. 4111. Reauthorization of drug courts program. Authorizes appropriations for the Drug Courts Program for FY2002 and FY2003 at $400,000,000 each year.

Sec. 4112. Juvenile drug courts. Authorizes grants to States, and local courts, and Indian tribes, to establish juvenile drug courts for juveniles adjudicated delinquent for non-violent crimes who have substance abuse problems. Programs must include drug testing, drug treatment, drug education, drug treatment alternative to prison programs, and to establish appropriate interventions to illegal drug use for offender populations.

Sec. 4113. Administration. Requires the Attorney General to coordinate with the other Justice Department initiatives that address drug testing and interventions in the criminal justice system.

Sec. 4114. Alternatives. Instructs the Attorney General to design programs to address drug testing and interventions in the criminal justice system that address drug testing and interventions in the criminal justice system.

Sec. 4121. Federal share. The Federal share of a grant made under this part may not exceed 75 percent of the total cost of the program.

Sec. 4122. Geographic distribution. The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made to rural and tribal jurisdiction.

Sec. 4123. Technical assistance, training, and evaluation. The Attorney General shall provide technical assistance to States in training in furtherance of the purposes of this part.

Sec. 4124. Authorization of appropriations. Authorizes $75,000,000 for FY2002 and such sums as are necessary for FY2003 through FY2006.

Sec. 4125. Drug treatment for juveniles. Authorizes grants to States, and local courts, and Indian tribes, to establish juvenile drug courts for juveniles adjudicated delinquent for non-violent crimes who have substance abuse problems. Programs must include drug testing, drug treatment, drug treatment alternative to prison programs, and to establish appropriate interventions to illegal drug use for offender populations.

Sec. 4126. Administration. Requires the Attorney General to coordinate with the other Justice Department initiatives that address drug testing and interventions in the criminal justice system.

Sec. 4127. Additional requirements for the use of funds under the Violent Offender Incarceration and Truth-in-Sentencing grant programs (VOI/TIS) adopt a system of controlled substance testing and interventions. Permits use of funds for such testing. Adds other conditions for receipt of funding under the VOI/TIS program.

Part 3. Drug Treatment

Sec. 4131. Drug treatment alternative to prison programs administered by State or local prosecutors. Authorizes the Attorney General to make grants to States or local prosecutors to implement or expand drug treatment alternative to prison programs. Authorizes appropriations for FY2002 and FY2003.


Sec. 4134. Drug treatment for juveniles. Allows the Director of the Center for Substance Abuse to make grants to public and private, for-profit, or nonprofit organizations for residential drug treatment programs for juveniles. Authorizes appropriations through FY2005.
Part 4. Funding for Drug Free Community Programs

Sec. 4211. Grant program. Establishes a grant program for provision of drug prevention services to youth in eligible communities through community centers. Authorizes grants for the provision of drug prevention services to youth in eligible communities during after-school hours or during summer vacations. Authorizes $125,000,000 for each of FY2002 and FY2003 from the Violent Crime Reduction Trust Fund.


Subtitle B—Youth Crime Prevention and Juvenile Courts

Part 1—Grants to Youth Organizations

Sec. 4213. Grants to States. Establishes application requirements and evaluation criteria for awarding grants to national and statewide organizations.

Sec. 4214. Allocation; grant limitation. Allocates funds under this subtitle. 20 percent shall go to national and statewide organizations; 80 percent shall go to States.

Sec. 4215. Report and evaluation. Defines reporting requirements and establishes criteria by which the Attorney General shall evaluate the funded programs.

Sec. 4216. Authorization of appropriations. Authorizes appropriation of such sums as may be necessary for FY2002 and FY2003, and $125,000,000 for each of FY2004 and FY2005.

Sec. 4217. Grants to public and private agencies. Authorizes grants to public and private agencies to fund effective after school juvenile crime prevention programs.

Part 2. Reauthorization of Incentive Grants for Local Delinquency Prevention Programs

Sec. 4218. Incentive grants for local delinquency prevention programs. Reauthorizes incentive grants for local delinquency prevention programs through FY2006.

Sec. 4219. Research, evaluation, and training. Allocates a portion of the amounts appropriated for incentive grants for local delinquency programs to research, evaluation, and training.

Part 3. JUMP Ahead

Sec. 4220. Short title. This part may be cited as the “JUMP Ahead Act of 2001”.

Sec. 4221. Findings. Legislative findings in support of this part.

Sec. 4222. Findings. Legislative findings in support of this part.

Sec. 4223. Juvenile mentoring grants. Amends the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA) to include a list of the intended goals of mentoring grants. Each grant is limited to a total of $200,000 over a period not more than three years. Authorizes $5,000,000 for each of FY2002 through FY2005.

Sec. 4224. Implementation and evaluation grants. Authorizes grants to national organizations to develop, implement, and evaluate models to improve juvenile delinquency programs. Authorizes $5,000,000 for each of FY2002 through FY2005.
The 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act is designed to keep our Nation's crime rates moving in the right direction—downward. The Nation's serious crime rates are now at their lowest level in 19 years, the first year the national crime victimization survey was conducted. We are proud of the significant reduction in crime rates, but we must not become complacent. Too many Americans still encounter violence in their neighborhoods, workplaces, and homes. This bill would ensure that the crime rates continue their downward trend next year, the year after, and beyond.

We should be able to enact this bill, without partisan or ideological controversy. We have tried to avoid the easy rhetoric about crime that some have to offer in this crucial area of public policy. Instead, we have crafted a bill that could actually make a difference.

The 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act targets violent crime in our schools, combatting gun violence, cracks down on the sale and use of illegal drugs, combats gang violence, fights crime against America's senior citizens, and provides meaningful assistance to law enforcement officers in the battle against street crime. The bill represents an important next step in enforcing Federal law, including providing Democrats to enact tough yet balanced public policy. Instead, we have crafted a bill that could actually make a difference.

Title I of the bill deals with proposals for supporting Federal, State and local law enforcement and promoting the effective administration of justice. This title extends the COPS program through fiscal year 2007, authorizing funding to deploy up to 50,000 additional police officers, 10,000 additional prosecutors, and 10,000 indigent defense attorneys in the coming years. The bill also extends Project Exile, the Department of Justice's gun violence reduction initiative designed to prosecute felony offenses committed in America's major cities where it has the greatest public safety risk posed by released prisoners by promoting their successful reintegration into society.

Other important initiatives are included to protect children from violence, including proposals to end the misuse of guns. Americans want concrete proposals to reduce the risk of such incidents recurring. At the same time, we must preserve adults' rights to use guns for legitimate purposes, such as home protection, hunting and sport. Title I of the bill imposes a prospective gun ban for juveniles convicted or adjudicated delinquent juveniles. It also requires revocation of a firearms dealer's license for failing to have secure gun storage or safety devices available for sale with firearms. The bill enhances the penalties for certain firearm laws involving juveniles. In addition, the bill would close the gun show loophole by requiring criminal background checks on all gun sales at gun shows.

This title of the bill also recognizes that law enforcement officers put their lives on the line every day. According to the FBI, over 1,000 officers have been killed in the line of duty since 1980. The 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act establishes new crimes and increases penalties for killing Federal officers, working with Federal officers, including in their work with Federal prisoners, and for retaliation against Federal officials by threatening or injuring their family members. The bill enhances the penalties for assault on Federal judges and other federal officials engaged in their official duties.

A significant problem that arose during Special Prosecutor Kenneth Starr's investigation of president Clinton was the mishandling of evidence that had previously attached to the important work of the U.S. Secret Service. The Departments of Justice and Treasury and even a former Republican President advise that the safety of future Presidents may be jeopardized by forcing U.S. Secret Service agents to breach the confidentiality they need to do their job by testifying before a grand jury. I trust the Secret Service on this issue; they are the experts with their hands on the lives of the President and other high-level official and visiting dignitaries. I also have confidence in the judgment of former President Bush, who has written, "I feel very strongly that [Secret Service] agents should not be made to appear in court to discuss that which they might or might not have seen or heard."

Title I of the 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act provides for funding to combat international terrorism, including provisions to deter cargo thefts, enhance the maximum penalties for voluntary manslaughter, and enhance the rights of crime victims.

Title II of the bill is aimed at reducing the rights of victims within the criminal justice system. The criminal justice system is only half of the equation. This bill guarantees the rights of crime victims. All States recognize victims' rights in some form, but they often lack the training and resources to make those rights a reality. This title provides a model Bill of Rights for crime victims in the Federal system, and makes available to the States grants for victim-related training and state-of-the-art notification systems. In addition, this title would authorize grants for victim programs to construct Onibus Information Centers in seven States, and to study the effectiveness of the restorative justice approach for victims. It would also provide assistance for shelters and transitional housing for victims of domestic violence. In short, this title would help make victims' rights a reality.

This title of the bill also includes a number of provisions to improve the safety and security of older Americans. During the 1990s, while overall crime rates dropped throughout the nation, the rate of crime against seniors remained constant. In addition to the increased vulnerability of some seniors to violent crime, older Americans are increasingly targeted by swindlers looking to take advantage of them through telemarketing schemes, pension fraud, and health care fraud. We must strengthen the hand of law enforcement to combat these criminals. And we must ensure that law enforcement officers have the resources and manpower they need to do their jobs.

The 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act tries to do exactly that,
through a comprehensive package of proposals to establish new protections and increase penalties for a wide variety of crimes against seniors.

Title IV of the bill outlines a number of prevention and alternative sentencing programs that are critical to further reducing juvenile crime. These programs include grants to youth organizations and "Say No to Drugs" Community Centers, and grants to promote drug testing and drug treatment, as well as a strengthening of the Safe and Drug-Free Schools and Communities Program, the Anti-Drug Abuse Programs, and the Local Delinquency Prevention Programs. Additional sections include a program suggested by Senator BINGAMAN to establish a competitive grant program to reduce truancy, with priority given to efforts to replicate successful programs.

The bill would also reauthorize the Juvenile Justice and Delinquency Prevention Act and create a new juvenile justice block grant program, retaining the four core protections for youth in the juvenile justice system while adopting greater flexibility for rural areas.

In recent years, the Senate Republicans have tried to gut these core protections in their juvenile crime bills. This Democratic crime bill puts ideology aside, and follows the advice of numerous child advocacy experts including the Children's Defense Fund, National Collaboration for Youth, Youth Law Center and National Network for Youth—who believe these key protections must be preserved in order to protect our children who have been arrested or detained. These core protections ensure that juveniles are not housed with adults, do not have verbal or physical contact with adult inmates, and any disproportionate confinement of minority youth is addressed by the States. If these protections are abolished, many more youth may end up committing suicide or being released with serious physical or emotional scars.

The 21st Century Law Enforcement, Crime Prevention, and Victims Assistance Act is a comprehensive and realistic set of proposals for assisting local enforcement, preventing crime, protecting our children and senior citizens, and assisting the victims of crime. I look forward to working on a bipartisan basis for passage of as much of this bill as possible during the 107th Congress.

By Mr. DASCHLE (for himself, Mr. DODD, Mr. LIEBERMAN, Mr. DORGAN, Mr. DURBIN, Mr. BIDEN, Mrs. BOXER, Mrs. CLINTON, Mr. MOYNIRNE, Mr. HARKIN, Mr. JOHNSON, Mr. KENNEDY, Mr. LEAHY, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. SARBANES, and Mr. SCHUMER).

S. 17, a bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform to the Committee on Rules and Administration.

FEDERAL ELECTIONS REFORM ACT OF 2001

Mr. DASCHLE. 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. 17

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 "Federal Elections Reform Act of 2001."

(b) Table of Contents.—The table of contents of this Act is as follows:

   TITLES I — REDUCTION OF SPECIAL INTEREST INFLUENCE

   Sec. 101. Soft money of political parties.
   Sec. 102. Increased contribution limits for State committees of political parties and aggregate contribution limit for individuals.
   Sec. 103. Reporting requirements.

   TITLES II — INDEPENDENT AND COORDINATED EXPENDITURES

   Sec. 201. Definitions.
   Sec. 202. Express advocacy determined without regard to background music.
   Sec. 203. Civil penalty.
   Sec. 204. Reporting requirements for certain independent expenditures.
   Sec. 205. Independent versus coordinated expenditures.
   Sec. 206. Coordination with candidates.

   TITLES III — DISCLOSURE

   Sec. 301. Audits.
   Sec. 302. Reporting requirements for contributions of $50 or more.
   Sec. 303. Use of candidates' names.
   Sec. 304. Prohibition of false representation to solicit contributions.
   Sec. 305. Campaign advertising.

   TITLES IV — MISCELLANEOUS

   Sec. 401. Codification of Beck decision.
   Sec. 402. Use of contributed amounts for certain purposes.
   Sec. 403. Limit on congressional use of the franking privilege.
   Sec. 404. Prohibition of fundraising on Federal property.
   Sec. 405. Penalties for violations.
   Sec. 406. Strengthening foreign money ban.
   Sec. 407. Prohibition of contributions by minors.
   Sec. 408. Expedited procedures.
   Sec. 409. Initiation of enforcement proceeding.
   Sec. 410. Protecting equal participation of candidates in campaigns and elections.
   Sec. 411. Penalty for violation of prohibition against foreign contributions.
   Sec. 413. Conspiracy to violate presidential campaign spending limits.
   Sec. 414. Deposit of certain contributions and donations in Treasury account.
   Sec. 415. Establishment of a clearinghouse of information on political activities within the Federal Election Commission.
   Sec. 416. Establishment of a spending limit on presidential and vice presidential candidates who receive public financing.
   Sec. 417. Certification of eligibility of nationals of the United States to make political contributions.

   Sec. 418. Prohibiting use of White House meals and accommodations for political fundraising.
   Sec. 419. Prohibition against acceptance or solicitation of donations to certain Federal government property.
   Sec. 420. Requiring national parties to reimburse at cost for use of Air Force One for political fundraising.
   Sec. 421. Enhancing enforcement of campaign finance law.
   Sec. 422. Ban on coordination of soft money for issue advocacy by presidential candidates receiving public financing.
   Sec. 423. Requirement that names of passengers on Air Force One and Air Force ‘Two be made available through the Internet.

   TITLES V — ELECTION ADMINISTRATION AND TECHNOLOGY

   Sec. 501. Findings.
   Sec. 511. Establishment.
   Sec. 512. Membership of the Commission.
   Sec. 513. Duties of the Commission.
   Sec. 514. Powers of the Commission.
   Sec. 515. Personnel matters.
   Sec. 516. Termination of the Commission.
   Sec. 517. Authorization of appropriations for the Commission.

   TITLES VI — GRANT PROGRAM

   Sec. 601. Short title.
   Sec. 602. Guarantee of residency.
   Sec. 603. State responsibility to guarantee military voting rights.

   TITLES VII — SEVERABILITY, CONSTITUTIONALITY, EFFECTIVE DATE, REGULATIONS

   Sec. 701. Severability.
   Sec. 702. Review of constitutional issues.
   Sec. 703. Effective date.
   Sec. 704. Regulations.

SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

(a) NATIONAL COMMITTEES.—

(1) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

"(a) NATIONAL COMMITTEES.—

"(1) IN GENERAL.—A national committee of a political party (including a national congressional campaign committee of a political party) and any officers or agents of such party committees, shall not solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY.—This subsection shall apply to an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee of a political party (including a national congressional campaign committee of a political
party, or an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity.

(b) State, district, and local committees.—

(1) IN GENERAL.—An amount that is expended by a State, district, or local committee of a political party (including a national congressional campaign committee of a political party, or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee of a political party and an officer or agent acting on behalf of any such political party committee or its agent, or controlled by any such national, State, or district, or local committee) as determined by a regulation prescribed by the Internal Revenue Service for determination of tax-exemption under such section.

(c) Other political committees.—The term ‘political committee’ means—

(1) a political organization (including a national, State, or district, or local committee of a political party) that has raised, spent, or permitted funds in connection with any election for Federal office; and

(2) a political committee established, financed, maintained, or controlled by any such national, State, or district, or local committee or its agent, and an individual who is a candidate for Federal office or an entity established, financed, maintained, or controlled by any such national, State, or district, or local committee or its agent, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

SEC. 103. REPORTING REQUIREMENTS.

(a) Reporting requirements.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended, is inserted by inserting after subsection (f) the following:

(9) Federal political committees.—

(1) National and congressional political committees.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

(b) Other political committees to which section 323 applies.—In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in paragraphs (2)(A) and (2)(B)(v) of section 323(b).

(c) Itemization.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $100 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as provided in paragraphs (3)(A), (5), and (6) of subsection (b).

(d) Reporting periods.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).

(b) Building fund exception to the definition of contribution.—Section 301(b)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)(3)) is amended by—

(1) striking clause (vi); and

(2) by redesignating clauses (vii) through (xxv) as clauses (viii) through (xiv), respectively.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

SEC. 201. DEFINITIONS.

(a) Definition of Independent Expenditure.—Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by adding paragraph (17) and inserting the following:

(17) Independent expenditure.—

(A) IN GENERAL.—The term ‘independent expenditure’ means an expenditure by a person—

(i) for a communication that is express advocacy; and

(ii) that is not coordinated activity or is not provided in coordination with a candidate or a candidate’s agent or a person who is coordinating with a candidate or a candidate’s agent.

(b) Definition of Express Advocacy.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

(20) Express Advocacy.—

(A) IN GENERAL.—The term ‘express advocacy’ means a communication that advocates the election or defeat of a candidate by—

(i) containing a phrase such as ‘vote for’, ‘vote against’, ‘support’, ‘cast your ballot for’, ‘(name of candidate) for Congress’, ‘(name of candidate) in 1997’, ‘vote against’, ‘defeat’, ‘reject’, or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates;

(ii) referring to one or more clearly identified candidates in a broadcast or transmission that is transmitted through radio or television within 60 calendar days preceding the

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date of an election of the candidate and that appears in the State in which the election is occurring, except that with respect to a candidate for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election; or

(iii) expressing unmistakable and unambiguous support for or opposition to one or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.

“(B) VOTING RECORD AND VOTING GUIDE EXCITEMENT.—The term ‘express advocacy’ does not include a communication which is in printed form or posted on the Internet that—

(i) presents information solely about the voting record or position on a campaign issue of one or more candidates (including any statement by the sponsor of the voting record or voting guide of its agreement or disagreement with the record or position of a candidate), so long as the voting record or voting guide when taken as a whole does not express unmistakable and unambiguous support for or opposition to one or more clearly identified candidates;

(ii) is not coordinated activity or is not made in coordination with a candidate, political party, or agent of the candidate or party, or a candidate’s agent or a person who is coordinating with a candidate or candidate’s agent, except that nothing in this clause may be construed to prevent the sponsor of the voting guide from directing questions in writing to a candidate about the candidate’s position on issues for purposes of preparing a voter guide or to prevent the candidate from responding in writing to such questions;

(iii) does not contain a phrase such as ‘vote for,’ ‘re-elect,’ ‘support,’ ‘cast your ballot for,’ ‘name of candidate’ for Congress, ‘name of candidate’ for another election, ‘vote against,’ ‘defeat,’ or ‘reject,’ or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates.”;

(c) DEFINITION OF EXPENDITURE.—Section 303(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following:

“(ii) a payment made by a political committee that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but no more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

“B. ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as to that to which the initial report relates.

“2. EXPENDITURES AGGREGATING $10,000.—

“(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but no more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

“(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as to that to which the initial report relates.

“C. PLACE OF FILING; CONTENTS.—A report under this subsection shall be filed with the Commission within 48 hours after the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as to that to which the initial report relates.

“D. INDEPENDENT VS. COORDINATED EXPENDITURES BY PARTY.—

Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by striking “and” (3) and inserting “, (3), and (4)”;

(2) by adding at the end the following:

“(4) INDEPENDENT VS. COORDINATED EXPENDITURES BY PARTY.—

“(A) IN GENERAL.—On or after the date on which a political party nominates a candidate, a committee of the political party shall not make both expenditures under this subsection and independent expenditures (as defined in section 301(17) with respect to the candidate, during the election cycle for which expenditures are made).”

“(B) CERTIFICATION.—Before making a coordinated expenditure under this subsection with respect to a candidate, a committee of the political party shall file, with the Commission a certification, signed by the treasurer of the committee, that the committee has not and shall not make any independent expenditure with respect to the candidate during the same election cycle.

“(C) APPLICATION.—For the purposes of this section, a candidate shall be treated as established and maintained by a political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

“(D) TRANSfers.—A committee of a political party that submits a certification under subparagraph (B) with respect to a candidate shall, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the same political party that has made or intends to make an independent expenditure with respect to the candidate.”.

SEC. 202. COORDINATION WITH CANDIDATES.

(a) Definition of Coordination With Candidates.—

“(1) SECTION 303.—Section 303(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) in subparagraph (A)—

(i) by striking “or” at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting “; and”; and

(iii) by adding at the end following:

“(iii) coordinated activity (as defined in subparagraph (C));”;

(B) by adding at the end the following:

“(C) Coordinated activity.—The term ‘coordinated activity’ means anything of value provided by a person in coordination with a candidate, an agent of the candidate, or the political party of the candidate or its agent for the purpose of influencing a Federal election that is amended or being provided is a communication that is express advocacy in which such candidate seeks nomination or election to Federal office, and includes any of the following:

“(i) A payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with, a candidate, the candidate’s authorized committee, the political party of the candidate, an agent acting on behalf of a candidate, or a committeee, the political party of the candidate;

“(ii) A payment made by a person for the purpose of disseminating, republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate’s authorized committee, an agent of a candidate or authorized committee (not including a communication described in paragraph (i)(B)(i) of a communication that expressly advocates the candidate’s defeat); and

“(iii) A payment made by a person based on information about a candidate’s plans, position, or needs provided to the person making the payment by the candidate or the candidate’s agent who provides the information with the intent that the payment be made.”

“(iv) A payment made by a person if, in the same election cycle in which the payment is made, the candidate is identified by name or other means of identification, other than the candidate’s political party, and the amount of the payment, or other payments, made in the same election cycle by the same person, exceeds $5,000.”
made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate’s authorized committee in an executive or administrative position.

“(v) A payment made by a person if the person making the payment has served in any formal policy making or advisory position with the candidate’s campaign or has participated in formal strategic or formal policymaking discussions (other than any discussion treated as a lobbying contact under the Lobbying Disclosure Act of 1995 in the case of a candidate holding Federal office or as a similar lobbying activity in the case of a state or local party office or other elective office) with the candidate’s campaign relating to the candidate’s pursuit of nomination for election, or election, to Federal office, or election cycle in which the payment is made.

“(vi) A payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate (including services provided by an employee of the candidate’s campaign or political party (including all congressional or other elective office) with the candidate’s campaign relating to the candidate’s pursuit of nomination for election, or election, to Federal office, or election cycle in which the payment is made."

TITLES III—DISCLOSURE

SEC. 301. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by striking sub-paragraph (B) and inserting the following:

“(B) A coordinated activity, as described in section 301(b)(C), shall be considered to be a contribution and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate; and"

(b) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.

Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended—

(1) by striking “includes” and inserting “includes a contribution or expenditure, as those terms are defined in section 301, and also includes”;

(2) by striking “includes” and inserting “includes a contribution or expenditure, as those terms are defined in section 301, and also includes”.

SEC. 302. REPORTING REQUIREMENTS FOR CONTRIBUTIONS.

(a) which is transmitted through radio or television, the statement shall include, in addition to the identification of an authorized committee or other person paying for the communication and the name of any connected organization of the payor. If transmitted through television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.

(b) television—

(1) if a communication described in paragraphs (1) or (2) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

(2) other persons—

(a) any communication described in paragraph (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds;

(b) television—

(1) if a communication described in paragraph (1)(A) is transmitted through television, the communication shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.
TITLE IV—MISCELLANEOUS

SEC. 401. CODIFICATION OF DECK DECISION.
Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following:

"(b) NONMEMBER PAYMENTS TO LABOR ORGANIZATION.—

"(1) IN GENERAL.—It shall be an unfair labor practice for any labor organization which collects a flat rate or other payment from an employee pursuant to an agreement that requires employees who are not members of the organization to make payments to such organization in lieu of organization dues or fees not to establish and implement the objection procedure described in paragraph (2).

"(2) OBJECTION PROCEDURE.—The objection procedure under paragraph (1) shall meet the following requirements:

"(A) The labor organization shall annually provide to employees who are covered by such agreement but are not members of the organization—

"(i) reasonable personal notice of the objection procedure, a list of the employees eligible to invoke the procedure, and the time, place, and manner for filing an objection; and

"(ii) reasonable opportunity to file an objection to paying for organization expenditures supporting political activities unrelated to collective bargaining, including but not limited to the opportunity to file such objection by mail.

"(B) If an employee who is not a member of the labor organization files an objection under the procedure specified in paragraph (A), such organization shall—

"(i) reduce the payments in lieu of organization dues or fees by such amount, which reasonably reflects the ratio that the organization’s expenditures supporting political activities unrelated to collective bargaining bears to such organization’s total expenditures; and

"(ii) provide such employee with a reasonable explanation of the organization’s calculation of such reduction, including calculating the amount of organization expenditures supporting political activities unrelated to collective bargaining.

"(3) DEFINITION.—In this subsection, the term ‘means of expenditures in connection with a Federal, State, or local election or in connection with activities of the individual as a holder of Federal office, State or local office, may be used by the candidate or individual’ includes expenditures in connection with the campaign for Federal office of the candidate or individual;

"(4) for ordinary and necessary expenses incurred in connection with dutiful political activities of the individual as a holder of Federal office, State or local office, may be used by the candidate or individual;

"(5) for transfers to a national, State, or local committee of a political party.

"(b) PROHIBITED USE.—A contribution or amount described in subsection (a) shall not be converted by any person to personal use.

"(2) Conversion.—For the purposes of paragraph (1), a contribution or amount shall be considered to be converted to personal use if the contribution or amount is used to fulfill a campaign, obligation, or expense of a person that would exist irrespective of the candidate’s election campaign or individual’s duties as a holder of Federal office.

"(A) a home mortgage, rent, or utility payment;

"(B) a clothing purchase;

"(C) a noncampaign-related automobile expense;

"(D) a country club membership;

"(E) a vacation or other noncampaign-related trip;

"(F) a household food item;

"(G) a tuition payment;

"(H) admission to a sporting event, concert, theater, or other form of entertainment.

"(3) DEFINITION.—In this subsection—

"(A) the term ‘campaign’ means the following:

"(a) A Member of Congress shall not mail any mass mailing as franked mail during the 180-day period which ends on the date of the general election for the office held by the Member or during the 90-day period which ends on the date of any primary election for that office, unless the Member has made a public announcement that the Member will not be a candidate for reelection during that year or for election to any other Federal office.

"(B) a contribution or donation from a foreign national, except that the trier of fact may not find that the defendant should have known that the contribution originated from a foreign national if the defendant did not know that the contribution originated from a foreign national, except that the trier of fact may not find that the defendant should have known that the contribution originated from a foreign national solely because of the name of the contributor.

"(C) a person to solicit, accept, or receive such a contribution or donation from a foreign national.

"(4) for transfers to a national, State, or local election campaign fund or to a political party;

"(5) for transfers to a national, State, or local party committee.

"(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to violations occurring on or after the date of enactment of this Act.

SEC. 407. PROHIBITION OF CONTRIBUTIONS BY MINORS.
Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is amended by adding at the end the following:

"(c) PROHIBITION OF CONTRIBUTIONS BY MINORS.—An individual who is 17 years of age or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.

SEC. 408. EXPEDITED PROCEDURES.

(a) IN GENERAL.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended by adding at the end of the section the following:

"(13) EXPEDITED PROCEDURE.—

"(A) IN GENERAL.—If the complaint in a proceeding is filed within 60 days preceding the date of a general election, the Commission may take action described in this subparagraph.

"(B) CLEAR AND CONVINCING EVIDENCE EXISTS.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, or is about to occur, the Commission may order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), and (3) as necessary to allow the matter to be resolved in sufficient time to effectuate the provisions of this Act.
time before the election to avoid harm or prejudice to the interests of the parties.

(3) Complaint Without Merit.—If the Commission determines, on the basis of facts alleged in the complaint, that no reasonable basis exists to support the complaint, or that the complaint is defective or frivolous, the Commission shall

(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), and (4); or

(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.

(b) REFEREE TO ATTORNEY GENERAL.—Section 309(a)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking subparagraph (C) and inserting the following:

“(C) REFERRAL TO ATTORNEY GENERAL.—The Commission may at any time, by an affirmative vote of at least 4 of its members, refer a possible violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986, to the Attorney General of the United States, without regard to any limitation set forth in this section.”

SEC. 409. INCREASED ENFORCEMENT PROCEEDINGS.

Section 309(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(2)) is amended by striking paragraph (b) and inserting the following:

“(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections occurring on or after the date of enactment of this Act.”

SEC. 410. PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 104(a)(6), is amended by adding at the end the following:

“SEC. 323. PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS.

“(a) IN GENERAL.—Nothing in this Act may be construed to prohibit any individual eligible to vote in an election for Federal office from making contributions or expenditures in support of a candidate for such an election (including voluntary contributions or expenditures made through a separate segregated fund established by the individual’s employer or labor organization) or otherwise participating in any campaign for such an election, in the same manner and to the same extent as any other individual eligible to vote in such an election for such office.

“(b) No effect on Geographic Restrictions on Contributions.—Subsection (a) may not be construed to affect any restriction under this title regarding the portion of contributions accepted by a candidate from persons residing in a particular geographic area.”

SEC. 411. PENALTY FOR VIOLATION OF PROHIBITION AGAINST FOREIGN CONTRIBUTIONS.

(a) IN GENERAL.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 44e), as amended by section 406(b), is amended by adding the following:

“(c) PENALTY.—

“(1) In general.—Except as provided in paragraph (2), notwithstanding any other provision of law, a person who violates subsection (a) shall be fined in a sum not exceeding $10,000 for each violation, or imprisoned for not more than 1 year, or both.

“(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any violation of subsection (a) arising from a contribution or donation made by an individual who is lawfully admitted for permanent residence (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) and naturalized, if the violation is committed by a candidate or political committee who was lawfully admitted for permanent residence (as defined in section 101(a)(22) of the Immigration and Nationality Act) and naturalized.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring on or after the date of enactment of this Act.”

SEC. 412. EXPEDITED COURT REVIEW OF CERTAIN ALLEGED VIOLATIONS OF FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) IN GENERAL.—Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended by adding at the end the following:

“(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring on or after the date of enactment of this Act.”

SEC. 413. CONSPIRACY TO VIOLATE PRESIDENTIAL CAMPAIGN SPENDING LIMITS.

(a) IN GENERAL.—Section 9003 of the Internal Revenue Code of 1986 (relating to conditions for eligibility for tax exemption under chapter 95 or 96 of the Internal Revenue Code of 1986) is amended by adding at the end the following:

“(b) Prohibiting Conspiracy to Violate Limits.—

“(1) Violation of Limits Described.—If a candidate for election to the office of President or Vice President who receives amounts from the Presidential Election Campaign Fund under chapter 95 or 96 of the Internal Revenue Code of 1986, or the agent of such a candidate, seeks to avoid the spending limits applicable to such a candidate under such chapter or under the Federal Election Campaign Act of 1971 by soliciting, receiving, transferring, or directing funds from any source other than such Fund for the direct or indirect benefit of such candidate’s campaign, such candidate or agent shall be fined not more than $1,000,000, or imprisoned for a term of not more than 3 years, or both.

“(2) Conspiracy to Violate Limits Defined.—If two or more persons conspire to commit a violation described in paragraph (1), any person who, with the intent to commit such an act, and in such a manner as to effect the object of the conspiracy, each shall be fined not more than $1,000,000, or imprisoned for a term of not more than 3 years, or both.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections occurring on or after the date of enactment of this Act.”

SEC. 414. DEPOSIT OF CERTAIN CONTRIBUTIONS AND DONATIONS IN TREASURY ACCOUNT.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 100, 407, and 410, is amended by adding at the end the following:

“(b) TRANSFER TO COMMISSION.—In general.—Nothing in this Act or any other provision of this Act, if a political committee intends to return any contribution or donation given to the political committee by the committee for the contribution or donation to the Commission if

“A. the contribution or donation is in an amount equal to or greater than $500 other than a contribution or donation returned within 60 days of receipt by the committee; or

“B. the contribution or donation was made in violation of section 315, 316, 317, 319, 320, or 323 (other than a contribution or donation returned within 30 days of receipt by the committee).

“(2) INFORMATION INCLUDED WITH TRANSFERRED CONTRIBUTION OR DONATION.—A political committee shall transfer any contribution or donation transferred under paragraph (1)—

“(A) a request that the Commission return the contribution or donation to the person making the contribution or donation; and

“(B) information regarding the circumstances surrounding the making of the contribution or donation and any opinion of the political committee concerning whether the contribution or donation may have been made in violation of this Act.

“(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

“(A) IN GENERAL.—The Commission shall establish a single interest-bearing escrow account for deposits of amounts transferred under paragraph (1).

“(B) DISPOSITION OF AMOUNTS RECEIVED.—On receiving an amount from a political committee under paragraph (1), the Commission shall—

“(1) deposit the amount in the escrow account established under subparagraph (A); and

“(2) notify the Attorney General and the Commissioner of the Internal Revenue Service of the receipt of the amount from the political committee.

“(C) USE OF INTEREST.—Interest earned on amounts in the escrow account established under subparagraph (A) shall be applied or otherwise used as the Commission, in its discretion, determines.

“(4) TREATMENT OF RETURNED CONTRIBUTION OR DONATION AS A COMPLAINT.—The transfer of the contribution or donation to the Commission under this section shall be treated as the filing of a complaint under section 309(a).

“(5) DISPOSITION OF AMOUNTS IN ESCROW TO COVER FINES AND PENALTIES.—The Commission or the Attorney General may require any amount deposited in the escrow account under subsection (a)(5) to be applied toward the payment of any fine or penalty imposed under this Act or title 18, United States Code, against the person making the contribution or donation.

“(C) RETURN OF CONTRIBUTION OR DONATION AFTER DEPOSIT IN ESCROW.—

“(A) IN GENERAL.—If a political committee shall return a contribution or donation deposited in the escrow account under subsection (a)(5) to the person making the contribution or donation, if

“(A) within 180 days after the date the contribution or donation is transferred, the
Commission has not made a determination under section 309(a)(2) that the Commission has reason to investigate whether that the making of the contribution or donation was in violation of this Act or

“(b)(i) the contribution or donation will not be used to cover fines, penalties, or costs pursuant to subsection (b); or

“(b)(ii) the contribution or donation will be used for purposes that, the amounts required for those purposes have been withdrawn from the escrow account and subtracted from the returnable contribution or donation.

“(2) NO EFFECT ON STATUS OF INVESTIGATION.—The return of a contribution or donation pursuant to this subsection shall not be construed as having an effect upon the status of an investigation by the Commission or the Attorney General of the contribution or donation or the circumstances surrounding the contribution or donation, or on the ability of the Commission or the Attorney General to take future actions with respect to the contribution or donation.”.

(b) AMOUNTS USED TO DETERMINE AMOUNT OF DONATION.—Section 326(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended by inserting after paragraph (9) the following:

“(10) AMOUNT OF DONATION.—For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 326, the amount of the donation involved shall be treated as the amount of the contribution involved.”.

(c) DISCLOSURE AUTHORITY.—Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g), as amended by section 412(a), is amended by adding at the end the following:

“(1) DEPOSIT IN ESCROW.—Any conciliation agreement, civil action, or criminal action entered into or instituted under this section may provide that the forfeited amount of the donation involved in the violation of this section shall be treated as part of the White House.

“(2) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to contributions or donations refunded or on or after the date of enactment of this Act, notwithstanding any other provision of law, make copies of registrations, reports, and other information comprising the clearinghouse available for public inspection and copying, beginning not later than 30 days after the enactment of this Act.

“(3) The Director shall have the same responsibilities and all activities of the clearinghouse in carrying out such duties, the Director shall—

“(A) develop, filing, and cross-indexing system to carry out the purposes of this section (which shall include an index of all persons identified in the reports, registrations, and other information comprising the clearinghouse);

“(B) notwithstanding any other provision of law, make copies of registrations, reports, and other information comprising the clearinghouse available for public inspection and copying, beginning not later than 30 days after the enactment of this Act.

“(4) All public information filed with the Federal Election Commission pursuant to this section shall be fined under this title or imprisoned for not more than 3 years, or both.

“(5) A MOUNT OF DONATION.—For purposes of determining the amount of a civil penalty imposed under this subsection for violations of section 326, the amount of the donation involved shall be treated as the amount of the contribution involved.”.

(d) E FFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to contributions or donations refunded or on or after the date of enactment of this Act.

SEC. 415. ESTABLISHMENT OF A CLE A RING-HOUSE INFORMATION ON POLITICAL ACTIVITIES WITHIN THE FEDERAL ELECTION COMMISSION.

(a) ESTABLISHMENT.—There shall be established within the Federal Election Commission a clearinghouse of public information regarding those public activities of foreign principals and agents of foreign principals. The information comprising this clearinghouse shall include only the following:

(1) all registrations and reports filed pursuant to the Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.) during the preceding 5-year period.

(2) All registrations and reports filed pursuant to the Foreign Agents Registration Act (22 U.S.C. 611 et seq.) during the preceding 5-year period.

(3) All public hearings, hearing witnesses, and witness affiliations printed in the Congressional Record during the preceding 5-year period.

(4) All information disclosed pursuant to the rules of the Senate or the House of Representatives regarding honoraria, the receipt of gifts, travel, and earned and unearned income.

(5) All reports filed pursuant to title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) during the preceding 5-year period.

(6) All public information filed with the Federal Election Commission pursuant to section 318(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437i et seq.) during the preceding 5-year period.

(b) DISCLOSURE OF OTHER INFORMATION PROHIBITED.—The disclosure by the clearinghouse, or any officer or employee thereof, of any information other than that set forth in subsection (a) is prohibited, except as otherwise provided by law.

(c) DIRECTOR OF CLEARINGHOUSE.—

“(1) DUTIES.—The clearinghouse shall have a Director who shall carry out the responsibilities and all activities of the clearinghouse.

“(A) develop, filing, and cross-indexing system to carry out the purposes of this section (which shall include an index of all persons identified in the reports, registrations, and other information comprising the clearinghouse);

“(B) notwithstanding any other provision of law, make copies of registrations, reports, and other information comprising the clearinghouse available for public inspection and copying, beginning not later than 30 days after the enactment of this Act.

“(C) not later than 150 days after the date of enactment of this Act and at any time thereafter, to prescribe, in consultation with the Comptroller General, such rules, regulations, and forms, in conformity with the provisions of chapter 5 of title 5, United States Code, as are necessary to carry out the provisions of this section in the most effective and efficient manner.

“(2) APPOINTMENT.—The Director shall be appointed by the Federal Election Commission.

“(3) TERM OF SERVICE.—The Director shall serve a single term of a period of time determined by the Commission, but not to exceed 5 years.

“(4) PENALTIES FOR DISCLOSURE OF INFORMATION.—Any person who discloses information in violation of subsection (b), and any person who sells or uses information for the purpose of soliciting contributions or for any profit-making purpose in violation of subsection (c)(1)(B) shall be imprisoned for a period of not more than 1 year, or fined in the amount provided in title 18, United States Code, or both.

“(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to conduct the activities of the clearinghouse.

“(6) FOREIGN PRINCIPAL.—In this section, the term ‘foreign principal’ shall have the same meaning given the term ‘foreign national’ in section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g), as in effect as of the date of enactment of this Act.

SEC. 416. ENFORCEMENT; ESTABLISHING LIMIT ON PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATES WHO RECEIVE FUNDING.

(a) IN GENERAL.—Section 9003 of the Internal Revenue Code of 1986, as amended by section 413, is amended by adding at the end the following:

“(g) ILLEGAL SOLICITATION OF SOFT MONEY.—No candidate for election to the office of President or Vice President may receive amounts from the Presidential Election Campaign Fund under this chapter or chapter 96 unless the candidate certifies that the candidate does not need for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c), and any funds raised by the candidate for the purposes of influencing such election, including any funds used for an independent expenditure under the Federal Election Campaign Act of 1971 (2 U.S.C. 437c).
by sections 101, 407, 410, and 415, is amended by adding at the end the following:

"SEC. 327. REIMBURSEMENT BY POLITICAL PARTIES FOR USE OF AIR FORCE ONE THROUGH THE INTERNET.

"(a) IN GENERAL.—If the President, Vice President, or the head of any executive department (as defined in section 101 of title 5, United States Code) uses Air Force One for transportation for any travel which includes a fundraising event for the benefit of any political committee that is a national political party, such political committee shall reimburse the Federal Government for the fair market value of the transportation of the individual involved based on the cost of an equivalent commercial flight.

"(b) AIR FORCE ONE DEFINED.—In subsection (a), the term ‘Air Force One’ means the airplane operated by the Air Force which has been specially configured to carry out the mission of transporting the President.”.

SEC. 421. ENHANCING ENFORCEMENT OF CAMPAIGN SIGN LAW.

(a) MANDATORY IMPRISONMENT FOR CRIMINAL CONDUCT.—Section 309(e)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(e)(1)(A)), as redesignated by section 421, is amended—

(1) in the first sentence, by striking “shall be fined, or imprisoned for not more than one year, and not more than 10 years”;

(2) by striking the second sentence.

(b) AUTHORITY OF ATTORNEY GENERAL TO BRING CRIMINAL ACTIONS.—Section 309(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(e)), as redesignated by section 421, is amended by adding at the end the following:

"(4) ATTORNEY GENERAL ACTION.—In addition to the authority to bring cases referred pursuant to subsection (a)(5), the Attorney General may at any time bring a criminal action for a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to actions brought with respect to elections occurring after January 2001.

SEC. 422. BAN ON COORDINATION OF SOFT MONEY FOR ISSUE ADVOCACY BY PRIMARY CANDIDATES RECEIVING PUBLIC Financing.

(a) IN GENERAL.—Section 9003 of the Internal Revenue Code of 1986, as amended by section 416, is amended by adding at the end the following:

"(b) BAN ON COORDINATION OF SOFT MONEY FOR ISSUE ADVOCACY.—

"(1) IN GENERAL.—No candidate for election to the office of President or Vice President who is certified to receive amounts from the Presidential Election Campaign Fund under this chapter or chapter 96 may coordinate the expenditure of any funds for issue advocacy with any political party unless the funds are used for educational, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971.

"(2) ISSU Authentication DEFINED.—In this section, the term ‘issue advocacy’ means any activity carried out for the purpose of influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any regulation, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations, or political campaigns, or elections occurring on or after the date of the enactment of this Act.

SEC. 423. REQUIREMENT THAT NAMES OF PASSENGERS ON AIR FORCE ONE AND AIR FORCE TWO BE MADE AVAILABLE THROUGH THE INTERNET.

"(a) IN GENERAL.—The President shall make available through the Internet the name of any non-Government person who is a passenger on an aircraft designated as Air Force One or Air Force Two not later than 30 days after the date that the person is a passenger on such aircraft.

"(b) EXCEPTION.—Subsection (a) shall not apply in a case in which the President determines that compliance with such subsection would be contrary to the national security interests of the United States. In any such case, not later than 30 days after the date that the person whose name will not be made available was a passenger on the aircraft, the President shall submit to the chairman and ranking member of the Permanent Select Committee on Intelligence and of the Select Committee on Intelligence of the Senate—

(1) the name of the person; and

(2) the justification for not making such name available through the Internet.

"(c) DEFINITION OF PERSON.—As used in this section, the term ‘non-Government person’ means an officer or employee of the United States, a member of the Armed Forces, or a Member of Congress.

TITLE V—ELECTION ADMINISTRATION AND TECHNOLOGY

SEC. 501. FINDINGS.

Congress makes the following findings:

(1) The right to vote is a fundamental and inalienable right under the Constitution.

(2) There is a need for Congress to encourage and enable every eligible American to vote by reaffirming that the right to vote is a fundamental right under the Constitution.

(3) There is a need for Congress to encourage and enable every eligible American to vote by reaffirming that the United States is a democratic government ‘of the people, by the people and for the people’ wherever every vote counts.

(4) There is a need for Congress to encourage and enable every eligible American to vote by eliminating procedural and technological obstacles to voting.

(5) State governments have already begun to examine ways to improve the administration of elections and to modernize mechanisms and machinery for voting.

(6) Congress has authority under section 3 of the Copyright Act of the Constitution of the United States to enact legislation to address the equal protection violations that may be caused by our current, outdated voting system.

(7) Congress has an obligation to ensure that the necessary resources are available to States and localities to improve election technology, administration and to ensure the integrity of the democratic elections process.

Subtitle A—Establishment of Commission on Voting Rights and Procedures

SEC. 511. ESTABLISHMENT.

There is established the Commission on Voting Rights and Procedures (in this subchapter referred to as the ‘Commission’).

SEC. 512. MEMBERSHIP OF THE COMMISSION.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members of whom—

(1) 6 members shall be appointed by the President;

(2) 3 members shall be appointed by the Minority Leader of the Senate (or, if the Minority Leader is a member of the same political party as the President, by the Majority Leader of the Senate); and

(3) 3 members shall be appointed by the Minority Leader of the House of Representatives (or, if the Minority Leader is a member of the same political party as the President, by the Majority Leader of the House of Representatives).

(b) QUALIFICATIONS.—Each member appointed under subsection (a) shall be chosen on the basis of—

(1) experience with, and knowledge of—

(A) election law;

(B) election technology;

(C) the General, State, or local election administration; or

(D) the United States Constitution; or

(E) the history of the United States; and

(f) integrity, impartiality, and good judgment;

(c) PERIOD OF APPOINTMENT; VACANCIES.

(1) PERIOD OF APPOINTMENT.—Each member shall be appointed for the life of the Commission.

(2) VACANCIES.—

(A) IN GENERAL.—A vacancy in the Commission shall not affect its powers.

(B) MANNER OF APPOINTMENT.—A vacancy on the Commission shall be filled in the same manner as the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment not later than 60 days after the date of the vacancy.

(d) CHAIRPERSON; VICE CHAIRPERSON.

(1) IN GENERAL.—The Commission shall elect a chairperson and vice chairperson from among its members.

(2) POLITICAL AFFILIATION.—The chairperson and vice chairperson may not be affiliated with the same political party.

(e) DATE OF APPOINTMENT.—The appointments of the members of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(f) MEETINGS.

(1) IN GENERAL.—The Commission shall meet at the call of the chairperson.

(2) INITIAL MEETING.—Not later than 20 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(3) QUORUM.—A quorum of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) VOTING.—Each action of the Commission shall be approved by a majority vote of members. Each member shall have 1 vote.

SEC. 513. DUTIES OF THE COMMISSION.

(a) STUDY.

(1) IN GENERAL.—The Commission shall conduct a thorough study of—

(A) election technology and systems;

(B) designs of ballots and the uniformity of ballots;

(C) access to polling places, including matters relating to access for individuals with disabilities and other individuals with particular needs;

(D) voter registration and maintenance of voter rolls, including the use of provisional voting and standards for reaffirmation of citizens;

(E) alternative voting methods;

(F) accuracy of voting, election procedures, and election technology;

(G) voter education;

(H) training election personnel and volunteers;

(i) implementation of title I of the Uniformed and Overseas Absentee Voting Act (2 U.S.C. 1073ff et seq.), and the amendments made by title II of that Act, by—

(1) the Secretary of Defense;

(II) any other Federal Government official having a responsibility under that Act; and

(III) each State; and
(ii) whether any legislative or administrative action is necessary to provide a meaningful opportunity to register to vote in, and vote in, elections for Federal office (as defined in section 101 of the Act (42 U.S.C. 1973ff-6)) for—

(I) each absent uniformed services voter (as defined in paragraph (1) of such section); and

(II) each overseas voter (as defined in paragraph (5) of such section) to register to vote and vote in elections for Federal office;

(3) and advisability of establishing the date on which elections for Federal office (as so defined) are held as a Federal holiday; and

(K)(i) how the Federal Government can, on a permanent basis, best provide ongoing assistance to State and local authorities to improve the administration of Federal elections; and

(ii) whether an existing or a new Federal agency should provide such assistance.

(2) Website.—For purposes of conducting the study under this subsection, the Commission shall establish an Internet website to facilitate public comment and participation.

(b) Recommendations.—

(1) Recommendations of Best Practices in Voting and Election Administration.—The Commission shall develop recommendations with respect to the matters studied under subsection (a) that identify those methods of voting and election administration and voting procedures existing or a new Federal agency should provide to improve the administration of Federal elections; and

(2) Recommendations for Providing Assistance in Federal Elections.—The Commission shall develop recommendations with respect to the matters studied under subsection (a)(1)(K) on how the Federal Government can, on a permanent basis, best provide ongoing assistance to State and local authorities to improve the administration of Federal elections, and identify whether an existing or a new Federal agency should provide such assistance.

(3) Recommendations for Voter Participation in Federal Elections.—The Commission shall develop recommendations with respect to the matters studied under subsection (a) on methods—

(A) to increase voter registration; and

(B) to increase the accuracy of voter rolls; and

(C) to improve voting education; and

(D) to improve the training of election personnel and volunteers.

(c) Reports.—

(1) General reports.—Not later than one year after the date of enactment of this Act, the Commission shall submit to the President and Congress a final report that has received the approval of a majority of the members of the Commission.

(2) Final report.—Not later than one year after the date of enactment of this Act, the Commission shall submit to the President and Congress a final report that has received the approval of a majority of the members of the Commission.

(3) Content.—The final report shall contain—

(A) a detailed statement of the findings and conclusions of the Commission on the matters studied under subsection (a); and

(B) a detailed statement of the recommendations developed under subsection (b); and

(iii) any dissenting or minority opinions of the members of the Commission.

SEC. 514. POWERS OF THE COMMISSION.

(a) Hearings.—The Commission or, at its discretion, any subcommittee or member of the Commission, may, for the purpose of carrying out this chapter, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(ii) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of books, papers, correspondence, maps, charts, years, and other papers, and tangible things as the Commission or such subcommittee or member considers advisable.

(b) Issuance and Enforcement of Subpoenas.—

(1) Issuance.—Any subpoena issued under subsection (a) shall be issued by the chairperson and vice chairperson of the Commission acting jointly. Each subpoena shall bear the signature of the chairperson of the Commission and shall identify the class of persons designated by the chairperson for that purpose.

(2) Enforcement.—In the case of contumacy or the refusal of any person to answer any question or to produce any book, paper, document, or things which may be tangible evidence, the Commission, in its own name and in its own right, may, at any place within the United States at which the bearing of such evidence may be found may issue an order requiring the person in question to appear at any hearing of the Commission. The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Commission.

(c) Information from Federal Agencies.—The Commission may require directly from any executive agency or any person in the executive branch of the Federal Government information which is necessary to carry out this chapter. Any Federal Government employee may be so required.

(d) Enforcement.—Any Federal Government employee may be prosecuted for contempt of court for the willful failure to obey an order of the court. Any contempt order may be enforced in the same manner as an order of any court of the United States.

(e) Procurement of Temporary and Intermittent Services.—The Commission may, subject to the general laws of the United States, fill or have filled any position by temporary or intermittent service under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(f) Appropriation of Sums Authorized Under This Title.—There are authorized to be appropriated from any sums received under this title—

(i) to carry out the provisions of this title; and

(ii) to pay the expenses of the Commission.

SEC. 515. PERSONNEL MATTERS.

(a) Compensation of Members.—Each member of the Commission who is not an officer or employee of the Federal Government shall be paid compensation equal to the daily rate of pay prescribed for level IV of the Executive Schedule under section 5316 of title 5, United States Code, for the first 5 days (or any portion of the first 5 days) of travel time during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) Travel Expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, travel to and from any place of attendance and subsistence while away from their homes or regular places of business in the performance of services for the Commission.

(c) Staff.—

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

(2) Compensation.—The chairperson and vice chairperson of the Commission, acting jointly, may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 35 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) Detail of Government Employees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privileges.

(e) Procurement of Temporary and Intermittent Services.—The chairperson and vice chairperson of the Commission, acting jointly, may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 516. TERMINATION OF THE COMMISSION.

The Commission shall terminate 45 days after the date on which it submits its final report under section 513(c)(2).

SEC. 517. AUTHORIZATION OF APPROPRIATIONS FOR THE COMMISSION.

(a) In General.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter.

(b) Availability.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

Subtitle B—Grant Program

SEC. 521. ESTABLISHMENT OF GRANT PROGRAM.

The Attorney General, subject to the general policies and criteria established under section 523, in consultation with the Federal Election Commission, shall make grants to States to pay the Federal share of the costs of the activities described in section 522.

SEC. 522. AUTHORIZED ACTIVITIES.

A State may use payments received under this subchapter to—

(1) improve or replace voting equipment or technology; and

(2) implement new election administration procedures, such as “same-day” voter registration procedures.

(3) provide education and outreach to voters concerning voting procedures, voting rights, or voting technology and train election personnel; and

(4) provide education and outreach to voters concerning voting procedures, voting rights, or voting technology and train election personnel; and
(4) upon completion of the final report under section 513(c), implement recommendations contained in such report.

SEC. 523. GENERAL POLICIES AND CRITERIA.

(a) In general.—The Attorney General shall establish general policies with respect to the approval of State plans, awarding of grants, and the use of assistance made available under this subtitle.

(b) Criteria.—

(1) In general.—Subject to paragraph (2), the Attorney General shall consult with the Federal Election Commission, the Federal Election Administration, and the Comptroller General conduct an audit or examination with respect to the recipient of such grant submit to the Attorney General, under a schedule established by the Attorney General, such information as the Attorney General, in consultation with the Federal Election Commission, shall prescribe.

(2) Audit and examination.—

(a) In general.—The requirements of this section are not to be applied with respect to an election unless the Attorney General determines that such requirements are applicable to such elections.

SEC. 524. SUBMISSION OF STATE PLANS.

(a) In general.—Subject to subsection (c), the chief executive officer of each State that desires to receive a grant under this subtitle shall submit a State plan to the Attorney General at such time, in such manner, and accompanied by such additional information as the Attorney General, in consultation with the Federal Election Commission, may reasonably require.

(b) Contents.—Each State plan submitted under subsection (a) shall—

(1) describe the activities for which assistance under this subtitle is sought;

(2) ensure that the State meets the general policies and criteria established by the Attorney General under section 523;

(3) provide assurances that the State will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources; and

(4) provide such additional assurances as the Attorney General, in consultation with the Federal Election Commission, determines to be essential to ensure compliance with the requirements of this subtitle.

(c) Available for review and comment.—A State submitting a State plan under this section shall make such State plan publicly available for review and comment prior to submission.

SEC. 525. APPROVAL OF STATE PLANS.

The Attorney General, in consultation with the Federal Election Commission, shall approve State plans in accordance with the general policies and criteria established under section 523.

SEC. 526. FEDERAL MATCHING FUNDS.

(a) Requirements.—The Attorney General shall pay to each State having a State plan approved under section 525 the Federal share of the cost of the activities described in the State plan.

(b) Federal share.—

(1) in general.—Subject to paragraph (2), for purposes of this section (a), the Federal share shall be 80 percent.

(2) Waiver.—The Attorney General may specify a Federal share greater than 80 percent if it is determined that the terms and conditions as the Attorney General may prescribe.

(c) Non-Federal share.—The non-Federal share of the assistance under this subtitle may be in cash or in kind fairly evaluated, including planned equipment or services.

SEC. 527. AUDITS AND EXAMINATIONS.

(a) Reporting requirement.—Each recipient of a grant under this subtitle shall keep such records as the Attorney General, in consultation with the Federal Election Commission, shall prescribe.

(b) Audit and examination.—

(1) authority.—Subject to paragraph (2), the Attorney General and the Comptroller General of the United States, or any authorized representative of the Attorney General or the Comptroller General, shall have access to any record of a recipient of a grant under this subtitle that the Attorney General or the Comptroller General determines may be related to a grant received under this subtitle or for the purpose of conducting an audit or examination.

(2) Expiration of authority.—The authority of the Attorney General and the Comptroller General conduct an audit or examination under this subsection with respect to the recipient of a grant under this subtitle shall expire on the date that is 3 years after the date on which the activity for which a plan is approved under section 524 concludes.

SEC. 528. REPORTS.

(a) Reports to Congress.—Not later than January 31 of each year thereafter, the Attorney General shall submit to the President and Congress a report on the program under this subtitle for the preceding year. Each report shall set forth the following:

(1) A description and analysis of any activities funded by a grant awarded under this subtitle.

(2) Any recommendation for legislative or administrative action that the Attorney General considers appropriate.

(b) Authorization of appropriation.—The Attorney General shall require in each grant awarded under this subtitle that the recipient of such grant submit to the Attorney General such information as the Attorney General considers appropriate to submit reports under subsection (a).

SEC. 529. STATE DEFINED.

In this subtitle, the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, and the United States Virgin Islands.

SEC. 530. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization.—

(1) In general.—There are authorized to be appropriated to the Department of Justice—

(A) $500,000,000 for fiscal year 2002;

(B) such amounts as necessary for each of fiscal years 2003, 2004, 2005, and 2006; and

(2) Use of amounts.—Amounts appropriated under paragraph (1) shall be used for the purpose of—

(A) awarding grants under this subtitle; and

(B) paying for the costs of administering the program to award such grants.

(b) Authorization of Appropriations.—There are authorized to be appropriated for each of fiscal years 2002, 2003, 2004, 2005, and 2006 such amounts as necessary to the Federal Election Commission for the purpose of consultation with the Attorney General under this subtitle.

SEC. 541. RELATIONSHIP TO OTHER LAWS.

Nothing in this title may be construed to authorize, require, or supersede conduct prohibited under the following laws, or otherwise affect such laws:

(1) The National Voter Registration Act of 1993 (42 U.S.C. 1973g et seq.);

(2) The Voting Rights Act of 1965 (42 U.S.C. 1971 et seq.);

(3) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.);

(4) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.);


TITLE VI—MILITARY VOTING

SEC. 601. SHORT TITLE.

This title may be cited as the “Military Voting Rights Act of 2001.”

SEC. 602. GUARANTEE OF RESIDENCY.

Article VII of the Soldiers’ and Sailors’ Civil Relief Act of 1940 (50 U.S.C. 590 et seq.) is amended by adding at the end the following:

“SEC. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

(1) be deemed to have lost a residence or domicile in that State; or

(2) be deemed to have acquired a residence or domicile in any other State; or

(3) be deemed to have become resident in or a resident of any other State.

(b) In this section, the term ‘State’ includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.

SEC. 603. STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.

(a) Registration and balloting.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) is amended—

(1) by inserting “(a) ELECTIONS FOR FEDERAL OFFICES.—” before “Each State shall—” and

(2) by adding at the end the following:

“(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall—

(1) permit absentee and early vote absentee services voters to use absentee registration procedures and to vote absentee ballot in general, special, primary, and run-off elections for State and local offices; and

(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application submitted by an absentee or early vote absentee services voter if the application is received by the appropriate State election official not less than 30 days before the election.”

SEC. 604. MILITARY AND FEDERAL VOTING RIGHTS.

(a) Article VII of the Soldiers’ and Sailors’ Civil Relief Act of 1940 (50 U.S.C. 590 et seq.) is amended by adding at the end the following:

“American Samoa, Guam, and the United States Virgin Islands.

SEC. 705. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

(1) be deemed to have lost a residence or domicile in that State; or

(2) be deemed to have acquired a residence or domicile in any other State; or

(3) be deemed to have become resident in or a resident of any other State.

(b) In this section, the term ‘State’ includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.

(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out the provisions of this subtitle.

Subtitle C—Miscellaneous

SEC. 631. LEGACY ACT FOR VETERANS.
TITLE VII—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

SEC. 701. SEVERABILITY.
If any provision of this Act or amendment made by this Act or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 702. REVIEW OF CONSTITUTIONAL ISSUES.
An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

SEC. 703. EFFECTIVE DATE.
Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect upon the expiration of the 90-day period which begins on the date of the enactment of this Act.

SEC. 704. REGULATIONS.
The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act later than 45 days after the date of the enactment of this Act.

Mr. DASCHLE (for himself, Mr. DODD, Mr. KENNEDY, Mrs. MURRAY, Mr. WELLSTONE, Mrs. CLINTON, Mr. SARBANES, Mr. ROCKEFELLER, Mr. SCHUMER, Mrs. BOXER, Mr. JOHNSON, Mr. CORZINE, and Mr. BREAUX).

S. 18. A bill to increase the availability and affordability of quality child care and early learning services, to amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

RIGHT START ACT OF 2001

Mr. DASCHLE. 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:

RIGHT START ACT OF 2001

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 “Right Start Act of 2001.”

TITLE I—INVESTING IN HEAD START PROGRAMS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.
(a) IN GENERAL.—Section 639(a) of the Head Start Act (42 U.S.C. 9834(a)) is amended by striking “such sum” and all that follows and inserting the following: “$6,500,000,000 for fiscal year 2002, $7,000,000,000 for fiscal year 2003, $7,750,000,000 for fiscal year 2004, $8,500,000,000 for fiscal year 2005, and $9,750,000,000 for fiscal year 2006.”.

(b) CONFORMING AMENDMENTS.—
(1) RESERVATIONS.—Paragraphs (1) and (3) of section 639(b) of the Head Start Act (42 U.S.C. 9834(b)) are amended by striking “2003” and inserting “2006”.
(2) DISTRIBUTION.—Paragraphs (3)(A)(i)(I) and (B) of section 640(a) of the Head Start Act (42 U.S.C. 9834(a)) are amended by striking “fiscal year 2003” and inserting “each of fiscal years 2003 through 2006”.

TITLE II—INVESTING IN QUALITY CHILD CARE

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.
(a) CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.—Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9305) is amended by striking “$1,000,000,000” and all that follows and inserting “$2,000,000,000 for fiscal year 2002, $2,109,000,000 for fiscal year 2003, $2,571,000,000 for fiscal year 2004, $3,051,000,000 for fiscal year 2005, and $3,766,000,000 for fiscal year 2006”.

(b) SOCIAL SECURITY ACT FUNDING FOR CHILD CARE.—Section 481(a)(3) of the Social Security Act (42 U.S.C. 618(a)(3)) is amended—
(1) in subparagraph (B), by striking “$1,000,000,000” and inserting “$2,000,000,000”; and
(2) in subparagraph (C), by striking the period and inserting a semicolon; and
(3) by adding at the end the following:
“(G) $2,870,000,000 for fiscal year 2002;”;
“(H) $2,956,000,000 for fiscal year 2003;”;
“(I) $3,861,000,000 for fiscal year 2004;”;
“(J) $4,821,000,000 for fiscal year 2005; and
“(K) $3,766,000,000 for fiscal year 2006.”.

TITLE III—PROMOTING EARLY LEARNING OPPORTUNITIES

SEC. 301. AMENDMENTS TO THE EARLY LEARN-ING OPPORTUNITIES ACT.
Section 805 of the Early Learning Opportunities Act, as enacted by title VIII of the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act 2001 (as amended by law by section 1(a)(1) of Public Law 106-554) is amended—
(1) in the matter preceding paragraph (1), by inserting “; and”.

(2) by striking paragraphs (1) through (4) and inserting the following:
“(1) $750,000,000 for fiscal year 2002;”;
“(2) $1,000,000,000 for fiscal year 2003;”;
“(3) $1,500,000,000 for fiscal year 2004;”;
“(4) $2,000,000,000 for fiscal year 2005; and

TITLE IV—SUPPORTING FAMILY CHOICES IN CHILD CARE

Subtitle A—Dependent Care Tax Credit

SEC. 401. EXPANDING THE DEPENDENT CARE TAX CREDIT.
(a) PERCENTAGE OF EMPLOYMENT-RELATED EXPENSES DETERMINED BY TAXPAYER STATUS.—Section 21(a)(2) of the Internal Revenue Code of 1986 (relating to percentage) is amended to read as follows:
“(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term ‘applicable percentage’ means—
“(A) except as provided in subparagraph (B), 50 percent reduced (but not below 20 percent) by 1 percentage point for each $1,000, or fraction thereof, by which the taxpayer’s adjusted gross income for the taxable year exceeds $30,000, and
“(B) in the case of employment-related expenses described in subparagraph (A), 50 percent reduced (but not below zero) by 1 percentage point for each $1,000, or fraction thereof, by which the taxpayers’ adjusted gross income for the taxable year exceeds $30,000.”.
(b) INFLATION ADJUSTMENT FOR ALLOWABLE EXPENSES.—Section 21(c) of the Internal Revenue Code of 1986 (relating to dollar limit on amount creditable) is amended by striking “‘The amount determined’” and inserting “‘The amount determined’ and inserting
“‘In the case of any taxable year beginning after 2002, each dollar amount referred to in paragraph (1), and an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(a)(3) for the calendar year in which the taxable year begins, by substituting ‘calendar year 2001’ for ‘calendar year 1992’ in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10. The amount determined’”.
(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2001.

Subtitle B—Incentives for Employer-Provided Child Care

SEC. 411. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

TITLE V—EXPANDING FAMILY AND MEDICAL LEAVE

Subtitle A—Family Income to Respond to Significant Transitions

SEC. 501. SHORT TITLE.
SEC. 502. PURPOSES.
SEC. 503. DEFINITIONS.
SEC. 504. DEMONSTRATION PROJECTS.
SEC. 505. EVALUATIONS AND REPORTS.
SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

Subtitle B—Family Friendly Workplaces

SEC. 511. SHORT TITLE.
SEC. 512. COVERAGE OF EMPLOYEES.

Subtitle C—Time for Schools

SEC. 521. SHORT TITLE.
SEC. 522. GENERAL REQUIREMENTS FOR LEAVE.
SEC. 523. SCHOOL INVOLVEMENT LEAVE FOR CIVIL SERVICE EMPLOYEES.
SEC. 524. EFFECTIVE DATE.

Subtitle D—Employment Protection for Parents

SEC. 531. ENTITLEMENT TO LEAVE FOR ADDRESSING DOMESTIC VIOLENCE FOR NON-FEDERAL EMPLOYEES.
SEC. 532. ENTITLEMENT TO LEAVE FOR ADDRESSING DOMESTIC VIOLENCE FOR FEDERAL EMPLOYEES.
SEC. 533. EXISTING LEAVE USEABLE FOR DOMESTIC VIOLENCE.

TITLE VI—CONGRESSIONAL RECORD—SENATE

January 22, 2001
(B) the amount of employment-related expenses otherwise incurred for such qualifying individuals for the taxable year (determined under this section without regard to this paragraph).

(b) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2001.

SEC. 36. OVERPAYMENTS OF TAX.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against taxes) is amended by inserting after section 3607 the following:

"SEC. 3507A. ADVANCE PAYMENT OF DEPENDENT CARE CREDIT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a dependent care eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee’s dependent care advance amount.

"(b) DEPENDENT CARE ELIGIBILITY CERTIFICATE.—For purposes of this title, a dependent care eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 36 for the taxable year,

"(2) certifies that the employee reasonably expects to be an applicable taxpayer for the taxable year,

"(3) certifies that the employee does not have a dependent care eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

"(4) states whether or not the employee’s spouse has a dependent care eligibility certificate in effect,

"(5) states the number of qualifying individuals in the household maintained by the employee, and

"(6) estimates the amount of employment-related expenses for the calendar year.

"(c) DEPENDENT CARE ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the dependent care advance amount means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee’s wages from the employer for such period,

"(B) on the basis of the employee’s estimated employment-related expenses included in the dependent care eligibility certificate, and

"(C) in accordance with tables provided by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

"(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3607 shall apply.

"(e) DEFINITIONS.—For purposes of this section, terms used in this chapter which are defined in section 35 shall have the respective meanings given such terms by section 35.

"(f) CONFIRMING AMENDMENTS.—

"(1) IN GENERAL.—This section, as redesignated by paragraph (1), is amended by striking "chapter" and inserting "subtitle".

"(2) Section 35(e) of such Code, as so redesignated and amended by subsection (c), is amended by adding at the end the following:

"(12) COORDINATION WITH ADVANCE PAYMENT AND CONSTRUCTION CREDIT.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply for purposes of this section.

"(3) Sections 24(h)(1) and 129(a)(2) of such Code are amended by striking "section 21(e)" and inserting "section 35(e)".

"(4) Section 129(b)(2) of such Code is amended by striking "section 21(d)(2)") and inserting "section 35(d)(2)".

"(5) Section 129(e)(1) of such Code is amended by striking "section 21(b)(2)" and inserting "section 35(b)(2)".

"(6) Section 129(g)(2) of such Code is amended by striking "section 21" and inserting "section 35".

"(7) Section 961(f)(2)(C) of such Code is amended by striking "and 34" and inserting "34, and 35".

"(8) Section 631(b)(1)(A) of such Code is amended by striking "and 34" and inserting 34, and 35".

"(9) Section 631(c)(2)(H) of such Code is amended by striking "section 21" and inserting "section 35".

"(10) Section 631(b)(2)(L) of such Code is amended by striking "section 21, 24, or 32" and inserting "section 24, 32, or 35".

"(11) The table of sections for subtitle B of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Expenses for household and dependent care services necessary for gainful employment.

"Sec. 36. Overpayments of tax.

"(12) The table of sections for subtitle A of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 21.

"(13) The table of sections for chapter 25 of such Code is amended by adding after the item relating to section 3507 the following:

"Sec. 3507A. Advance payment of dependent care credit.

"(14) Section 1324(b)(2) of title 31, United States Code, is amended by striking "or" before "enacted" and by inserting before the period at the end of .. . or from section 35 of such Code.

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

Subtitle B—Incentives for Employer-Provided Child Care

SEC. 411. ALLOWANCE OF CREDIT FOR EMPLOYER-PROVIDED CARE FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

"SEC. 45E. EMPLOYER-PROVIDED CHILD CARE CREDIT.

"(a) IN GENERAL.—For purposes of section 36, the employer-provided child care credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) 25 percent of the qualified child care expenditures, and

"(2) 10 percent of the qualified child care resource and referral expenditure.

"(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CHILD CARE EXPENDITURE.—

"(A) IN GENERAL.—The term ‘qualified child care expenditure’ means any amount paid or incurred—

"(i) to acquire, construct, rehabilitate, or expand property—

"(II) which is to be used as part of a qualified child care facility of the taxpayer,

"(III) which meets the requirements of any qualifying child care facility (including child care facilities), including the use of such facility (or the eligible use of such facility) to provide child care services to employees of the taxpayer,

"(IV) to reimburse an employee for expenses for child care which enables the employee to be gainfully employed including expenses related to—

"(iii) day care and before and after school care,

"(ii) transportation associated with such care, and

"(iii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including the licensing of the facility as a child care facility.

"(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

"(i) the parent or guardian is open to employees of the taxpayer during the taxable year,

"(ii) if the facility is the principal trade or business of the taxpayer, at least 30 percent of the enrollees of such facility are dependent employees of the taxpayer and the use of such facility (or the eligible use of such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)),

"(3) QUALIFIED CHILD CARE RESOURCE AND REFERRAL EXPENDITURE.—The term ‘qualified child care resource and referral expenditure’ means any amount paid or incurred under a contract to provide child care resource and referral services to an employee of the taxpayer.

"(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowable under section 36 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer
(2) APPlicable RecapTURE PERCENTAGE.—

(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

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<thead>
<tr>
<th>Years</th>
<th>Recapture Percentage</th>
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<tr>
<td>1-3</td>
<td>100</td>
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<tr>
<td>4</td>
<td>85</td>
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<td>10</td>
<td>45</td>
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</table>

(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

(3) RecapTURE EVENT DEFINED.—For purposes of this subsection, the term ‘‘recapture event’’ means—

(A) Cessation of Operation.—The cessation of the operation of the facility as a qualified child care facility.

(B) Cessation of Partnership.—

(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer’s interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

(ii) AGREEMENT TO ASSUMe RecapTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition.

In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

(D) Special Rules.—

(1) Tax BENEFIT Rule.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

(2) No CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

(E) No RecapTURE by Reason of Casualty LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

(F) Special Rules.—For purposes of this section—

(1) AGRegATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

(2) Income from SITION in the Case of Estates and TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

(G) INCLUSION in the Case of Partnerships.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

(1) Reduction in BAsIS.—For purposes of this subtitle—

(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be increased by the amount of the credit so determined.

(B) CERTAIN DISPOSITIONS.—If, during any taxable year, there is a recapture amount determined with respect to property which was disposed of by an amount equal to such recapture amount. For purposes of the preceding sentence, the term ‘‘recapture amount’’ means any increase in tax (as adjusted under section 45R) determined under subsection (d).

(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended by striking ‘‘plus’’ at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ‘‘plus’’, and by adding at the end the following:

(‘‘14) the employer-provided child care credit determined under section 45E.”

(2) Subsection (d) of section 39 of such Code is amended by adding at the end the following new paragraph:

(‘‘(b) NO CarryBack of EMPLOYER-PROVIDED CHILD CARE CREDIT BEFORE JANUARY 1, 2002. No portion of the unused business credit for any taxable year which is attributable to the credit under section 45E may be carried back to a taxable year ending before January 1, 2002.”.

(3) Subsection (c) of section 196 of such Code is amended by adding at the end the following:

(‘‘(10) NO CarryBack of EMPLOYER-PROVIDED CHILD CARE CREDIT BEFORE JANUARY 1, 2002. No portion of the unused business credit for any taxable year which is attributable to the credit under section 45E may be carried back to a taxable year ending before January 1, 2002.”.

(4) The table of sections for part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

‘‘Sec. 45E. Employer-provided child care credit.”.

(5) Section 101(a) of such Code is amended by striking ‘‘and’’ at the end of paragraph (26) and inserting ‘‘; before such at the end of paragraph (27) and inserting ‘‘; and’’, and by adding at the end the following:

‘‘(28) in the case of a facility with respect to which a credit was allowed under section 45E, to the extent provided in the amendments made by this section shall apply to taxable years beginning after December 31, 2001.”

TITLe V—EXPANDING FAMILY AND MEDICAL LEAVE

Subtitle A—Family Income and Employment Response to Significant Transitions

SEC. 501. SHORT TITLE.

This subtitle may be cited as the ‘‘Family Income and Employment Response to Significant Transitions Insolvency Act of 2001.”

SEC. 502. PURPOSES.

The purposes of this subtitle are—

(1) to establish a demonstration program that supports the efforts of States and local and regional partnerships to provide partial or full wage replacement for employees who take leave under the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) or State, local, or private leave, or a reason described in subparagraph (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1));

(2) to learn about the most effective mechanisms for providing the wage replacement assistance.

SEC. 503. DEFINITIONS.

(a) GRANTS.—The Secretary shall make grants to eligible entities to pay for the Federal share of the cost of carrying out projects that assist families by providing, through various mechanisms, wage replacement for a covered employee who is on leave under the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be a State or political subdivision of a State.

(c) USE OF FUNDS.—In general.—An entity that receives a grant under this section may use the funds made available through the grant to provide partial or full wage replacement as described in subsection (a) to eligible individuals—

(1) directly;

(2) through an insurance program, such as a State temporary disability insurance program or the State unemployment compensation benefit program;

(3) through a private disability or other insurance program, or another mechanism provided by a private employer; or

(4) through another mechanism.

(2) ADMINISTRATIVE COSTS.—No entity may use more than 10 percent of the total funds made available through the grant during the 5-year period of the grant to pay for the administrative costs relating to a project described in subsection (a).

(d) ELIGIBLE INDIVIDUALS.—To be eligible to receive wage replacement under subsection (a), an individual shall—

(1) meet such eligibility criteria as the eligible entity provides; and

(2) be—

(A) an individual who is taking leave, under the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), other Federal, State, or local law, or a private plan, for a reason described in subparagraph (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1));

(B) at the option of the eligible entity, an individual who—

(i) is taking leave, under that Act, other Federal, State, or local law, or a private plan, for a reason described in subparagraph (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1));

(ii) leaves employment because the individual has elected to care for a son or daughter under age 1; or

(iii) leaves employment because the individual has elected to care for a son or daughter who is a minor child or a child who by reason of physical or mental condition requires special care and attention.

(E) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require, including, at a minimum—

(1) a plan for the project to be carried out with the grant;
(2) information demonstrating that the applicant consulted representatives of employers and employees, including labor organizations, in developing the plan;

(3) and estimates of the costs and benefits of the project;

(4) information on the number and type of families to be covered by the project, and the extent to which a family may have a disability or economic need; and

(B) information on any criteria or characteristics that the entity will use to determine whether an individual is eligible for wage replacement under subsection (a), as described in paragraphs (1) and (2)(C) of subsection (d);

(5) the project will expand on State and private systems of wage replacement for eligible individuals, information on the manner in which the project will expand on the systems;

(6) information demonstrating the manner in which the wage replacement assistance provided through the project will assist families in which an individual takes leave as described in subsection (d)(1); and

(7) an assurance that the applicant will participate in efforts to evaluate the effectiveness of the project.

(f) SELECTION CRITERIA.—In selecting entities to receive grants for projects under this section, the Secretary shall—

(1) take into consideration—

(A) the scope of the proposed projects;

(B) the cost-effectiveness, feasibility, and financial soundness of the proposed projects;

(C) the extent to which the proposed projects would expand on wage replacement in response to family caregiving needs and in areas with low-wage workers, and factors that determine the ability of individuals to obtain wage replacement through the projects; and

(D) the extent to which project will expand on the systems;

(2) to the extent feasible, select entities proposing projects that utilize diverse mechanisms, including expansion of State unemployment compensation benefit programs, and establishment or expansion of State temporary disability insurance programs, to provide the wage replacement.

(g) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost described in subsection (a) shall be—

(A) 50 percent for the first year of the grant period; and

(B) 40 percent for the second year of that period;

(C) 30 percent for the third year of that period; and

(D) 20 percent for each subsequent year.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost may be in cash or in kind, fairly evaluated, including plant, equipment, and services and may be provided from State, local, or private sources, or Federal sources, as elected by the entity.

(h) SUPPLEMENT NOT SUPPLANT.—Funds appropriated pursuant to the authority of this subsection shall be used to supplement and not supplant any other Federal, State, and local public funds and private funds expended to provide wage replacement.

(i) EFFECT ON EXISTING RIGHTS.—Nothing in this subsection shall be construed to supersede, preempt, or otherwise interfere on the provisions of any collective bargaining agreement, employment benefit programs, or plan that provides greater rights to employees than the rights established under this subsection.

SEC. 512. COVERAGE OF EMPLOYEES.

(a) ENTITLEMENT TO LEAVE.—Section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)) is amended by adding at the end the following:

"(3) School involvement leave for eligible employees under section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) is amended by inserting after the second sentence the following:

"Leaves of absence taken under section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) are leaves of absence under section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) for the purpose of providing child care or a educational opportunity for the child of such employee and shall be provided under subsection (a)(3) of section 103 of such Act (29 U.S.C. 2613) and shall be treated as a covered leave under such section.

(b) NOTICE.—Section 102(e) of such Act (29 U.S.C. 2612(e)) is amended by adding at the end the following:

"(3) Notice for School Involvement Leave.—In any case in which the necessity for leave under subsection (a)(3) is foreseeable, the employer shall provide the employee with notice not less than 24 hours before the date the leave is to begin, of the employee's intention to take leave under such subsection. If the necessity for the leave is not foreseeable, the employer shall provide such notice as is practicable.

"(e) Certification.—Section 103 of such Act (29 U.S.C. 2613) is amended by adding at the end the following:

"(3) Certification for School Involvement Leave.—An employer may require that an employee sign a certification that a leave under section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) is for the purpose of providing child care or an educational opportunity for the child of such employee and shall be provided under subsection (a)(3) of section 103 of such Act (29 U.S.C. 2613) and shall be treated as a covered leave under such section.

SEC. 523. SCHOOL INVOlVEMENT LEAVE FOR CIVIL SERVICE EMPLOYEES.

(a) ENTITLEMENT TO LEAVE.—Section 6332(a) of title 5, United States Code, is amended by adding at the end the following:

"(3) School involvement leave for eligible employees under section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) is authorized, in lieu of or in addition to any leave that an employee would otherwise be entitled to under section 6332(a), if the employer agrees, without regard to the requested duration, to provide the employee with a leave of absence for the purpose of providing child care or an educational opportunity for the child of such employee and shall be provided under subsection (a)(3) of section 103 of such Act (29 U.S.C. 2613) and shall be treated as a covered leave under such section.

(b) In this paragraph—

(i) School involvement leave means a leave of absence under section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) for the purpose of providing child care or an educational opportunity for the child of such employee and shall be provided under subsection (a)(3) of section 103 of such Act (29 U.S.C. 2613) and shall be treated as a covered leave under such section.
changes in a family and that integrate all of the functions of the position of such employee."

(b) LEAVE REQUIREMENT.—Section 6382(b)(1) of such title is amended by adding at the end the following:

"(3) DOMESTIC VIOLENCE.—Leave under subparagraph (E) or (F) of subsection (b)(1) may be taken by an employee intermittently or on a reduced leave schedule."

(c) NOTICE.—Section 6382(d) of such title is amended by inserting before "the" the following: "or for a family member or co-worker of the employee, an employee of a domestic violence program, an attorney, a member of the clergy, or a medical or other professional, from whom the employee has sought assistance in addressing domestic violence and its effects;"

(d) CONFEIDENTIALITY.—Section 6383 of such title is amended by adding at the end the following:

"(3) In determining if an employee meets the requirements of subparagraph (E) or (F) of subsection (b)(1), the employer of an employee may require the employee to provide—

(1) a written statement describing the domestic violence and its effects; and

(2) documentation of the domestic violence involved, such as a photograph, torn or bloody clothing, or any other damaged property.

(4)Such other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances that provide the basis for the claim of domestic violence, or a written statement from any other individual with knowledge of the circumstances that provide the basis for the claim of domestic violence,
or physical evidence of domestic violence, such as a photograph, torn or bloody clothing, or other damaged property.

(b) All evidence provided to the employing agency under subsection (a) of domestic violence experienced by an employee or the son, daughter, or parent of an employee, including paid or unpaid leave, any other documentation or corroborating evidence, and the fact that an employee has requested the leave for the purpose of addressing, or caring for a son, daughter, or parent who is addressing domestic violence and its effects, shall be retained in the strictest confidence by the employing agency, except to the extent that disclosure is requested, or consented to, by the employee for the purpose of—

(1) protecting the safety of the employee or a family member or co-worker of the employee; or

(2) assisting in documenting domestic violence for a court or agency.

SEC. 523. EXISTING LEAVE USEABLE FOR DOMESTIC VIOLENCE.

(a) Definitions.—In this section:

(1) ADDRESSING DOMESTIC VIOLENCE AND ITS EFFECTS.—The term ‘‘addressing domestic violence and its effects’’ has the meaning given the term in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(2) EMPLOYEE.—The term ‘‘employee’’ means any person employed by an employer. In the case of an individual employed by a public agency, the term means each individual employed as described in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(e)).

(3) EMPLOYER.—The term ‘‘employer’’—

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs individuals, if such person’s business subject to the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) or to any provision of a State or local law, collective bargaining agreement, or employment benefits program or plan, addressing paid or unpaid leave from employment (including family, medical, sick, annual, personal, or similar leave); and

(B) includes any person acting directly or indirectly in the interest of an employer in relation to any employee, and includes a public agency subject to a law enforcement, program, or plan described in subparagraph (A), but does not include any labor organization (other than when acting as an employer) in the capacity of officer or agent of such labor organization.

(4) EMPLOYMENT BENEFITS.—The term ‘‘employment benefits’’ has the meaning given the term in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(5) PARENT; SON OR DAUGHTER.—The terms ‘‘parent’’ and ‘‘son or daughter’’ have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(6) PUBLIC AGENCY.—The term ‘‘public agency’’ means the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(7) USE OF EXISTING LEAVE.—An employee who is entitled to paid or unpaid leave (including family, medical, sick, annual, personal, or similar leave) from employment, pursuant to State or local law, a collective bargaining agreement, or an employment benefits program or plan, shall be permitted to use such leave for the purpose of addressing domestic violence and its effects, or for the purpose of caring for a son or daughter or parent of the employee, if such son or daughter or parent is addressing domestic violence and its effects, or for the purpose of testifying, or is about to testify, in any inquiry or proceeding relating to any right provided under this section;

(c) Certification.—In determining whether an employee qualifies to use leave as described in subsection (b), an employer may require a written statement, documentation of domestic violence, or corroborating evidence consistent with section 103(g) of the Family and Medical Leave Act (29 U.S.C. 2613(g)), as amended by section 811(c).

(d) Confidentiality.—All evidence provided to the employer under subsection (c) of domestic violence experienced by an employee or the son or daughter or parent of the employee, including a statement of an employee, any other documentation or corroborative evidence, fact that an employee has requested leave for the purpose of addressing, or caring for a son or daughter or parent who is addressing domestic violence and its effects, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is requested, or consented to, by the employee for the purpose of—

(1) protecting the safety of the employee or a family member or co-worker of the employee; or

(2) assisting in documenting domestic violence for a court or agency.

(e) Prohibited acts.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this section.

(f) Discrimination.—It shall be unlawful for any employer to discharge or in any other manner discriminate against an individual for opposing any practice made unlawful by this section.

(g) Interference with proceedings or inquiries.—It shall be unlawful for any person to discharge or in any other manner discriminate against an individual because such individual—

(1) has filed any charge, had instituted or caused to be instituted any proceeding under or related to this section;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this section; or

(3) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this section.

(h) Enforcement.—

(1) Public enforcement.—The Secretary of Labor shall have the powers set forth in subsections (b), (c), (d), and (e) of section 107 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617) for the purpose of public agency enforcement of any alleged violation of subsection (e) against any employer.

(2) Private enforcement.—The remedies and procedures set forth in section 107(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617(a)) shall be the remedies and procedures pursuant to which an employee may initiate a legal action against an employer for alleged violations of subsection (e).

(i) References.—For purposes of paragraphs (1) and (2), references in section 107 of the Family and Medical Leave Act of 1993 to section 107(1) of such Act shall be considered to refer to subsection (e).

(j) Employer liability under other laws.—Nothing in this section shall be construed to limit the liability of an employer to an employee for harm suffered relating to the employee’s experience of domestic violence pursuant to any other Federal or State law, including a law providing for a legal remedy.

By Mr. DASCHLE (for himself, Mr. Kennedy, Mr. Lieberman, Mr. Leahy, Mr. Biden, Mr. Feingold, Mr. Schumer, Mr. Durbin, Mr. Akaka, Mrs. Boxer, Mr. Breaux, Mrs. Clinton, Mr. Corzine, Mr. Dayton, Mr. Edwards, Mr. Harkin, Mr. Levin, Ms. Mikulski, Mr. Rockefeller, and Mr. Wyden):

S. 19. A bill to protect the civil rights of all Americans, and for other purposes; to the Committee on the Judiciary.

PROTECTING CIVIL RIGHTS FOR ALL AMERICANS ACT

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text be printed in the Record.

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

S. 19

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 ‘‘Protecting Civil Rights for All Americans Act’’.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2001

Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. Definition of hate crime.
Sec. 104. Support for criminal investigations and prosecutions by State and local law enforcement officials.
Sec. 105. Grant program.
Sec. 106. Authorization for additional personnel to assist State and local law enforcement.
Sec. 107. Prohibition of certain hate crime acts.
Sec. 108. Duties of Federal sentencing commission.
Sec. 109. Statistics.
Sec. 110. Severability.

TITLE II—TRANSPAC STOPPED STATISTICS STUDY

Sec. 201. Short title.
Sec. 202. Attorney General to conduct study.
Sec. 203. Grant program.
Sec. 204. Limitation on use of data.
Sec. 205. Definitions.
Sec. 206. Authorization of appropriations.

TITLE III—SUPPORTING INDIGENT REPRESENTATION

Sec. 301. Findings.
Sec. 302. Authorization of appropriations.

TITLE IV—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE AND EMPLOYMENT

Subtitle A—Prohibition of Health Insurance Discrimination on the Basis of Predictive Genetic Information

Sec. 402. Amendments to the Public Health Service Act.
Sec. 403. Amendments to Internal Revenue Code of 1986.
Sec. 404. Amendments to title XVIII of the Social Security Act relating to medigap.

Subtitle B—Prohibition of Employment Discrimination on the Basis of Predictive Genetic Information

Sec. 411. Definitions.
Sec. 412. Employer practices.
Sec. 413. Employment agency practices.
Sec. 414. Labor organization practices.
Sec. 415. Training programs.
TITLE V—EMPLOYMENT NONDISCRIMINATION

Sec. 501. Short title.
Sec. 502. Purposes.
Sec. 503. Definitions.
Sec. 504. Discrimination prohibited.
Sec. 505. Retaliation and coercion prohibited.
Sec. 506. Benefits.
Sec. 507. Collection of statistics prohibited.
Sec. 508. Quotas and preferential treatment prohibited.
Sec. 509. Religious accommodation.
Sec. 510. Nonapplication to members of the Armed Forces; veterans' preferences.
Sec. 511. Construction.
Sec. 512. Enforcement.
Sec. 513. State and Federal immunity.
Sec. 514. Attorneys.
Sec. 515. Posting notices.
Sec. 516. Regulations.
Sec. 517. Relationship to other laws.
Sec. 518. Enforcement.

TITLE VI—PREVENTING CIVIL RIGHTS VIOLATIONS

Sec. 601. Establishment of the National Task Force on Violence Against Health Care Providers.

Sec. 602. Increased funding for enforcing civil rights laws.

Title I—LOCAL LAW ENFORCEMENT ENFORCEMENT ACT OF 2001

SEC. 101. SHORT TITLE.
This title may be cited as the “Local Law Enforcement Enforcement Act of 2001”.

SEC. 102. FINDINGS.
Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias.

(4) Existing Federal law is inadequate to address this problem.

(5) The prominent characteristic of a violent crime motivated by bias is that it deviates not just the actual victim and the victim’s family and friends, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment or participating in other commercial activity.

(7) Perpetrators cross State lines to commit such crimes.

(8) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(9) Such violence is substantially affected by laws that have traveled in interstate commerce.

(10) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude ended with the 13th, 14th, and 15th amendments to the Constitution of the United States, through widespread public and private vigilance, because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means to the elimination, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(11) Both at the time of the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct ‘races.’ Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(12) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(13) The prominent characteristic of a violent crime motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States and local jurisdictions.

SEC. 103. DEFINITION OF HATE CRIME.
In this title, the term ‘hate crime’ has the same meaning as in section 852(a)(8) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

SEC. 104. SUPPORT FOR CRIMINAL INVESTIGATION AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) Assistance Other Than Financial Assistance.

(1) In general.—At the request of a law enforcement official of a State or Indian tribe, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(B) constitutes a felony under the laws of the State or Indian tribe; and

(C) is motivated by prejudice based on the victim’s race, color, religion, national origin, gender, sexual orientation, or disability or is a violation of the hate crime laws of the State or Indian tribe.

(2) Priority.—In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who directed at persons because of their race, color, religion, national origin, gender, sexual orientation, or disability.

(b) Grant Program.

There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2002 and 2003.

SEC. 105. GRANT PROGRAM.

(a) Authority To Make Grants.—The Office of Justice Programs of the Department of Justice shall make grants to States and local jurisdictions in accordance with such regulations as the Attorney General may prescribe, to State and local programs designed to combat hate crimes committed against juveniles.

(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 106. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2002, 2003, and 2004 such sums as may be necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of title 18, United States Code (as added by this title).

SEC. 107. PROHIBITION OF CERTAIN HATE CRIME ACTS.

(a) In General.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

“§ 249. Hate crime acts

“(a) In General.”
(1) O F F E N S E S I N V O L V I N G A C T U A L O R P E R -
ceived race, color, religion, or national origin.—Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or per-
ceived religion, national origin, of any person—
(A) shall be imprisoned not more than 10
years, fined in accordance with this title, or both, if
(A) death results from the offense; or
(B) the offense includes kidnapped or an
attempt to kidnap, aggravated sexual abuse or
an attempt to commit aggravated sexual abuse,
or an attempt to kill.
(2) O F F E N S E S I N V O L V I N G A C T U A L O R P E R -
cieved religion, national origin, gender,
sexual orientation, or disability.—
(A) B Y G E N E R A L.—Whoever, whether or not
acting under color of law, in any circum-
stance described in subparagraph (B),
willfully causes bodily injury to any person or,
through the use of fire, a firearm, or an
explosive or incendiary device, attempts to
cause bodily injury to any person, because of
the actual or perceived religion, national or-
gin, gender, sexual orientation, or disability of
any person—
(i) shall be imprisoned not more than 10
years, fined in accordance with this title, or
both, if
(ii) death results from the offense; or
(ii) the offense includes kidnapping or an
attempt to kidnap, aggravated sexual abuse or
an attempt to commit aggravated sexual abuse,
or an attempt to kill.
(B) CIRCUMSTANCES DESCRIBED.—For pur-
poses of subparagraph (A), the circumstances
described in this subparagraph are that—
(i) the conduct described in subparagraph (A)
occurs during the course of, or as the re-
sult of, the travel of the defendant or the
victim—
(I) across a State line or national border;
or
(II) using a channel, facility, or instru-
mentality of interstate or foreign commerce;
(ii) the defendant uses a channel, facility,
or instrumentality of interstate or foreign
commerce in connection with the conduct
described in subparagraph (A); or
(iii) the conduct described in subparagraph (A)
occurs in commerce with a person who
has traveled in interstate or foreign commerce;
or
(iv) the conduct described in para-
graph (A);
(2) he or she has reasonable cause to be-
lieve that the actual or perceived race, color,
religion, national origin, gender, sexual orien-
tation, or disability of any person was a
motivating factor underlying the alleged
conduct of the defendant; and
(3) the State does not have jurisdiction or
do not intend to exercise jurisdiction; or
(B) the State has requested that the Fed-
eral Government assume jurisdiction;
(C) the conduct is an object to the Fed-
eral Government assuming jurisdiction; or
(D) the verdict or sentence obtained pur-
suant to State charges left demonstratively
unvacuated the Federal interest in eradi-
cating bias-motivated violence.
(c) DEFINITIONS.—In this section—
(1) the term ‘‘explosive or incendiary de-
vice’’ has the meaning given the term in sec-
tion 232 of this title; and
(2) the term ‘‘firearm’’ has the meaning
given the term in section 921(a) of this title.
(b) TECHNICAL AND CONFORMING AMEND-
MENT.—For purposes of chapter 13 of title 18,
United States Code, is amended by adding at the end the following:
‘‘249. Hate crime acts.’’. SEC. 108. DUTIES OF FEDERAL SENTENCING
COMMISSION.—(a) AMENDMENT OF FEDERAL SENTENCING
GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States
Code, the Federal Sentencing Commission
shall study the issue of adult recruit-
ment of juveniles to commit hate crimes and
shall, if appropriate, amend the Federal sen-
tencing guidelines to provide sentencing en-
hancements (in addition to the sentencing
enhancement provided for the use of a minor
during the commission of an offense) for
adult defendants who recruit juveniles to
assist in the commission of hate crimes.
(b) CONSISTENCY WITH OTHER GUIDELINES.
In carrying out this section, the United States
Sentencing Commission shall—
(1) ensure that there is reasonable consist-
ency with other Federal sentencing guide-
lines; and
(2) avoid duplicative punishments for sub-
stantially the same offense.
109. STATISTICS.
(1) The number of individuals in the
stopped vehicle, including the race, gender,
employment, the age of the driver, the ap-
proximate age of the driver.
(2) Whether a search was instituted as a re-
 Result of the stop and whether consent was
For the search.
(3) Any alleged criminal behavior by the
driver that justified the stop.
(4) Any items seized, including contraband
money.
(5) Whether any warning or citation was
awarded at the end of the stop.
(6) B R O A D E R.—Not later than 120 days
after the date of enactment of this Act, the
Attorney General shall report the results of
the study to the Congress and make such report available to the public, and iden-
tify the jurisdictions for which the study is
to be conducted. Not later than 2 years after
the date of enactment of this Act, the
Attorney General shall report the results of
the data collected under this title to Con-
gress, a copy of which shall also be published in the Federal Register;
203. GRANT PROGRAM.
In order to complete the study described in
section 202, the Attorney General may pro-
vide grants to law enforcement agencies to
collect and submit the data described in
section 202 to the appropriate agency as des-
gnated by the Attorney General.
204. LIMITATION ON USE OF DATA.
Information released pursuant to section 202 shall not reveal the identity of any indi-
vidual who is stopped or any law enforce-
ment officer involved in a traffic stop.
205. DEFINITIONS.
In this title:
(1) L A W E N F O R C E M E N T A G E N C Y.—The term
‘‘law enforcement agency’’ means an agency
of State or political subdivision of a State,
authorized by law or by a Federal, State, or
local government agency to engage in or su-
previse the prevention, detection, or inves-
tigation of violations of Federal laws, or a
federally recognized Indian tribe.
(2) I N D I A N T R I B E.—The term ‘‘Indian tribe’’
means any Indian or Alaska Native tribe,
band, nation, pueblo, village, or community
that the Secretary of the Interior acknowl-
edges to exist as an Indian tribe.
206. AUTHORIZATION OF APPROPRIATIONS.
There are authorized to be appropriated
such sums as may be necessary to carry out
this title.
207. SUPPORTING INDIGENT REPRESENTATION.
CONGRESSIONAL RECORD — S239
STUDY
SEC. 201. SHORT TITLE.
This title may be cited as the ‘‘Traffic Stops Study Act of 2001’’.
SEC. 202. ATTORNEY GENERAL TO CONDUCT STUDY.
(a) STUDY.—
(1) IN GENERAL.—The Attorney General shall conduct a nationwide study of stops for
traffic violations by law enforcement of-
cers.
(2) INITIAL ANALYSIS.—The Attorney Gen-
eral shall perform an initial analysis of ex-
isting data, including complaints alleging and
other information concerning traffic stops moti-
vated by race and other bias.
(3) DATA COLLECTION.—After completion of
the initial analysis under paragraph (2), the
Attorney General shall then gather the fol-
lowing data using a nation-
wide sample of jurisdictions, including juris-
dictions identified in the initial analysis:
(A) The traffic infraction alleged to have
been committed that led to the stop.
(B) Identifying characteristics of the driv-
er stopped, including the race, gender,
ethnicity, and approximate age of the driver.
(C) Whether immigration status was ques-
tioned, immigration documents were re-
quested, or an inquiry was made to the Im-
migration and Naturalization Service with
regard to any person in the vehicle.
(D) The number of individuals in the
stopped vehicle.
(2) Whether a search was instituted as a re-
Search of the stopped vehicle.
(3) Any alleged criminal behavior by the
driver that justified the stop.
(4) Any items seized, including contraband
money.
(5) Whether any warning or citation was
awarded at the end of the stop.
(6) Whether an arrest was made as a result of
the search and the justi-
fication for the arrest.
(7) The number of minutes of the stop.
(b) REPORTING.—Not later than 120 days
after the date of enactment of this Act, the
Attorney General shall report the results of
the study to the Congress and make such report available to the public, and iden-
tify the jurisdictions for which the study is
to be conducted. Not later than 2 years after
the date of enactment of this Act, the
Attorney General shall report the results of
the data collected under this title to Con-
gress, a copy of which shall also be published in the Federal Register.
SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 101(a) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)) is amended to read as follows:

"(a) There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation, $400,000,000 for fiscal year 2002."

TITLE IV—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE AND EMPLOYMENT

Subtitle A—Prohibition of Health Insurance Discrimination on the Basis of Predictive Genetic Information

SEC. 401. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) Prohibition of Health Insurance Discrimination on the Basis of Genetic Information or Predictive Genetic Information.—

(1) No Enrollment Restriction for Genetic Services.—Section 702(a)(1)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)(F)) is amended by adding at the end the following:

"(f) GENETIC TESTING AND DISCIPLINARY GENETIC INFORMATION.—Except as provided in subsections (a)(1)(F), (b)(2)(B), and (c)(3), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request, require, collect, or purchase predictive genetic information concerning an individual or information about a request for or the receipt of genetic services by such individual or family member of such individual.".

(2) No Discrimination in Group Rate Based on Predictive Genetic Information.—

(a) In general.—Subpart B of Part 7 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

"SEC. 714. PROHIBITING DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

"A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not deny eligibility to a group or adjust premium or contribution rates for a group on the basis of predictive genetic information concerning an individual in the group (or information about a request for or the receipt of genetic services by such individual or family member of such individual)."

(b) Conforming Amendments.—

(i) Section 702(b)(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended to read as follows:

"(A) to restrict the amount that an employer may be charged for coverage under a group health plan, except as provided in section 714; or;"

(ii) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by striking "section 711" and inserting "sections (a)(1)(F), (b) (with respect to cases relating to genetic information or information about a request or receipt of genetic services by such individual or family member of such individual), (c), (d), (e), (f) or (g) of section 702, section 711 and section 714; or"

(b) Limitations on Genetic Testing and on Collection and Disclosure of Predictive Genetic Information.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

(c) Genetic Testing.—

(1) Prohibition on Requesting or Requiring Genetic Testing.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not, directly or indirectly, require that such individual or family member of such individual undergo a genetic test.

(2) Rule of Construction.—Nothing in this section shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual, to discuss with a group health plan or a health insurance issuer, to request that such individual or family member of such individual undergo a genetic test.

"(d) Collection of Predictive Genetic Information.—Any entity that is a member of the group or plan on the basis of predictive genetic information (including in-"
of genetic services by an individual or a family member of such individual) than does this part; or

(2) prohibits discrimination on the basis of genetic information by any plan amendment or collective bargaining agreement to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement of the amendments made by this section that would result in a termination of such collective bargaining agreement.

SEC. 402. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

(1) PROHIBITION OF HEALTH INSURANCE DISCRIMINATION ON THE BASIS OF PREDICTIVE GENETIC INFORMATION OR GENETIC SERVICES.—

(A) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 2702(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300gg-1(a)(1)(F)) is amended by inserting before the period the following: ‘‘(or information about a request for or the receipt of genetic services by such individual or a family member of such individual)’’.

(B) NO DISCRIMINATION IN GROUP RATE BASED ON PREDICTIVE GENETIC INFORMATION.—(i) In general.—Section 2702(b)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by adding at the end the following:

‘‘SEC. 2702. PROHIBITION AGAINST DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

‘‘(f) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—

(A) In general.—The term ‘predictive genetic information’ means—

(i) information about an individual’s genetic tests;

(ii) information about genetic tests of family members of the individual; or

(iii) information about the occurrence of a disease or disorder in family members.

(B) LIMITATIONS.—The term ‘predictive genetic information’ shall not include—

(i) information about the sex or age of the individual;

(ii) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests; or

(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.

(C) LIMITATIONS ON REQUESTING, OBTAINING, OR REQUIRING GENETIC TESTING.—Section 2702(b)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended to read as follows:

‘‘(B) require that a group health plan or health insurance issuer request or require the results of the services referred to in such paragraph; or

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

(A) permit a group health plan or health insurance issuer to request (or require) the results of genetic services by such individual or issuer offering group health insurance coverage in connection with a group health plan, may request that the individual provide the plan or issuer with evidence that such services were performed.

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

(A) permit a group health plan or health insurance issuer to request (or require) the results of the services referred to in such paragraph; or

(B) require that a group health plan or health insurance issuer make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan or issuer in accordance with such paragraph.

(5) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—With respect to the payment of claims for benefits other than genetic services, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, may request that an individual provide predictive genetic information so long as such information—

(i) is used solely for the payment of a claim; or

(2) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and

(3) is used only by an individual (or individuals) within such plan or issuer who needs access to such information for purposes of payment of a claim.

(6) RULES OF CONSTRUCTION.—The provisions of subsections (d) (regarding collection) and (e)
shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection of genetic information for the purpose of providing health care treatment to the individual involved.

(1) Definitions.—In this section—
(a) in general.—The term ‘controlled group’ means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.
(b) Group health plan, health insurance issuer.—The terms ‘group health plan’ and ‘health insurance issuer’ include a third party administrator or other person acting for or on behalf of such plan or issuer.

SEC. 2753. PROHIBITION OF HEALTH INSURANCE DISCRIMINATION AGAINST INDIVIDUALS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

(a) In Eligibility to Enroll.—A health insurance issuer offering health insurance coverage in the individual market shall not establish rules for eligibility to enroll in individual health insurance coverage that are based on predictive genetic information concerning the individual (or information about the receipt of genetic services by such individual or family member of such individual).

(b) In Premium Rates.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium rates on the basis of predictive genetic information concerning an individual (or information about the receipt of genetic services by such individual or family member of such individual).

SEC. 2754. LIMITATION ON GENETIC TESTING AND ON COLLECTION AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.

(a) Genetic Testing.—
(1) Limitation on Requesting or Requiring Genetic Testing.—A health insurance issuer offering health insurance coverage in the individual market shall not request or require an individual or a family member of such individual to undergo a genetic test.

(2) Rule of Construction.—Nothing in this title shall apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection of genetic information for the purpose of providing health care treatment to the individual involved.

(b) Disclosure of Predictive Genetic Information.—A health insurance issuer offering health insurance coverage in the individual market shall not disclose predictive genetic information concerning an individual (or information about the receipt of genetic services by such individual or family member of such individual) to—
(1) any entity that is a member of the same controlled group as such issuer or plan sponsor of such group health plan;
(2) any other health plan or health insurance issuer or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws;
(3) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information;
(4) the individual’s employer or any plan sponsor; or
(5) any other person the Secretary may specify in regulations.

(2) Rule of Construction.—Nothing in paragraph (1) shall be construed to—
(A) permit a health insurance issuer to request (or require) the results of the services referred to in subparagraph (a) from a genetic services provider in connection with a group health plan (including any third party administrator or other person acting for or on behalf of such plan or issuer) to make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan or issuer in accordance with such paragraph.

(3) Information for Payment of Other Claims.—With respect to the payment of claims for benefits other than genetic services, a health insurance issuer offering health insurance coverage in the individual market may request that an individual provide predictive genetic information so long as the information—
(1) is used solely for the payment of a claim;
(2) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and
(3) is used only by an individual (or individuals) within such plan or issuer who needs access to such information for purposes of such claim.

(c) Rules of Construction.—
(1) Collection or Disclosure Authorized by Individual.—The provisions of subsections (a) and (b) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

(d) Disclosure for Health Care Treatment.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual involved.

(2) Definitions.—In this section—
(a) Controlled Group.—The term ‘controlled group’ means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.
(b) Group Health Plan, Health Insurance Issuer.—The terms ‘group health plan’ and ‘health insurance issuer’ include a third party administrator or other person acting for or on behalf of such plan or issuer.

(3) Group Plans.—Section 2722 of the Public Health Service Act (42 U.S.C. 300gg-22) is amended by adding at the end the following:

(1) Controlled Group.—The term ‘controlled group’ means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

(2) Group Health Plan, Health Insurance Issuer.—The terms ‘group health plan’ and ‘health insurance issuer’ include a third party administrator or other person acting for or on behalf of such plan or issuer.

SEC. 2755. VIOLATION OF GENETIC DISCLOSURE PROVISIONS.—In any action under this section against any administrator of a group health plan, or health insurance issuer offering group health insurance coverage in connection with a group health plan (including any third party administrator or other person acting for or on behalf of such plan or issuer) alleging a violation of subsections (a)(1)(P), (b) (with respect to cases relating to genetic information or information about a request or receipt of genetic services by an individual or family member of such individual), (c), (d), (e), (f), (g) of section 2702 and section 2707 the court may award any appropriate legal or equitable relief that would include a requirement for the payment of attorney’s fees and costs, including the costs of expert witnesses.

(2) Civil Penalty.—The monetary provisions of section 308(b)(2)(C) of Public Law 101-336 (42 U.S.C. 12188(b)(2)(C)) shall apply to any person who violates any of the provisions referred to in subsection (c), except that any such relief awarded shall be
paid only into the general fund of the Treasury.".

(2) INDIVIDUAL PLANS.—Section 2761 of the Public Health Service Act (42 U.S.C. 300gg-45) is amended by adding at the end the following:

"(c) VIOLATION OF GENETIC DISCRIMINATION OR GENETIC TESTING PROVISIONS.—In any action under this section against any health insurance issuer offering health insurance coverage in the individual market (including any group person issuing or on behalf of such issuer) alleging a violation of sections 2733 and 2754 the court in which the action is commenced may award any appropriate legal or equitable relief, and may impose a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

(3) REPEAL OF PENALTY.—The monetary provisions of section 336(b)(2)(C) of Public Health Service Act 101–336 (42 U.S.C. 12186(b)(2)(C)) shall apply for purposes of the Secretary enforcing the provisions referred to in subsection (c), except that any such relief awarded shall be paid only into the general fund of the Treasury.

(4) PREEMPTION.—

(1) GROUP MARKET.—Section 2723 of the Public Health Service Act (42 U.S.C. 300gg-23) is amended—

(A) in subsection (a)(1), by inserting "or (e)" after "subsection (b);"; and

(B) by adding at the end the following:

"(e) Case or Genetic Information.—With respect to group health insurance coverage offered by a health insurance issuer, the provisions of this part relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

"(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual); or

"(2) prohibits discrimination on the basis of genetic information than does this part."

(2) INDIVIDUAL MARKET.—Section 2722 of the Public Health Service Act (42 U.S.C. 300gg-46) is amended—

(A) in subsection (a), by inserting "and except as provided in subsection (c)," after "Subject to subsection (b);"; and

(B) by adding at the end the following:

"(c) Case of Genetic Information.—With respect to individual health insurance coverage offered by a health insurance issuer, the provisions of this part (or part C as so far as it applies to this part) relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law (as defined in section 2722(d)) which establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

"(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) or

"(2) prohibits discrimination on the basis of genetic information than does this part.

SEC. 408. AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.

(a) Prohibition of Health Insurance Discrimination on the Basis of Genetic Services or Predictive Genetic Information.—

(1) No enrollment restriction for genetic services.—Section 9802(a)(1)(F) of the Internal Revenue Code of 1986 (relating to eligibility to enroll) is amended by inserting before the period "the provisions of subsections (a)(1)(F), (c), (d), (e), (f) and (g) of section 2702 and section 2707, and the provisions of section 2702(b) to the extent that they apply to genetic information (or information about a request for or the receipt of genetic services by an individual or a family member of such individual)"

"(B) October 1, 2002.

(2) No discrimination in group rate based on predictive genetic information.—Section 9812 of such Code (relating to other requirements) is amended by adding at the end the following:

"SEC. 9812. PROHIBITING DISCRIMINATION AGAINST GROUPS ON THE BASIS OF PREDICTIVE GENETIC INFORMATION.

"A group health plan shall not deny eligibility to a group or adjust premium or contribution rates for a group on the basis of predictive genetic information concerning an individual in the group or services by an individual or a family member of such individual"

(by)

(3) Conforming amendments.—

(a) Section 9802(b)(2)(A) of such Code is amended to read as follows:

"(A) to restrict the amount that an employer may be charged under a group health plan, except as provided in section 9813; or"

(b) Section 9831(a) of such Code (relating to exception for certain plans) is amended by inserting "other than subsection (a)(1)(F), (b) with respect to cases relating to genetic information or information about a request for or the receipt of genetic services by an individual or a family member of such individual), (c), (d), (e), (f) and (g) of section 2702 and section 2707; after "The requirements of this part";

(c) Section 2703(b) of the Public Health Service Act (42 U.S.C. 300gg-47(b)) is amended—

(A) by striking "the requirements of this part" and inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of this part;

(B) by adding at the end the following:

"(2) LIMITATION.—The requirements of sections 2703 and 2704 shall apply to excepted benefits described in section 2701(c)(4).

(3) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to—

(A) group health plans covering health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2002;

(B) group health plans covering health insurance coverage, sold, issued, renewed, in effect, or operated in the individual market, after October 1, 2002;

(2) SPECIFIC RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employer employees and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any applicable grace period after the date of the enactment of this Act); or

(B) October 1, 2002.

For purposes of subparagraph (A), any plan year is a plan year beginning on or after the date of the enactment of this Act if a collective bargaining agreement relating to the plan amends the plan solely to conform to any requirement of the amendments made by section 408 and such amendment is made before the date of the enactment of such collective bargaining agreement.

(3) Compliance with EEOC rules.—Nothing in this section shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by a group health plan, to request that such individual or family member of such individual undergo a genetic test.

(b) Limitations on Genetic Testing and on Collection and Disclosure of Personal Health Information.—Section 9802 of the Internal Revenue Code of 1986 (relating to prohibiting discrimination against individual participants and beneficiaries based on health status) is amended by adding at the end the following new subsection:

"(4) COLLECTIVE BARGAINING AGREEMENT.—The requirements of subsection (a) (relating to genetic testing against groups on the basis of predictive genetic information) shall not apply to plans maintained or operated by a group health plan or to certain collective bargaining agreements reached before the date of the enactment of this Act if such plan or agreement is not in effect on such date unless the agreement is modified to conform to such requirements before the date of such collective bargaining agreement.

(5) GENETIC TESTING.—

"(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan shall not request or require an individual or a family member of such individual to undergo a genetic test.

(2) RULE OF CONSTRUCTION.—Nothing in this chapter shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by a group health plan, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not request that such individual or family member undergo a genetic test.

(6) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Except as provided in subsections (a)(1) and (b), a group health plan shall not request, require, collect, or purchase predictive genetic information concerning an individual or information about a request for or the receipt of genetic services by such individual or family member of such individual."
Section 404. Amendments to Title XVIII of the Social Security Act Relating to Medical Care

(a) Nondiscrimination.

(1) In general.—Section 1882(a)(2) of the Social Security Act (42 U.S.C. 1395aa(a)(2)) is amended by adding at the end the following:

"(E)(i) An issuer of a medicare supplemental policy shall not deny or condition the issuance or effectiveness of the policy, and shall not discriminate in the pricing of the policy (including the adjustment of premium rates) of an eligible individual on the basis of predictive genetic information concerning the individual (including any information about a request for, or the receipt of, genetic services by such individual or family member of such individual).

(ii) For purposes of clause (i), the terms ‘family member’, ‘genetic services’, and ‘predictive genetic information’ shall have the meanings given such terms in subsection (k)."

(2) Effective date.—The amendment made by paragraph (1) shall apply with respect to a policy for policy years beginning after October 1, 2002.

(b) Limitations on Genetic Testing and on Collection and Disclosure of Predictive Genetic Information.

(1) In general.—Section 1882 of the Social Security Act (42 U.S.C. 1395aa) is amended by adding at the end the following:

"(7) GENETIC INFORMATION.—The term ‘genetic information’ means information about genes, gene products, and inherited characteristics that may derive from an individual or a family member of such individual (including information about the occurrence of a disease or disorder in family members)."

(2) Disclosure of predictive genetic information.—(A) Limitation on requesting or requiring predictive genetic information. —An issuer of a medicare supplemental policy shall not request or require an individual or a family member of such individual under a genetic test.

(B) Rule of construction.—Nothing in this title shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is an issuer of a medicare supplemental policy, to request that such individual or family member of such individual undergo a genetic test.

(C) Disclosure of predictive genetic information.—(i) Information about an individual’s genetic tests.

(ii) Information about genetic tests of family members of the individual, or

(iii) Information about the occurrence of a disease or disorder in family members.

(D) Limitations.—The term ‘predictive genetic information’ shall not include—

(i) information about the sex or age of the individual,

(ii) information about chemical, blood, or urinary analyses of the individual, unless those analyses are genetic tests, or

(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.

(E) Effective date.—(1) In general.—Except as provided in this section, this section and the amendments made by this section shall apply with respect to group health plans for plan years beginning after January 1, 2003.

(2) Special rule for collective bargaining agreements.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements relating to the plan, such plan may award any appropriate legal or equitable relief, including a requirement for the payment of attorney’s fees and costs, including the costs of expert witnesses.

(1) CIVIL PENALTY.—The monetary provisions of section 1316(b)(2)(C) of Public Law 101–314 (42 U.S.C. 1395l(b)(2)(C)) shall apply for purposes of paragraph (1), except that such penalties shall not include any such relief awarded except to the extent such penalties include an award to plaintiff attorneys of fees and costs, including the costs of expert witnesses, directly related to and necessary for the payment of such claim.

(2) RULE OF CONSTRUCTION.—Nothing in this subpart shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual.

(1) Definitions.—In this section:

(A) Database.—The term ‘database’ means information in electronic or non-electronic form that is related to an individual and is maintained by an issuer or a third party administrator or other person acting for or on behalf of such individual or family member of such individual.

(B) Distribution.—The term ‘distribution’ means the dissemination of any individual’s genetic information to another individual or entity.

(C) Request.—The term ‘request’ means a request by an issuer or a third party administrator or other person acting for or on behalf of an individual or family member of such individual.

(D) Rule of construction.—Nothing in this section shall be construed to limit or restrict the disclosure of genetic information about an individual (or information about a request or receipt of genetic information about an individual or family member of such individual) to—

(1) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information;

(2) any individual’s employer or any plan sponsor, or

(3) any other person the Secretary may specify in regulations.

(2) INFORMATION FOR PAYMENT FOR GENETIC SERVICES.—

"(1) In General.—With respect to payment for genetic services conducted concerning an individual, for the purpose of providing health care for the purpose of providing health care to an individual, or family member of such individual, a group health plan may request that the individual provide the plan with evidence that such services were performed.

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

(A) permit a group health plan to request (or require) the results of the services referred to in paragraph (1), or

(B) require that a group health plan make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan in accordance with such paragraph.

(3) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—With respect to the payment of claims for benefits other than genetic services, a group health plan may request that an individual provide predictive genetic information so long as such information—

(A) is used solely for the payment of a claim,

(B) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information, and

(C) is used only by an individual within such plan or issuer who needs access to such information for purposes of payment of a claim.

(4) RULES OF CONSTRUCTION.—

(A) COLLECTION OR DISCLOSURE AUTHORIZED BY INDIVIDUAL.—The provisions of subsections (e) (regarding collection) and (f) (regarding disclosure) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

(B) Disclosure for health care treatment.—In this section the term ‘health care treatment’ means services provided for the prevention, diagnosis, or treatment of any disease or disorder of the individual (or information about the occurrence of such disease or disorder in family members).

(C) Violation of genetic discrimination or genetic disclosure provisions.—In any action under this section against any administrator of a group health plan (including any third party administrator or other person acting for or on behalf of such plan) alleging a violation of subsections (a)(1), (a)(2), (a)(3), or (a)(5) (with respect to cases relating to genetic information or information about a request or receipt of genetic information about an individual or family member of such individual), (d), (e), (f), (g), or (h) or section 6103, the court may award any appropriate legal or equitable relief, including a requirement for the payment of attorney’s fees and costs, including the costs of expert witnesses.

"(1) CIVIL PENALTY.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–314 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of paragraph (1), except that such penalties shall not include any such relief awarded except to the extent such penalties include an award to plaintiff attorneys of fees and costs, including the costs of expert witnesses.

(1) CIVIL PENALTY.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–314 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of paragraph (1), except that such penalties shall not include any such relief awarded except to the extent such penalties include an award to plaintiff attorneys of fees and costs, including the costs of expert witnesses.

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

(A) permit a group health plan to request (or require) the results of the services referred to in paragraph (1), or

(B) require that a group health plan make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan in accordance with such paragraph.

(3) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—With respect to the payment of claims for benefits other than genetic services, a group health plan may request that an individual provide predictive genetic information so long as such information—

(A) is used solely for the payment of a claim,

(B) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information, and

(C) is used only by an individual within such plan or issuer who needs access to such information for purposes of payment of a claim.

(4) RULES OF CONSTRUCTION.—

(A) COLLECTION OR DISCLOSURE AUTHORIZED BY INDIVIDUAL.—The provisions of subsections (e) (regarding collection) and (f) (regarding disclosure) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

(B) Disclosure for health care treatment.—In this section the term ‘health care treatment’ means services provided for the prevention, diagnosis, or treatment of any disease or disorder of the individual (or information about the occurrence of such disease or disorder in family members).

(C) Violation of genetic discrimination or genetic disclosure provisions.—In any action under this section against any administrator of a group health plan (including any third party administrator or other person acting for or on behalf of such plan) alleging a violation of subsections (a)(1), (a)(2), (a)(3), or (a)(5) (with respect to cases relating to genetic information or information about a request or receipt of genetic information about an individual or family member of such individual), (d), (e), (f), (g), or (h) or section 9813, the court may award any appropriate legal or equitable relief, including a requirement for the payment of attorney’s fees and costs, including the costs of expert witnesses.

(1) CIVIL PENALTY.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–314 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of paragraph (1), except that such penalties shall not include any such relief awarded except to the extent such penalties include an award to plaintiff attorneys of fees and costs, including the costs of expert witnesses.

(1) CIVIL PENALTY.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–314 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of paragraph (1), except that such penalties shall not include any such relief awarded except to the extent such penalties include an award to plaintiff attorneys of fees and costs, including the costs of expert witnesses.
"(A) any entity that is a member of the same controlled group as such issuer;

"(B) any issuer of a medicare supplemental policy, group health plan or health insurance issuer, any insurance agent, the policy administrator, or other person subject to regulation under State insurance laws;

"(C) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information;

"(D) the individual’s employer or any plan sponsor;

"(E) any other person the Secretary may specify in regulations.

"(4) INFORMATION FOR PAYMENT FOR GENETIC INFORMATION.—

"(A) IN GENERAL.—With respect to payment for genetic services conducted concerning an individual or the coordination of benefits, an issuer of a medicare supplemental policy may request that the individual provide the issuer with evidence that such services were performed.

"(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed to—

"(i) permit an issuer to request (or require) the results of the services referred to in such subparagraph; or

"(ii) require that an issuer make payment for services described in such subparagraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the issuer in accordance with such subparagraph.

"(5) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—With respect to the payment of claims for benefits other than genetic services, an issuer of a medicare supplemental policy may request that an individual provide predictive genetic information so long as such information—

"(A) is used solely for the payment of a claim;

"(B) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and

"(C) is used only by an individual (or individuals) within such issuer who needs access to such information for purposes of payment of a claim.

"(6) RULES OF CONSTRUCTION.—

"(A) COLLECTION OR DISCLOSURE AUTHORIZED BY INDIVIDUAL.—The provisions of paragraph (5) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written consent to the collection or disclosure of predictive genetic information.

"(B) DISCLOSURE FOR HEALTH CARE TREATMENT.—Nothing in this section shall be construed to restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to an individual involved.

"(7) VIOLATION OF GENETIC DISCRIMINATION OR GENETIC DISCLOSURE PROVISIONS.—In any action under this subsection against any administrator, any insurer, any plan, third party administrator (including any third party administrator or other person acting for or on behalf of such policy) alleging a violation of this subsection, any court may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney’s fees and costs, including the costs of investigation.

"(8) CIVIL PENALTY.—The monetary penalties provided of section 336(b)(2)(C) of Public Law 101-336 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of enforcing the provisions of this subsection, except that any such relief awarded shall be paid only into the general fund of the Treasury.

"(9) SPECIAL RULE IN CASE OF GENETIC INFORMATION.—This subsection (relating to genet

"(A) is used solely for the payment of a claim;

"(B) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and

"(C) is used only by an individual (or individual or family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about or the receipt of, genetic services by an individual or a family member of such individual) than does this subsection; or

"(D) prohibits discrimination on the basis of genetic information than does this subsection.

"(B) FAMILY MEMBER.—The term ‘family member’ means with respect to an individual—

"(i) the spouse of the individual;

"(ii) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; or

"(iii) any other individuals related by blood to the individual or to the spouse or child described in clause (i) or (ii).

"(C) GENETIC INFORMATION.—The term ‘genetic information’ means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member of such individual (including information about a request for, or the receipt of, genetic services by such individual or a family member of such individual).

"(D) GENETIC SERVICES.—The term ‘genetic services’ means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic or therapeutic purposes, and for genetic education and counseling.

"(E) GENETIC TEST.—The term ‘genetic test’ means the determination of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

"(F) ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.—The term ‘issuer of a medicare supplemental policy’ includes a third-party administrator or other person acting for or on behalf of an entity that—

"(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

"(ii) October 1, 2002.

"(G) NAIC STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall, not later than October 1, 2002, make the modifications described in paragraph (2), and thereafter the regulations incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

"(4) DATE SPECIFIED.—

"(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

"(i) the date the State changes its statutes or regulations to conform to its regulatory program to the changes made by this section, or

"(ii) October 1, 2002.

"(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

"(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

"(ii) having a legislative which is not scheduled to meet in 2002 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2002. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Subtitle B—Prohibition of Employment Discrimination on the Basis of Predictive Genetic Information

SEC. 411. DEFINITIONS.

In this subtitle:

"(1) EMPLOYER.; EMPLOYER.; EMPLOYMENT AGENT.; LABOR ORGANIZATION.; MEMB.;

"The terms ‘employer’, ‘employee’, ‘employment agency’, and ‘labor organization’ have the meanings given such terms in section 703(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e), except that the terms ‘employee’ and ‘employer’ shall also include
the meanings given such terms in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16). The terms ‘employee’ and ‘member’ include an applicant for employment and a member in membership in a labor organization, respectively.

(2) FAMILY MEMBER.—The term ‘family member’ means with respect to an individual—

(A) the spouse of the individual;
(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; or
(C) any other individuals related by blood to the individual or to the spouse or child described in subparagraph (A) or (B).

(3) GENETIC MONITORING.—The term ‘genetic monitoring’ means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

(4) GENETIC SERVICES.—The term ‘genetic services’ means with respect to an individual, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

(5) GENETIC TEST.—The term ‘genetic test’ means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

(6) PREDICTIVE GENETIC INFORMATION.—

(A) IN GENERAL.—The term ‘predictive genetic information’ means—

(i) information about an individual’s genetic tests;
(ii) information about genetic tests of family members of such individual; or
(iii) information about the occurrence of a disease or disorder in family members.

(B) LIMITATIONS.—The term ‘predictive genetic information’ shall not include—

(i) information about the sex or age of the individual;
(ii) information about chemical, blood, or urine tests as part of the employee’s usual medical care, unless these analyses are genetic tests; or
(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.

SEC. 412. EMPLOYER PRACTICES.

(a) IN GENERAL.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of predictive genetic information with respect to the individual or information about a request for or the receipt of genetic services by such individual or family member of such individual;

(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any individual of employment opportunities or would limit the employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual or information about a request for or the receipt of genetic services by such individual or family member of such individual;

(3) to request, require, collect or purchase predictive genetic information with respect to an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) or

(4) to cause or attempt to cause an employer to discriminate against an individual in violation of this subtitle.

SEC. 413. EMPLOYMENT AGENCY PRACTICES.

It shall be an unlawful employment practice for an employment agency—

(1) to fail to refer for employment, or otherwise to discriminate against any individual because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

(2) to limit, segregate, or classify individuals or referral agencies in any way that would deprive or tend to deprive any individual of employment opportunities or would limit the employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

SEC. 414. LABOR ORGANIZATION PRACTICES.

It shall be an unlawful employment practice for a labor organization—

(1) to discriminate against any individual because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities or would limit the employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

SEC. 415. TRAINING PROGRAMS.

There shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

(1) to discriminate against any individual because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual), in admission to, or employment in, any program established to provide apprenticeship or other training or retraining; or

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or would limit the employment opportunities or otherwise adversely affect the status of the individual as an employee, because of predictive genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

(3) to request, require, collect or purchase predictive genetic information with respect to an individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) or

(4) to cause or attempt to cause an employer to discriminate against an individual in violation of this subtitle.

SEC. 416. MAINTENANCE AND DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.

(a) MAINTENANCE OF PREDICTIVE GENETIC INFORMATION.—If an employer possesses predictive genetic information about an employee (or information about a request for or receipt of genetic services by such employee or family member of such employee), such information shall be treated or maintained as part of the employee’s confidential medical records.

(b) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—An employer shall not disclose predictive genetic information (or information about a request for or receipt of genetic services by such employee or family member of such employee) except—

(1) to the employee who is the subject of the information at the request of the employee;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) under legal compulsion of a Federal court order, except that if the court order was secured without the knowledge of the individual to whom the information refers, the employer shall provide the individual with adequate notice to challenge the court order unless the court order also imposes confidentiality requirements; or

(4) to government officials who are investigating compliance with this Act if the information is relevant to the investigation.

SEC. 417. CIVIL ACTION.

(a) IN GENERAL.—One or more employees, members of a labor organization, or participants in training programs may bring an action in a Federal or State court of competent jurisdiction against an employer, employment agency, labor organization, or joint
labor-management committee or training program who commits a violation of this subtitle.

(b) ENFORCEMENT BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.—The powers, remedies, and procedures set forth in sections 701, 707, 709, 710, and 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4, 2000e–8, 2000e–9, and 2000e–16) shall be the powers, remedies, and procedures provided to the Equal Employment Opportunity Commission to enforce this subtitle. The Commission may promulgate regulations to implement these powers, remedies, and procedures.

(c) REMEDIES.—A Federal or State court may award such such sums as may be necessary to carry out any other provision of this title, the fact of a violation of this title.

SEC. 418. CONSTRUCTION.

Nothing in this subtitle shall be construed to—

(1) limit the rights or protections of an individual with disabilities by covered entities.

(2) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights accorded under this Act.

(3) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains; or

(4) include a requirement for the payment of attorney’s fees and costs, including the costs of experts.

SEC. 419. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

SEC. 420. EFFECTIVE DATE.

This subtitle shall become effective on October 1, 2002.

**TITLE V—EMPLOYMENT NONDISCRIMINATION**

SEC. 501. SHORT TITLE.

This title may be cited as the “Employment Non-Discrimination Act of 2001”.

SEC. 502. PURPOSE.

The purpose of this title is—

(1) to provide a comprehensive Federal prohibition of employment discrimination on the basis of sexual orientation;

(2) to provide meaningful and effective remedies for employment discrimination on the basis of sexual orientation; and

(3) to invoke congressional powers, including the powers to enforce the 14th amendment to the Constitution and to regulate interstate commerce, in order to prohibit employment discrimination on the basis of sexual orientation.

SEC. 503. DEFINITIONS.

In this title:

(1) COMMISSION.—The term “Commission” means the Equal Employment Opportunity Commission.

(2) COVERED ENTITY.—The term “covered entity” means an employer, employment agency, labor organization, or joint labor-management committee.

(3) EMPLOYER.—The term “employer” means a person engaged in an industry affecting commerce (as defined in section 701(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(h)) who has 15 or more employees (as defined in section 701(f) of such Act (42 U.S.C. 2000e(f)) for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but does not include a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986;

(4) AN EMPLOYMENT AUTHORITY.—The term “employment authority” includes, in such a case, the Government Employee Rights and Fair Treatment Act of 1991 (2 U.S.C. 120(a)(6)) applications;

(5) AN EMPLOYING OFFICE.—The term “employing office” as defined in section 401 of the Congressional Accountability Act of 1995 (2 U.S.C. 431), and any other office of the Federal Government to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.


(7) AN EMPLOYING OFFICE.—The term “employing office” as defined in section 401 of the Congressional Accountability Act of 1995 (2 U.S.C. 431), and any other office of the Federal Government to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.

(8) WORKFORCE.—The term “workforce” means homosexuality, bisexuality, or transgender identity or expression.

(9) RELIGIOUS ORGANIZATION.—The term “religious organization” means—

(A) a religious corporation, association, or society;

(B) a school, college, university, or other educational institution or institution of learning, if—

(1) the institution is in whole or substantial part controlled, managed, owned, or supported by a religion, religious corporation, association, or society; or

(2) the curriculum of the institution is directed toward the propagation of a religion.

(10) STATE.—The term “State” means a State, the term “State” has the meaning given in the term in section 701(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)).

(11) PERSON.—The term “person” has the meaning given in the term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)).

SEC. 504. DISCRIMINATION PROHIBITED.

(a) EMPLOYER PRACTICES.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of such individual’s sexual orientation;

(2) to limit, segregate, or classify the employees or applicants for employment of the employer in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the status of the individual as an employee, because of such individual’s sexual orientation;

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(b) COERCION.—A person shall not coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of such individual’s having exercised, enjoyed, or assisted in or encouraged the exercise or enjoyment of, any right granted or protected by this title.

SEC. 505. RETALIATION AND COERCION PROHIBITED.

(a) RETALIATION.—A person who makes a complaint of discrimination or opposition to discrimination, or otherwise engages in any other protected activity, shall not be subject to any adverse action because of such individual’s making a charge, assisting, testifying, participating in any manner in an investigation, proceeding, or hearing under this title.

(b) COERCION.—A person shall not coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of such individual’s having exercised, enjoyed, or assisted in or encouraged the exercise or enjoyment of, any right granted or protected by this title.

SEC. 506. BENEFITS.

This title does not apply to the provision of employee benefits to an individual for the benefit of the domestic partner of such individual.

SEC. 507. COLLECTION OF STATISTICS PROHIBITED.

The Commission shall not collect statistics on sexual orientation from covered entities.

SEC. 508. QUOTAS AND PREFERENTIAL TREATMENT PROHIBITED.

(a) QUOTAS.—A covered entity shall not adopt or implement a quota on the basis of sexual orientation.
(b) **PREFERENTIAL TREATMENT.**—A covered entity shall not give preferential treatment to an individual on the basis of sexual orientation.

(c) **DIVERSITY AND CONSENT DECREES.**—Notwithstanding any other provision of this title, an order or consent decree entered for a violating entity may not include a quota, or preferential treatment to an individual, based on sexual orientation.

**SEC. 509. RELIGIOUS EXEMPTION.**

(a) Except as provided in subsection (b), this title shall not apply to a religious organization.

(b) **UNRELATED BUSINESS TAXABLE INCOME.**—An entity that applies to the employment or employment opportunity for an employment position of a covered entity that is a religious organization if the duties of the position pertain solely to activities of the organization that generate unrelated business taxable income subject to taxation under section 511(a) of the Internal Revenue Code of 1986.

**SEC. 510. NONAPPLICATION TO MEMBERS OF THE ARMED FORCES; VETERANS’ PREFERENCES.**

(a) **ARMED FORCES.**—

(1) **EMPLOYMENT OR AN EMPLOYMENT OPPORTUNITY.**—In this title, the term ‘‘employment opportunity’’ does not apply to the relationship between the United States and members of the Armed Forces.

(2) **ARMED FORCES.**—In paragraph (1), the term ‘‘Armed Forces’’ means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(b) **VETERANS’ PREFERENCES.**—This title does not repeal or modify any Federal, State, territorial, or local law creating a special right or preference concerning employment or an employment opportunity for a veteran.

**SEC. 511. CONSTRUCTION.**

Nothing in this title shall be construed to prohibit or to enforce any regulation or administrative rule which does not apply to the relationship between the United States and members of the Armed Forces.

**SEC. 512. ENFORCEMENT.**

(a) **ENFORCEMENT POWERS.**—With respect to the administration and enforcement of this title, a claim alleged by an individual for a violation of this title—

(1) the Commission shall have the same powers as the Commission has to administer and enforce section 503(a)(1) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-7 et seq.) in the case of a claim alleged by such individual for a violation of such title;

(2) the procedures and remedies applicable to a violation of section 201(a)(1) of such Act (42 U.S.C. 1981a(1));

(3) the procedures and remedies applicable for a violation of section 201(a)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1311(a)(1)).

(b) **PROCEDURES AND REMEDIES.**—The procedures and remedies applicable to a claim alleged by an individual for a violation of this title are—

(1) the procedures and remedies applicable for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(2) the procedures and remedies applicable for a violation of section 503(a)(1) of the Civil Rights Act of 1978 (42 U.S.C. 1981a(1));

(3) the procedures and remedies applicable for a violation of section 201(a)(1) of the Civil Rights Act of 1995 (2 U.S.C. 1311(a)(1)).

(c) **OTHER APPLICABLE PROVISIONS.**—With respect to a claim alleged by a covered employee (as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301)) for a violation of this title, the United States Code, in the case of a claim alleged by such individual for a violation of such section;

(d) **REMEDIES AGAINST THE UNITED STATES AND THE STATES.**—Notwithstanding any other provision of this title, in an action or administrative proceeding against the United States or a State for a violation of this title, remedies (including remedies at law and in equity, and interest) are available for the violation to the same extent as the remedies available under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) by a private entity, except that—

(1) punitive damages are not available; and

(2) compensatory damages are available to the extent specified in section 1977(b) of the Revised Statutes (42 U.S.C. 1981a(b)).

**SEC. 514. ATTORNEYS’ FEES.**

Nothing in any other provision of this title shall affect, in an action or administrative proceeding for a violation of this title, an entity described in section 502(a) (other than paragraph (4) of such section), in the discretion of the entity, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney’s fee (including expert fees) as part of the costs. The Commission and the United States shall be liable for the costs to the same extent as a private person.

**SEC. 515. POSTING NOTICES.**

A covered entity who is required to post notices described in section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4) shall post notices for employees, applicants for employment, and members, to whom the provisions described in section 512(b) apply, that describe the applicable provisions of this title in the manner prescribed by, and subject to the penalty provided under, section 711 of the Civil Rights Act of 1964.

**SEC. 516. REGULATIONS.**

(a) **IN GENERAL.**—Except as provided in subsections (b), (c), and (d), this title shall not have authority to issue regulations to carry out this title.

(b) **LIBRARIAN OF CONGRESS.**—The Librarian of Congress shall have authority to issue regulations to carry out this title with respect to employees of the Library of Congress.

(c) **BOARD.**—The Board referred to in section 512(a)(3) shall have authority to issue regulations to carry out this title, in accordance with section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), with respect to covered employees, as defined in section 101 of such Act (2 U.S.C. 1301).

(d) **PRESIDENT.**—The President shall have authority to issue regulations to carry out this title with respect to covered employees, as defined in section 401 of title 3, United States Code.

**SEC. 517. RELATIONSHIP TO OTHER LAWS.**

This title shall not invalidate or limit the rights, remedies, or procedures available to an individual claiming discrimination prohibited under any other Federal law or any law of a State or political subdivision of a State.

**SEC. 518. SEVERABILITY.**

If any provision of this title, or the application of this provision to any person or circumstance, is held to be invalid, the remainder of this title and the application of the provision to any other person or circumstance shall not be affected by the invalidity.

**SEC. 519. EFFECTIVE DATE.**

This title shall take effect 60 days after the date of enactment of this title.
TITLE VI—PROMOTING CIVIL RIGHTS ENFORCEMENT

SEC. 601. ESTABLISHMENT OF THE NATIONAL TASK FORCE ON VIOLENCE AGAINST HEALTH CARE PROVIDERS AND PROTECTORS.

(a) Establishment.—There is established in the Department of Justice a National Task Force on Violence Against Health Care Providers (referred to in this section as the “task force”).

(b) Composition.—The task force shall be composed on one or more individuals from—

(1) the Department of Justice;
(2) the Federal Bureau of Investigation;
(3) the United States Marshals Service;
(4) the Bureau of Alcohol, Tobacco, and Firearms;
(5) the United States Postal Inspection Service.

(c) Chair.—The task force shall be chaired by the Assistant Attorney General for Civil Rights.

(d) Powers and Duties.—The task force shall—

(1) coordinate the national investigation and prosecution of incidents of violence and other unlawful acts directed against reproductive health care providers, with a focus on connecting those acts to abortion providers and clinic violence; and
(2) provide training to Federal, State, and local law enforcement on issues relating to reproductive violence.

(e) Authorization of Appropriations.—There are authorized to be appropriated $1,000,000 for each fiscal year to carry out this section.

SEC. 602. INCREASE IN FUNDING FOR ENFORCING CIVIL RIGHTS LAWS.

(a) Increase in Funding.—There are authorized to be appropriated—

(1) for the fiscal year 2002 an increase of $15,200,000 from the fiscal year 2001 to $319,200,000 for fiscal year 2002.
(2) for the fiscal year 2002 an increase of $300,000 from the fiscal year 2001 to $5,300,000 for fiscal year 2002.
(3) for the fiscal year 2002 an increase of $2,300,000 from the fiscal year 2001 to $45,300,000 for fiscal year 2002.

(b) Department of Justice:

(1) Equal Employment Opportunity Commission (an increase of $2,300,000 from the fiscal year 2001 to $52,300,000 for fiscal year 2002).
(2) Education: Office of Civil Rights (an increase of $3,800,000 from the fiscal year 2001 to $79,800,000 for fiscal year 2002).
(3) Drug Enforcement Administration: Fair Housing Activities Grants (an increase of $2,300,000 from the fiscal year 2001 to $45,300,000 for fiscal year 2002).
(4) Department of Labor: Office of Federal Contract Compliance (an increase of $3,800,000 from the fiscal year 2001 to $79,800,000 for fiscal year 2002).
(5) Department of Agriculture: Civil Rights Programs (an increase of $1,000,000 from the fiscal year 2001 to $21,000,000 for fiscal year 2002).
(6) Administration for Children and Families: Office of Civil Rights (an increase of $96,000,000 from the fiscal year 2001 to $98,000,000 for fiscal year 2002).

(c) Nutrition and Human Services: Office of Civil Rights (an increase of $1,400,000 from the fiscal year 2001 to $29,400,000 for fiscal year 2002).

SEC. 603. PROSECUTION OF INCIDENTS OF VIOLENCE AND PROTECTION OF REPRODUCTIVE HEALTH CARE PROVIDERS.

(a) By Mr. DASCHELLE (for himself, Mr. HARKIN, Mr. LEAHY, Mr. JOHNSON, Mr. Baucus, Mr. ROCKEFELLER, Mr. KOHL, Mr. SARBANES, Mr. WELLSTONE, Mr. DORGAN, Mr. DURBIN, Mr. CONROY, Mr. NITTI, Mrs. CARNAHAN, Mr. DAYTON, Mr. KENNEDY, and Mr. AKAKA):

S. 20. A bill to enhance fair and open competition in the production and sale of agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SECURING A FUTURE FOR INDEPENDENT AGRICULTURE ACT OF 2001

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

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

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 “Securing a Future for Independent Agriculture Act of 2001”.

(b) Table of Contents.—The table of contents is as follows:

Sec. 1. Short title of contents.
Sec. 2. Definitions.
Sec. 3. Prevention from Anticompetitive Practices; Contract Fairness.
Sec. 4. Marketing Assistance; Loan Rate Equalization.
Sec. 5. Conversion of Ineligible Commodity to Eligible Commodity.
Sec. 6. National Rural Cooperative and Housing Equity Fund.
Sec. 7. Interstate Fairness.
Sec. 8.Eliminating Anticompetitive Practices; Contract Fairness.
Sec. 9. Definitions.
Sec. 10. Production contracts involving investment requirements.
Sec. 11. National Housing and Home Finance Corporation.
Sec. 12. Loan rates for marketing assistance loans.
Sec. 13. Market management assistance.
Sec. 15. Legislative History.

TITLE I—PROTECTION FROM ANTI-COMPETITIVE PRACTICES; CONTRACT FAIRNESS

Subtitle A—Definitions

Sec. 101. Definitions.

Subtitle B—Protection from Anticompetitive Practices

Sec. 111. Prohibitions against unfair practices in transactions involving agricultural commodities.
Sec. 112. Reports and studies on potential unfair practices.
Sec. 113. Report on corporate structure.
Sec. 114. Mandatory funding for staff.
Sec. 115. General Accounting Office study.

Subtitle C—Contract Fairness

Sec. 121. Obligation of good faith.
Sec. 122. Disclosure of risks and readability requirements under agricultural contracts.
Sec. 123. Right of contract producers to cancel contract contracts.
Sec. 124. Prohibition of confidentiality provisions.
Sec. 125. Production contract liens.
Sec. 126. Provider rights.
Sec. 127. Producer credit.
Sec. 128. Mediation.

Subtitle D—Agricultural Fair Practices

Sec. 131. Agricultural fair practices.

Subtitle E—Implementation

Sec. 141. Relationship to State law.
Sec. 142. Regulations.
Sec. 143. Implications plan.
Sec. 144. Effective date.

TITLE II—NATIONAL RURAL COOPERATIVE AND BUSINESS EQUITY FUND

Sec. 201. National Rural Cooperative and Housing Equity Fund.

TITLE III—COUNTRY OF ORIGIN LABELING

Sec. 301. Country of origin labeling.
(11) CONTRACTOR.—The term “contractor” means a person that is an active contractor or a passive contractor.

(12) COVERED PERSON.—The term “covered person” means a person that is an active contractor, processor, commission merchant, and broker.

(13) CROP.—The term “crop” means an agricultural commodity produced from a plant.

(14) DEALER.—The term “dealer” includes:
(A) any person (except an agricultural cooperative) engaged in the business of buying, selling, or marketing agricultural commodities in wholesale or jobbing quantities, as determined by the Secretary, in interstate or foreign commerce, except that—
(1) no person shall be considered a dealer who buys, sells, or markets less than $1,000,000 per year of such agricultural commodities; and
(B) an agricultural cooperative that sells or markets agricultural commodities of its members’ production if the agricultural cooperative sells or markets more than $1,000,000 of its members’ production per year of such agricultural commodities.

(15) INVESTMENT REQUIREMENT.—The term “investment requirement” means a provision in a production contract that requires a contract producer to make a capital investment in producing an agricultural commodity subject to the production contract.

(16) LIVESTOCK.—The term “livestock” means beef cattle, dairy cattle, swine, sheep, or poultry.

(17) MARKETING CONTRACT.—The term “marketing contract” means a written agreement between a processor and a producer for the purchase of an agricultural commodity grown or raised by the producer.

(18) PASSIVE CONTRACTOR.—The term “passive contractor” means a person that—
(A) provides a management service to a contract producer; and
(B) does not own an agricultural commodity that is produced by the contract producer under a production contract.

(19) PROCESSOR.—The term “processor” means—
(A) in general.—The term “processor” means an agricultural cooperative that produces an agricultural commodity of that person’s own production if the sales or marketing of such agricultural commodities do not exceed $10,000,000 per year; and
(ii) no person shall be considered a dealer who buys, sells, or markets less than $1,000,000 per year of such agricultural commodities; and
(18) PASSIVE CONTRACTOR.—The term “passive contractor” means a person that—
(A) provides a management service to a contract producer; and
(B) does not own an agricultural commodity that is produced by the contract producer under a production contract.

(19) PROCESSOR.—The term “processor” means—
(A) in general.—The term “processor” means—
(i) any person (other than an agricultural cooperative) engaged in the business of slaughtering, preparing, or manufacturing (including slaughtering) an agricultural commodity or the products of an agricultural commodity for sale or marketing in interstate or foreign commerce for human consumption; and
(ii) an agricultural cooperative that handles, prepares, or manufactures (including slaughtering) agricultural commodities of its members’ own production.
(B) EXCLUSIONS.—The term “processor” does not include—
(i) any person (other than an agricultural cooperative) with respect to the handling, preparing, or manufacturing (including slaughtering) of an agricultural commodity that was produced by the person if the gross revenue derived by the person from the sales or marketing of the agricultural commodity is less than $1,000,000 per year; and
(ii) any agricultural cooperative that handles, prepares, or manufactures (including slaughtering) an agricultural commodity if the gross revenue derived by the person from the sales or marketing of the agricultural commodity is less than $1,000,000 per year.

(20) PRODUCER.—The term “producer” means—
(A) to provide feed or services relating to the care and feeding of livestock, including milking dairy cattle and storing raw milk; and
(B) to provide for planting, raising, harvesting, and storing a crop, including purchasing, preparing, and applying a fertilizer, soil conditioner, or pesticide to a crop.

(21) PRODUCER.—The term “producer” means a person that produces an agricultural commodity.

(B) EXCLUSIONS.—The term “producer” does not include—
(i) a commercial fertilizer or pesticide applicator;
(ii) a feed supplier; or
(iii) a veterinarian.

(22) PRODUCTION CONTRACT.—
(A) IN GENERAL.—The term “production contract” means a written agreement that provides for—
(i) the production of an agricultural commodity by a contract producer; or
(ii) the provision of a management service relating to the production of an agricultural commodity by a contract producer.
(B) INCLUSIONS.—The term “production contract” includes—
(i) a contract between an active contractor and a contract producer for the production of an agricultural commodity; and
(ii) a contract between an active contractor and a passive contractor for the provision of a management service to a contract producer in the production of an agricultural commodity; and
(iii) a contract between a passive contractor and a contract producer if—
(I) the production contract provides for a management service furnished by the passive contract producer for the production of an agricultural commodity; and
(II) the passive contractor has a contractual relationship with the active contractor involving the production of the agricultural commodity.

(23) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

Subtitle B—Protection from Anticompetitive Practices

SEC. 111. PROHIBITIONS AGAINST UNFAIR PRACTICES IN THE PURCHASE OR REFINEMENT OF AGRICULTURAL COMMODITIES.

(a) PROHIBITIONS.—It shall be unlawful in, or in connection with, any transaction in agricultural commodities in the United States or affecting any foreign country for any covered person or contractor—
(1) to engage in or use any unfair, unreasonable, unjustly discriminatory, or deceptive practice or device in the marketing, receiving, purchasing, sale, or contracting for the production of any agricultural commodity;
(2) to make or give any undue or unreasonable preference or advantage to any particular person or locality relative to any particular person or locality to any undue or unreasonable disadvantage in connection with any transaction involving any agricultural commodity;
(3) to make any false or misleading statement in connection with any transaction involving any agricultural commodity that is purchased or received in interstate or foreign commerce, or involving any production contract, or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction or production contract;
(4) to retaliate against or disadvantage, or to conspire to retaliate against or disadvantage, any person because of statements or information are determined to be libelous or slanderous under applicable law; involving any agricultural commodity;
(5) to include as part of any new or renewed agreement or contract a right of first refusal to make an agreement contingent on the granting of a right of first refusal, involving any agricultural commodity, before the date that is 180 days after the date required under section 115 is complete; or
(6) to offer different prices contemporaneously for agricultural commodities of like grade and quality (except agricultural commodities covered by the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.)), unless—
(A) the agricultural commodity is purchased in a public market through a competitive bidding process or under similar conditions that provide opportunities for multiple competitors to seek to acquire the agricultural commodity;
(B) the premium or discount reflects the actual cost of acquiring an agricultural commodity prior to a process or refinement; or
(C) the Secretary has determined that such types of offers do not have a discriminatory impact against small volume producers of agricultural commodities.

(b) VIOLATIONS.—
(1) COMPLAINTS.—Whenever the Secretary has reason to believe that any covered person or contractor has violated subsection (a), the Secretary shall cause a complaint in writing to be served on the covered person or contractor, stating the charges in that complaint, and requiring the covered person or contractor to attend and testify at a hearing to be held not earlier than 30 days after the service of the complaint.

(2) HEARING.—
(A) IN GENERAL.—The Secretary may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, receive evidence, and require the attendance and testimony of witnesses and the production of such accounts, records, and memoranda, as the Secretary considers necessary, for the determination of the existence of any violation of this section.

(B) RIGHT TO HEARING.—A covered person or contractor may request a hearing if the Secretary has determined that such a hearing is necessary. If the hearing is requested, the Secretary shall cause a complaint in writing to be served on the covered person or contractor, stating the charges, and requiring the covered person or contractor to attend and testify at a hearing to be held not earlier than 30 days after the service of the complaint.

(3) REPORT OF FINDING AND PENALTIES.—
(A) IN GENERAL.—If, after a hearing, the Secretary finds that the covered person or contractor has violated subsection (a), the Secretary shall make a report in writing that states the findings of fact and includes an order requiring the covered person or contractor to cease and desist from continuing the violation.

(B) CIVIL PENALTY.—The Secretary may assess a civil penalty in an amount not to exceed $100,000 for each violation of subsection (a).
(A) TEMPORARY INJUNCTION.—At any time after a complaint is filed under paragraph (1), the court, on application of the Secretary, may issue a temporary injunction, restraining the court or contractor from further doing business, the covered person or contractor and the officers, directors, agents, and employees of the covered person or contractor from violating subsection (a).

(B) APPEALABILITY OF AN ORDER.—An order issued pursuant to this subsection shall be final and conclusive unless within 30 days after issuance, the aggrieved person or contractor petitions to appeal the order to the court of appeals for the circuit in which the covered person or contractor resides or has its principal place of business or the District of Columbia Circuit Court of Appeals.

(D) INSPECTION OF RECORDS.—(A) Each covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related businesses, shall maintain for a period of not more than 2 years, records, reports, and memoranda (including marketing agreements, forward contracts, and formula pricing arrangements) that fully and correctly disclose all transactions involved in the business of the covered person or contractor, including the true ownership of the business.

(B) FAILURE TO KEEP RECORDS OR ALLOW INSPECTION.—In general, failure to keep, or allow the Secretary to inspect records as required by this paragraph shall constitute an unfair practice in violation of subsection (e).

(C) INSPECTION OF RECORDS.—The Secretary shall have the right to inspect such accounts, records, and memoranda (including marketing agreements, forward contracts, and formula pricing arrangements) of any covered person or contractor as may be material to the investigation of any alleged violation of this section or for the purpose of investigating the business conduct or practices of an organization with respect to the covered person, contractor, or subcontractor.

(D) PENALTY FOR FAILURE TO OBEY AN ORDER.—(I) IN GENERAL.—Any covered person or contractor that fails to obey any order of the Secretary (as determined by this section after a hearing) or any order of the court, the order as modified, has been sustained by the court or has otherwise become final, shall be fined not less than $5,000 and not more than $100,000 for each offense.

(ii) SEPARATE OFFENSE.—Each day during which the failure continues shall be considered a separate offense.

(E) REPORT OF THE SECRETARY ON POTENTIAL UNFAIR PRACTICES.—(Filing Premerger Notices With the Secretary.—(1) Any covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business shall merge or acquire, directly or indirectly, any voting securities or assets of a covered person, directly or indirectly, any voting securities or assets of an operator of a warehouse used to store agricultural commodities, or other agriculture-related business unless both persons (or in the case of a tenancy in common, the acquiring person) file notification pursuant to rules promulgated by the Secretary.

(i) Any voting securities or assets of the covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business shall merge or acquire, directly or indirectly, any voting securities or assets of any covered person, directly or indirectly, any voting securities or assets of an operator of a warehouse used to store agricultural commodities, or other agriculture-related business unless both persons (or in the case of a tenancy in common, the acquiring person) file notification pursuant to rules promulgated by the Secretary.

(ii) Any voting securities or assets of the covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business shall merge or acquire, directly or indirectly, any voting securities or assets of any covered person, directly or indirectly, any voting securities or assets of an operator of a warehouse used to store agricultural commodities, or other agriculture-related business unless both persons (or in the case of a tenancy in common, the acquiring person) file notification pursuant to rules promulgated by the Secretary.

(F) PRELIMINARY REPORT—(1) IN GENERAL.—In general, the Secretary may request any information, including any confidential information, from a covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business, pertaining to any merger or acquisition of any covered person, operator of a warehouse used to store agricultural commodities, or other agriculture-related business.

(G) PURPOSE OF REVIEW.—(1) IN GENERAL.—After conducting the review required under subsection (a), the Secretary shall make findings concerning whether the merger or acquisition could—

(i) Significantly be detrimental to the present or future viability of family farms or ranches or rural communities in the areas affected by the merger or acquisition, pursuant to standards established by the Secretary; or

(ii) Lead to a violation of section 111(a).

(2) REMEDIES.—The review may include a determination of potential remedies regarding how the parties of the merger or acquisition may take steps to modify their operations to address the findings described in paragraph (1).

(H) FINAL REPORT—(1) IN GENERAL.—The Secretary shall issue a final report to the President and the Attorney General or the Federal Trade Commission, as appropriate, with respect to the merger or acquisition.

(I) IMPELEMENTATION OF THE REPORT.—Not later than 120 days after the issuance of a final report described in subsection (e)(2), the parties to the merger or acquisition affected by the report shall:

(1) make changes to their operations or structure to comply with the findings and implement any agreed-on alternative remedy; and

(2) file a response demonstrating the compliance or implementation.

(J) CONFIDENTIALITY OF INFORMATION.—(1) IN GENERAL.—Subject to paragraph (2), information used by the Secretary to conduct the review required under this section provided by a party to the merger or acquisition, or the review of business documents or recording arrangements by the Secretary, shall be treated by the Secretary as confidential information pursuant to section 1770 of the Food Security Act of 1985 (7 U.S.C. 2276).

(2) PARTY TO HEARING.—The Secretary may share any such information with the Attorney General, the Federal Trade Commission, and a party seeking a hearing pursuant to subsection (e)(2) with respect to information relating to the party.

(L) REPORT.—Subject to paragraph (1), the report issued under subsection (e) shall be available to the public.

(M) CIVIL PENALTIES—(1) ORIGINAL PENALTY.—(A) IN GENERAL.—After affording the parties an opportunity for a hearing, the Secretary may assess a civil penalty in an amount not to exceed $300,000 for the failure of a person to comply with the requirements of subsection (a) or (f).

(B) ISSUE.—Any such hearing shall be limited to the issue of the amount of the civil penalty.

(2) ADDITIONAL PENALTY.—(A) IN GENERAL.—If after being assessed a civil penalty under paragraph (1), the person continues to fail to meet the requirements of subsection (a) or (f), the Secretary may,
after affording the parties an opportunity for a hearing, a civil penalty in an amount not to exceed $100,000 for each day the person continues the violation.

(2) Issue.—Any such hearing shall be limited to the issue of the amount of the civil penalty

SEC. 114. MANDATORY FUNDING FOR STAFF.

(a) Authorization of appropriation.—Out of the funds in the Treasury not otherwise appropriated, the Secretary shall be provided with $10,000,000 for each of fiscal years 2002 through 2006, to hire, train, and provide for additional staff to carry out the responsibilities under this sub-title.

(1) Staff.—The Secretary, in consultation with the Attorney General, shall hire, train, and provide for additional staff to carry out the responsibilities under this sub-title.

(b) Availability.—Out of the funds in the Treasury not otherwise appropriated, the Secretary shall be provided with $10,000,000 for each of fiscal years 2002 through 2006, to hire, train, and provide for additional staff to carry out the responsibilities under this sub-title.

SEC. 121. OBLIGATION OF GOOD FAITH.

An agricultural contract shall carry an obligation of good faith (as defined in applicable State law provisions of the Uniform Commercial Code) to the agricultural contract with respect to the performance and enforcement of the agricultural contract.

SEC. 122. DISCLOSURE OF RISKS AND READABILITY REQUIREMENTS UNDER AGRICULTURAL CONTRACTS.

(a) Readability and Understandability.—

(1) In general.—An agricultural contract shall be readable and understandable, in that the language using words and grammar that are understandable by a person of average intelligence, education, and experience within the agricultural contract.

(2) Effect.—Paragraph (1) does not preclude the use of—

SEC. 123; and

SEC. 124. ADMINISTRATION AND ENFORCEMENT.

(1) Special Counsel on Agriculture.—The Secretary shall be authorized to appoint a Special Counsel on Agriculture to—

(a) A particular word, phrase, provision, or form of agreement that is specifically required, recommended, or endorsed by the Federal or State law (including a regulation); or

(b) Disclosures statement describing the material risks faced by the producer if the producer enters into the agricultural contract; and

(c) A clear written disclosure statement describing the material risks faced by the producer if the producer enters into the agricultural contract.

(d) Additional provisions that are material to the agricultural contract.
(ii) the extent to which commonly used and understood words are employed;
(iii) the extent to which esoteric legal terms are avoided;
(iv) the extent to which references to other sections or provisions of the agricultural contract are minimized;
(v) the extent to which clear definitions are used and
(vi) any additional factors relevant to the readability or understandability of the agricultural contract; and

(ii) to decline to review the agricultural contract because—
(I) the compliance of the agricultural contract with this section is subject to pending litigation; or
(II) the agricultural contract is not subject to this section.

(3) JUDICIAL REVIEW.—An action of the Secretary under this subsection shall not be subject to judicial review.

(4) CERTIFICATION.—
(A) In GENERAL.—An agricultural contract certificate of approval under this section shall be considered to comply with subsections (a), (b), and (c).
(B) NO APPROVAL OF LEGALITY OR LEGAL EFFECT.—Certification of an agricultural contract under this subsection shall not constitute an approval of the legality or legal effect of the agricultural contract.
(C) TIMING.—If the Secretary certifies an agricultural contract under this subsection—
(i) the agricultural contract shall be considered to be in compliance with subsections (a), (b), and (c); and
(ii) the remedies provided under subsection (e) shall not be available.

(D) TUNING.—To the maximum extent practicable, the Secretary shall make a decision on the certification of an agricultural contract not later than 30 days after receipt of the agricultural contract.

(5) EFFECT OF DISAPPROVAL.—If the Secretary disapproves the certification of an agricultural contract under this subsection, the agricultural contract shall be void.

(6) EFFECT OF FAILURE TO SUBMIT AGRICULTURAL CONTRACT.—The failure to submit an agricultural contract to the Secretary for this section shall not be considered to be a lack of good faith or to raise a presumption that the agricultural contract violates this section.

(e) REMEDIES FOR VIOLATIONS.—In addition to applicable remedies provided under State law, a court reviewing an agricultural contract that is not certified under subsection (d) may declare the agricultural contract, or limit a provision of the agricultural contract, to avoid an unfair result if—
(1) the court finds—
(A) a material provision of the agricultural contract violates subsection (a), (b), or (c); or
(B) the violation reasonably caused the producer to be substantially confused about any of the rights, obligations, or remedies of any party to the agricultural contract; and
(C) the violation has caused or is likely to cause financial detriment to the producer; and
(2) the claim is brought before the obligations of any party to the agricultural contract have been fully performed.

(i) LIMITATIONS ON PRODUCER ACTIONS.—
(A) The agricultural contract is not a contract of employment; and
(B) Limitations on producer actions—
(1) In GENERAL.—A violation of this section—
(A) shall not entitle a producer to withhold performance of an otherwise valid contractual obligation when bringing a claim for relief under this section; and
(B) is not subject to the claim arising from the breach of an agricultural contract by a producer.
(2) ACTUAL DAMAGES.—A producer may recover actual damages caused by a violation of this section only if the violation reasonably caused the producer to fail to understand a right, obligation, or remedy under the agricultural contract.
(g) STATUTE OF LIMITATIONS.—A claim that an agricultural contract violates this section shall be made not later than 6 years after the date on which the agricultural contract is executed by the producer.

SEC. 123. RIGHT OF CONTRACT PRODUCERS TO FILE A PRODUCTION CONTRACT LIENS.

(a) In GENERAL.—A contract producer may file an action to file an agricultural contract lien.

(b) DISCLOSURE.—A contract producer shall clearly disclose—
(1) the right of the contract producer to file an agricultural contract lien;
(2) the method by which the contract producer may file an agricultural contract lien; and
(3) the deadline for filing an agricultural contract lien.

(c) EFFECT OF APPROVAL; CONSTRUCTIVE APPROVAL.

(D) TIMING.

(F) PRIORITY OF LIEN.

(G) ENFORCEMENT.

(1) CONTROL.—Before an agricultural commodity leaves the farm of the contract producer, the contract producer may enforce an agricultural lien created under this section in the manner provided for the foreclosure of a secured transaction under applicable State law provisions based on Article 9 of the Uniform Commercial Code.

(2) POST-CONTROL.—After an agricultural commodity leaves the farm of the contract producer, the contract producer may file a lien in that manner provided for the foreclosure of a secured transaction under applicable State law provisions based on Article 9 of the Uniform Commercial Code.

SEC. 125. PRODUCTION CONTRACT LIENS.

(a) DEFINITION OF LIEN STARTING DATE. —In this section, the term ‘lien starting date’ means—
(1) in the case of an annual crop, the date on which the annual crop is planted;
(2) in the case of a perennial crop, the starting date on which the perennial crop is subject to a production contract;
(3) in the case of livestock, the date on which the livestock arrive at the contract livestock facility; and
(4) in the case of milk or any other product of live livestock, the date on which the milk or other product is produced.

(b) LIENS.—In the case of a production contract that provides for producing an agricultural commodity by a contract producer, the contract producer shall have a lien in the amount owed to the contract producer under the production contract.

(1) A contract producer may file an agricultural commodity lien based on Article 9 of the Uniform Commercial Code.

(c) REMEDIES FOR VIOLATIONS.—In addition to applicable remedies provided under State law, a court reviewing an agricultural contract that is not certified under subsection (d) may declare the agricultural contract, or limit a provision of the agricultural contract, to avoid an unfair result if—
(1) the court finds—
(A) a material provision of the agricultural contract violates subsection (a), (b), or (c); or
(B) the violation reasonably caused the producer to be substantially confused about any of the rights, obligations, or remedies of any party to the agricultural contract; and
(C) the violation has caused or is likely to cause financial detriment to the producer; and
(2) the claim is brought before the obligations of any party to the agricultural contract have been fully performed.

(i) LIMITATIONS ON PRODUCER ACTIONS.—
(A) The agricultural contract is not a contract of employment; and
(B) Limitations on producer actions—
(1) In GENERAL.—A violation of this section—
(A) shall not entitle a producer to withhold performance of an otherwise valid contractual obligation when bringing a claim for relief under this section; and
(B) is not subject to the claim arising from the breach of an agricultural contract by a producer.
(2) ACTUAL DAMAGES.—A producer may recover actual damages caused by a violation of this section only if the violation reasonably caused the producer to fail to understand a right, obligation, or remedy under the agricultural contract.
(g) STATUTE OF LIMITATIONS.—A claim that an agricultural contract violates this section shall be made not later than 6 years after the date on which the agricultural contract is executed by the producer.

SEC. 123. RIGHT OF CONTRACT PRODUCERS TO FILE A PRODUCTION CONTRACT LIENS.

(a) In GENERAL.—A contract producer may file a production contract lien in accordance with this section only if the violation reason- 

(b) the cash proceeds of the sale of the agricultural commodity, including any cash paid as part of the sale of the agricultural commodity, to avoid an unfair result if—
(1) the right of the contract producer to file an agricultural contract lien;
(2) the method by which the contract producer may file an agricultural contract lien; and
(3) the deadline for filing an agricultural contract lien.

(c) EFFECT OF APPROVAL; CONSTRUCTIVE APPROVAL.

(D) TIMING.

(F) PRIORITY OF LIEN.

(G) ENFORCEMENT.

(1) CONTROL.—Before an agricultural commodity leaves the farm of the contract producer, the contract producer may enforce a lien created under this section in the manner provided for the foreclosure of a secured transaction under applicable State law provisions based on Article 9 of the Uniform Commercial Code.

(2) POST-CONTROL.—After an agricultural commodity leaves the farm of the contract producer, the contract producer may file a lien in that manner provided for the foreclosure of a secured transaction under applicable State law provisions based on Article 9 of the Uniform Commercial Code.

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(a) DEFINITION OF LIEN STARTING DATE. —In this section, the term ‘lien starting date’ means—
(1) in the case of an annual crop, the date on which the annual crop is planted;
(2) in the case of a perennial crop, the starting date on which the perennial crop is subject to a production contract;
(3) in the case of livestock, the date on which the livestock arrive at the contract livestock facility; and
(4) in the case of milk or any other product of live livestock, the date on which the milk or other product is produced.

(b) LIENS.—In the case of a production contract that provides for producing an agricultural commodity by a contract producer, the contract producer shall have a lien in the amount owed to the contract producer under the production contract.

(1) A contract producer may file an agricultural commodity lien based on Article 9 of the Uniform Commercial Code.

(c) REMEDIES FOR VIOLATIONS.—In addition to applicable remedies provided under State law, a court reviewing an agricultural contract that is not certified under subsection (d) may declare the agricultural contract, or limit a provision of the agricultural contract, to avoid an unfair result if—
(1) the court finds—
(A) a material provision of the agricultural contract violates subsection (a), (b), or (c); or
(B) the violation reasonably caused the producer to be substantially confused about any of the rights, obligations, or remedies of any party to the agricultural contract; and
(C) the violation has caused or is likely to cause financial detriment to the producer; and
(2) the claim is brought before the obligations of any party to the agricultural contract have been fully performed.

(i) LIMITATIONS ON PRODUCER ACTIONS.—
(A) The agricultural contract is not a contract of employment; and
(B) Limitations on producer actions—
(1) In GENERAL.—A violation of this section—
(A) shall not entitle a producer to withhold performance of an otherwise valid contractual obligation when bringing a claim for relief under this section; and
(B) is not subject to the claim arising from the breach of an agricultural contract by a producer.
(2) ACTUAL DAMAGES.—A producer may re- cover actual damages caused by a violation of this section only if the violation reasonably caused the producer to fail to understand a right, obligation, or remedy under the agricultural contract.
(g) STATUTE OF LIMITATIONS.—A claim that an agricultural contract violates this section shall be made not later than 6 years after the date on which the agricultural contract is executed by the producer.

SEC. 123. RIGHT OF CONTRACT PRODUCERS TO FILE A PRODUCTION CONTRACT LIENS.

(a) In GENERAL.—A contract producer may file a production contract lien in accordance with this section only if the violation reason-
(d), a contractor shall not terminate or fail to renew a production contract until the contractor—

(1) provides the contract producer with written notice of the contractor's intention to terminate or fail to renew the production contract at least 90 days before the effective date of the termination or nonrenewal; and

(2) reimburses the contract producer for damages (based on the remaining useful life of the structures, machinery, equipment, or other capital investment items) incurred due to the termination, cancellation, or nonrenewal of the production contract.

SEC. 2. INVESTIGATIONAL REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsection (d), a contractor shall not terminate or fail to renew a production contract with a contract producer that materially breaches a production contract, including the investment requirements of a production contract, until—

(A) the contractor provides the contract producer with a written notice of termination or nonrenewal, including a list of complaints alleging causes for the breach, at least 45 days before the effective date of the termination or nonrenewal; and

(B) the contract producer fails to remedy each cause of the breach alleged in the list of complaints provided in the notice not later than 30 days after receipt of the notice.

(2) An effort by a contract producer to remedy a cause of an alleged breach shall not be considered to be an admission of a breach in civil action.

(3) A contractor may terminate or decline to renew a production contract in accordance with applicable law without notice or remedy as required in subsection (a) and, in the absence of any basis for the termination or nonrenewal—

(1) a voluntary abandonment of the contractual relationship by the contract producer, such as a complete failure of the performance of a contract producer under the production contract; or

(2) the conviction of a contract producer of a crime of fraud, fire, or theft committed against the contractor.

(e) PENALTY.—If a contractor terminates or fails to renew a production contract other than as provided in this section, the contractor shall pay the contract producer the value of the remaining useful life of the structures, machinery, equipment, or other capital investment items.

SEC. 127. PRODUCER RIGHTS.

(a) IN GENERAL.—It shall be unlawful, in or in connection with any transaction in interstate or foreign commerce, for any person or contractor to take an action to coerce, intimidate, disadvantage, retaliate against, or discriminate against any producer because the producer exercises, or attempts to exercise, the right of a producer under this section.

(1) To enter into a membership agreement or marketing contract with an agricultural cooperative, a processor, or another producer; and

(2) To exercise contractual rights under the membership agreement or marketing contract.

(b) To lawfully provide statements or information to the Secretary, a Federal or State law enforcement agency, or any other entity or person regarding improper actions or violations of the rights of the covered person or contractor under this subtitle, unless the statements or information are determined to be libelous or slanderous under applicable State law;

(3) To cancel a production contract in accordance with section 123;

(4) To disclose the terms of an agricultural contract under section 124;

(5) To file, continue, terminate, or enforce a lien under section 125; and

(6) To file complaints provided by this subtitle or other Federal or State law (including regulations).

(b) WAIVERS.—Any provision of an agricultural contract that waives a producer right described in subsection (a), or an obligation of a covered person or contractor established by this subtitle, shall be void and unenforceable.

(c) VIOLATIONS.—Section 111(b) shall apply to a violation of this section.

SEC. 128. MEDIATION.

(a) MEDIATION.—

(1) IN GENERAL.—An agricultural contract shall provide for resolution of disputes concerning the agricultural contract by mediation.

(2) MEDIATION BY SECRETARY OR STATE MEDICATION SERVICE.—If there is a dispute involving a mediation service by the Secretary or by a designated State mediation service to facilitate resolution of the dispute.

(3) HEARING.—The parties to the agricultural contract shall receive a release from the mediation service described in paragraph (2) before the dispute may be heard by a court.

(4) No arbitration of future controversy.—Any provision in an agricultural contract submitting to arbitration a future controversy arising between a producer and a covered person or contractor shall be void.

Subtitle D. AGRICULTURAL FAIR PRACTICES

SEC. 131. AGRICULTURAL FAIR PRACTICES.

The Agricultural Fair Practices Act of 1967 (7 U.S.C. 2301 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the "Agricultural Fair Practices Act of 1967".

"SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) agricultural products are produced in the United States by many individual farmers and ranchers scattered throughout the various States; and

(2) agricultural products in fresh or processed form move in large part in the channels of interstate and foreign commerce, and agricultural products that do not move in the channels directly burden or affect interstate commerce;

(3) the efficient production and marketing of agricultural products by farmers and ranchers is of vital concern to the welfare of farmers and ranchers and to the general economy of the United States;

(4) because agricultural products are produced by numerous individual farmers and ranchers, the marketing and bargaining position of individual farmers and ranchers will be adversely affected unless farmers and ranchers are free to join together voluntarily in cooperative organizations as authorized by law; and

(b) PURPOSE.—The purpose of this Act is to establish standards of fair practices required of handlers for dealings in agricultural products.

"SEC. 3. DEFINITIONS.

"In this Act:

(1) ACCREDITED ASSOCIATION.—The term "accredited association" means an association described by the Secretary in accordance with section 6.

(2) ASSOCIATION OF PRODUCERS.—The term "association of producers" means an association of producers of agricultural products that engages in the marketing of agricultural products or of agricultural services described in paragraph (6)(B).

(3) BARGAIN; BARGAINING.—The terms "bargain" and "bargaining" refers to the performance of the mutual obligation of a handler and an accredited association to meet at reasonable times and for reasonable periods of time for the purpose of negotiating in good faith with respect to the price, terms of sale, compensation for products produced or services rendered under contract, or other provisions relating to the products marketed, or the services rendered, by the members of the accredited association to the producer.

(4) DESIGNATED HANDLER.—The term "designated handler" means a handler that is designated in accordance with section 6.

(5) HANDLER.—

(A) IN GENERAL.—The term 'handler' means any person engaged in the business or practice of—

(i) acquiring agricultural products from producers or associations of producers for processing or sale;

(ii) grading, packaging, handling, storing, or processing agricultural products received from producers or associations of producers; or

(B) EXCLUSIONS.—The term "handler" does not include—

(i) any person (other than an agricultural cooperative) engaged in a business or practice described in sub-paragraph (A) if the gross revenue derived by the person from the business or activity is less than $10,000,000 per year; or

(ii) any agricultural cooperative engaged in a business or practice described in subparagraph (A) if the gross revenue derived by the person from the business or activity is less than $1,000,000 per year.

(6) PRODUCER.—

(A) IN GENERAL.—The term 'producer' means a person engaged in the production of agricultural products as a farmer, planter, rancher, dairyman, poultryman, or fruit, vegetable, or nut grower.

(B) EXCLUSIONS.—The term 'producer' includes a person that contributes labor, production management, facilities, or other services for the production of an agricultural product.

(7) PERSON.—The term 'person' includes an individual, partnership, corporation, and association.

(8) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

"SEC. 4. PROHIBITED PRACTICES.

"It shall be unlawful for any handler knowingly or, knowingly to permit any employee or agent to—

(A) interfere with, restrain, or coerce any producer in the exercise of the right of the producer to join and belong to, or to refrain
from joining or belonging to, an association of producers, or to refuse to deal with any producer because of the exercise of the right of the producer to join and belong to the association.

“(2) discriminate against any producer with respect to price, quantity, quality, or other terms of purchase, acquisition, or other marketing services of an agricultural product because of the membership of the producer in, or the contract of the producer with, an association of producers;”

“(3) cause or attempt to intimidate any producer to enter into, maintain, breach, cancel, or terminate a membership agreement or marketing contract with an association of producers or a contract with a handler;

“(4) pay or loan money, give any thing of value, or offer any other inducement or reward to a producer for refusing to or ceasing to belong to an association of producers;

“(5) make false reports about the finances, management, or activities of an association of producers or handlers;

“(6) conspire, combine, agree, or arrange with any other person to do, or aid or abet the performance of, any act made unlawful by this Act;

“(7) refuse to bargain in good faith with an accredited association, if the handler is a designated handler; or

“(8) refuse to deal or transact business with the formation or administration of any association of producers or to contribute financial or other support to an association of producers.

**SEC. 5. FAIR GOOD FAITH.**

**(a) CLARIFICATION OF OBLIGATION.**

“(1) IN GENERAL.—The obligation of a designated handler to bargain in good faith shall apply with respect to an accredited association and the products or services for which the accredited association is accredited to bargain.

**(b) AGREEMENTS OR CONCESSIONS.**

The good faith bargaining required between a handler and an accredited association shall not require either party to agree to a proposal or to make a concession.

**(c) EXTENSION OF SAME TERMS TO ACCREDITED ASSOCIATION.**

“(1) IN GENERAL.—If a designated handler purchases a product or service from producers under terms more favorable to the producers than the terms negotiated with an accredited association for the same type of product or service, the handler shall offer the same terms to the accredited association.

**(d) VIOLATIONS.**

Failure to extend the same terms to the accredited association shall be considered to be a violation of section 4(g).

**(e) FACTORS.**

“In comparing terms, the Secretary shall consider—

“(A) the stipulated purchase price;

“(B) any bonuses, premiums, hauling, or loading allowances;

“(C) reimbursement of expenses;

“(D) payment for special services of any character that may be paid by the handler; and

“(E) any amounts paid or agreed to be paid by the handler for any designated purpose other than payment of the purchase price.

**(c) DETERMINATION.**

“The Secretary may provide mediation services with respect to bargaining between an accredited association and a designated handler at the request of the accredited association or designated handler.

**SEC. 6. ACCREDITATION OF ASSOCIATIONS AND DESIGNATION OF PRODUCERS.**

**(a) ACCREDITATION PETITION.**

“(1) IN GENERAL.—An association of producers seeking accreditation to bargain on behalf of producers with a designated handler for any product or service shall submit to the Secretary a petition for accreditation.

“(2) CONTENT. —The petition shall—

“(A) specify each agricultural product or service for which the association seeks accreditation to bargain on behalf of producers;

“(B) designate the handlers, individually, by production or marketing area, or by some other appropriate general classification, with whom the petition seeks to be accredited to bargain; and

“(C) contain such other information and documents as may be required by the Secretary.

“(b) NOTICE OF PETITION; PROCEEDINGS.

“(1) IN GENERAL. —On receiving a petition under subsection (a) and any supporting material, the Secretary shall provide notice of the petition to all handlers designated in the petition under subsection (a)(2)(B).

“(2) INDIVIDUAL HANDLERS. —The Secretary shall provide personal notice under this subsection to a handler that has been designated individually.

“(3) GENERAL CLASSIFICATIONS. —The Secretary shall provide notice through the Federal Register to handlers that have been designated by production or marketing area or by some other general classification.

“(4) OPPORTUNITIES FOR TESTING. —The association of producers seeking accreditation and the handlers shall have an opportunity to submit written evidence, views, and arguments to the Secretary.

“(5) PROCEEDINGS.

“(A) IN GENERAL. —Except as provided in subparagraph (B), the Secretary may conduct an informal proceeding on the petition.

“(B) FORMAL HEARINGS. —The Secretary shall hold a formal hearing for the reception of testimony and evidence if the Secretary finds that there are substantial unresolved issues of material fact.

“(c) ISSUANCE OF ACCREDITATION ORDER. —

On the petition of an association of producers, the Secretary may order designating the association of producers as an accredited association for the purposes of this Act if the Secretary determines that—

“(1) under the charter documents or bylaws of the association, the accredited association is owned and controlled by producers;

“(2) the association has contracts, binding under State law, with the members of the association empowering the association to sell or negotiate terms of sale of the products or services of the members;

“(3) the association represents a sufficient number of producers, or the members of the association produce a sufficient quantity of agricultural products or render a sufficient level of service for which the association is designated to function as an effective agent for producers in bargaining with designated handlers;

“(4) the functions of the association include acting as principal with the represented members of the association in negotiations with handlers for prices and other terms of trade with respect to the production, sale, and marketing of products or services of the members; and

“(5) the association is acting in good faith with respect to the members of the association and is complying with this Act.

**(d) NOTIFICATION OF ACCREDITATION ORDER.**

“(1) IN GENERAL. —The Secretary shall notify the petitioning association of producers and each handler to be designated as part of the petition, of the decision of the Secretary regarding the petition and provide a concise statement of the reasons for any action in writing to the producers and to all handlers designated in the petition.

“(2) OTHER ASSOCIATIONS. —The Secretary shall provide notice of an accreditation of an association to all other associations that have entered into, maintain, breach, cancel, or terminate a membership agreement or marketing contract over to the association as dues or fees or for the deduction of a sum to be retained as provided by the association.

“(e) ANNUAL REPORT. —Each accredited association shall submit to the Secretary an annual report in such form and including such information as the Secretary by regulation may require to enable the Secretary to determine whether the association is meeting the standards for accreditation.

**(f) LOSS OF ACCREDITATION.**

“(1) IN GENERAL. —If the Secretary determines that an accredited association has ceased to meet the standards for accreditation under subsection (c), the Secretary shall—

“(A) notify the association of the manner in which the association is deficient in maintaining the standards for accreditation; and

“(B) allow the association a reasonable period of time to answer or correct the deficiencies.

“(2) HEARING. —After providing notice and a corrective period in accordance with paragraph (1), if the Secretary is not satisfied that the association is in compliance with subsection (c), the Secretary shall—

“(A) notify the association of the continued deficiencies; and

“(B) hold a hearing to consider the revocation of accreditation.

**(g) AMENDMENT.**

“(1) IN GENERAL. —At the option of the Secretary or on the petition of an accredited association or a designated handler, the Secretary may amend an accreditation order with respect to the product or service specified in the accreditation order.

“(2) NOTICE. —The Secretary shall provide—

“(A) notice of any proposed amendment and the reasons for the amendment to all accredited associations and handlers that would be directly affected by the amendment; and

“(B) an opportunity for a public hearing.

**(h) AUTHORITY.**

“After providing notice and an opportunity for a hearing in accordance with paragraph (2), the Secretary may amend the accreditation order if the Secretary finds that the amendment will be conducive to more effective bargaining and orderly marketing by the accredited associations of the product or services of the members of the accredited association.

**SEC. 7. ASSIGNMENT OF ASSOCIATION DUES AND FEES.**

“(a) IN GENERAL. —A producer of an agricultural product or service for which an association has been accredited shall, as a clause in a sales contract or in another written instrument, an assignment of dues or fees to, or the deduction of a sum to be retained by an association of producers authorized by contract to represent the producer, under which assignment a handler shall—

“(1) deduct a portion of the amount to be paid for products or services of the producer under a growing contract; and

“(2) pay, on behalf of the producer, the portion over to the association as dues or fees or a sum to be retained by the association.

**(b) DUTY OF HANDLER.** —After a handler receives notice from a producer of an assignment under subsection (a), the handler shall—

“(1) deduct the amount authorized by the assignment from the amount paid for any agricultural product sold by the producer or for any service rendered under any growing contract; and

“(2) pay, on behalf of the producer, the portion over to the association as dues or fees or a sum to be retained by the association.

January 22, 2001

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SEC. 8. ENFORCEMENT.

(a) Civil Actions by Aggrieved Persons.—

(1) Preventive Relief.—Whenever any person has violated this Act, the Secretary may, on the complaint of any aggrieved person, seek in any appropriate United States district court a temporary or permanent injunction, to enforce orders of the Secretary, restraining any person from violating this Act.

(b) Civil Actions by Injured Persons.—

(1) In General.—Any person injured in the business or property of the person by reason of any violation of, or combination or conspiracy to violate, this Act may—

(A) sue for the violation in the appropriate United States district court with respect to the violation alleged, and

(B) recover damages sustained.

(2) Attorney Fees.—In any action commenced under paragraph (1), the court may allow the prevailing party a reasonable attorney's fee as part of the costs.

(c) Jurisdiction of District Courts.—The court shall have jurisdiction over an action brought under subsection (a) or (b).

(d) Limitation on Actions.—Any action to enforce any cause of action under this subsection shall be commenced within 2 years after the cause of action occurred.

(e) Jurisdiction of District Courts.—A United States district court shall have jurisdiction over an action brought under subsection (a) or (b).

SEC. 9. DEFENSE.

(a) Deliberate Intention.—The Secretary shall not be liable for any acts directed against any person by the Secretary or by any person acting on the authority of the Secretary under this Act.

(b) Precautionary Measures.—The Secretary may, to prevent the occurrence of any violation of this Act, take such measures as the Secretary considers necessary to deter such violations.

(c) Records and Information.—The Secretary may require any person covered by this Act to establish and maintain such records, make such reports, and provide such other information as the Secretary considers necessary to enforce this Act.

(d) Access.—(1) The Secretary shall have the right to inspect and examine such accounts, records, and memoranda, as the Secretary considers necessary to deter such violations of this Act.

(2) The Secretary may at reasonable times have access to and copy any records that any person is required to maintain or that relate to any manner under this Act under investigation or in question.

(e) Complaints.—If the Secretary has reason to believe (whether through investigation or petition by any person) that any person has violated this Act, the Secretary shall cause a complaint to be served on the person—

(1) stating the reasons for the alleged violation of this Act; and

(2) requiring the person to attend and testify at a hearing to be held not earlier than 30 days after the date of the service of the complaint.

(f) Hearings.—(1) In General.—The Secretary may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, receive evidence, and require the attendance and testimony of witnesses and the production of such accounts, records, and memoranda, as the Secretary considers necessary to determine whether a violation of this Act has occurred.

(2) Right to Hearing.—A person may request a hearing if the person is subject to a penalty under this Act.

(g) Respondents' Rights.—During a hearing, the person complained of shall be given, in accordance with regulations promulgated by the Secretary, the opportunity—

(A) to be informed of the evidence against the person;

(B) to cross-examine witnesses; and

(C) to present evidence.

(h) Filing of Petition.—The issues at any hearing held or requested under this section shall be limited in scope to matters directly related to the purpose for which the hearing was held or requested.

(i) Report of Finding and Penalties.—(1) In General.—If, after a hearing, the Secretary finds that a person has violated this Act, the Secretary shall make, and provide to the person, a written report that states the findings of fact and includes an order requiring the person to cease and desist from committing the violation.

(2) Civil Penalty.—The Secretary may assess a civil penalty not to exceed $1,000,000 for each violation of this Act.

(j) Injunctions; FinaIity and Appealability of an Order.—(1) InjunctIons.—At any time after a complaint is served on a person under subsection (b), the court, on application of the Secretary, may issue an injunction, restraining the extent to which the court determines to be appropriate, the person and the officers, directors, agents, and employees of the person from violating this Act.

(2) Appealability of an Order.—An order issued under this section shall be final and conclusive unless, within 30 days after service of the order, the affected handler petitions to appeal the order to the United States Court of Appeals for the District of Columbia Circuit.

(k) Delivery of Petition.—(1) In General.—The clerk of the court shall deliver a copy of any petition filed under paragraph (2) to be delivered to the Secretary.

(2) Record.—On receipt of the petition, the Secretary shall make the record of the proceedings under this section.

(l) Penalty for Failure to Obey an Order.—(1) In General.—Any person that fails to obey an order of the Secretary issued under this section after the order becomes final shall be fined not less than $5,000 and not more than $100,000 and imprisoned not more than one year.

(m) Separate Offenses.—Each day during which the failure continues shall be considered to be a separate offense.

SEC. 10. PREEMPTION.

(a) In General.—Except as expressly provided in this title, this title does not invalidate any provision of State law dealing with the same subject as this Act.

(b) State Courts.—This title does not deprive a State court of jurisdiction under a State law dealing with the same subject as this Act.

Subtitle E—Implementation

SEC. 114. RELATIONSHIP TO STATE LAW.

(a) In General.—Except as expressly provided in this title, this title does not invalidate any provision of State law dealing with the same subject as this Act.

(b) State Courts.—This title does not deprive a State court of jurisdiction under a State law dealing with the same subject as this Act.

SEC. 114. REGULATIONS.

The Secretary shall promulgate such regulations as are appropriate to carry out this title and the amendments made by this title.

Subtitle E—Implementation

Not later than 180 days after the date of enactment of this Act, the Secretary and the Attorney General shall develop and implement a plan to enable the Secretary, where appropriate, to file civil actions, including temporary injunctions, to enforce orders issued by the Secretary under this title and the Agricultural Fair Practices Act of 1967 (as amended by section 131).

SEC. 114. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), this title and the amendments made by this title take effect on the date of enactment of this Act.

(b) Agricultural Contracts.—

(1) In General.—Except as provided in paragraph (2), subtitle C applies to an agricultural contract in force on or after the date of enactment of this Act, regardless of the date on which the agricultural contract is executed.

(2) Exceptions.—Sections 122, 123, 126, 127(a), (5), and 128(a) shall apply only to an agricultural contract that is executed or substantively amended after the date of enactment of this Act.

TITLE II—NATIONAL RURAL COOPERATIVE AND BUSINESS EQUITY FUND

SEC. 120. NATIONAL RURAL COOPERATIVE AND BUSINESS EQUITY FUND.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

"Subtitle F—National Rural Cooperative and Business Equity Fund"

SEC. 120A. SHORT TITLE.

This subtitle may be cited as the ‘‘National Rural Cooperative and Business Equity Fund’’.

SEC. 120B. PURPOSE.

The purpose of this subtitle is to revitalize rural communities and enhance farm income through sustainable rural business development by providing Federal funds and credit enhancements to a private equity fund in order to encourage investments by institutional and noninstitutional investors for the benefit of rural America.

SEC. 120C. DEFINITIONS.

"In this subtitle:

(1) Authorized private investor.—The term ‘‘authorized private investor’’ means an individual, legal entity, or subsidiary of an individual or legal entity that—

(A) is eligible to receive a loan guarantee under this Act;

(B) is eligible to receive a loan guarantee under the Rural Electrification Act of 1936 (7 U.S.C. 9501 et seq.); or

(C) is created under the National Consumer Cooperative Bank Act (12 U.S.C. 3011 et seq.).

(2) D is an insured depository institution; or

(3) is determined by the Fund to be an appropriate investor in the Fund.

("("STATE COURTS."—This Act shall not deprive a State court of jurisdiction under a State law dealing with the same subject as this Act.

")")
SEC. 391D. ESTABLISHMENT OF THE FUND.

(a) General.—

(1) AUTHORITY TO ESTABLISH.—A group of authorized private investors may establish, as a non-Federal entity under State law, and manage a fund to be known as the National Rural Cooperative and Business Equity Fund, to raise and provide equity capital to rural businesses.

(b) PURPOSES.—The purposes of the Fund shall be—

(1) to strengthen the economy of rural areas;

(2) to further sustainable rural business development;

(3) to encourage start-up rural businesses, increase the number of new ventures, provide working capital for small and minority-owned rural businesses, and the formation of new rural businesses;

(4) to enhance rural employment opportunities;

(5) to provide equity capital to rural businesses that have been unable to obtain equity capital; and

(6) to leverage non-Federal funds for rural businesses.

(c) ARTICLES OF INCORPORATION AND BYLAWS.—The articles of incorporation and by-laws of the Fund shall set forth purposes of the Fund that are consistent with subsection (b).

SEC. 391E. INVESTMENT IN THE FUND.

(a) IN GENERAL.—The Secretary, using funds of the Commodity Credit Corporation, shall—

(1) subject to subsection (b), make available to the Fund up to $50,000,000 for each of fiscal years 2001 through 2003;

(2) subject to subsection (c), guarantee 50 percent of each investment made by an authorized private investor in the Fund; and

(3) subject to subsection (d), guarantee the repayment of principal to authorized private investors in debentures issued by the Fund.

(b) PRIVATE INVESTMENT.—

(1) MATCHING REQUIREMENT.—Under subsection (a)(1), the Secretary shall make an amount available to the Fund only after an equal amount has been invested in the Fund by authorized private investors in accordance with this subtitle and the terms and conditions set forth in the by-laws of the Fund.

(2) INVESTMENTS BY INSURED DEPOSITORY INSTITUTIONS.—Investments in the Fund by an insured depository institution shall be considered part of the record of the insured depository institution’s credit worthiness for the needs of its entire community for the purposes of Federal law.

(c) GUARANTEE OF PRIVATE INVESTMENTS.—

(1) IN GENERAL.—The Secretary shall guarantee, under terms and conditions determined by the Secretary, 50 percent of any loss of the principal of an investment made in the Fund by an authorized private investor.

(2) MAXIMUM TOTAL GUARANTEE.—The aggregate liability of the Secretary with respect to all guarantees under paragraph (1) shall not apply to more than $300,000,000 in private investments.

(3) REDEMPTION OF GUARANTEE.—

(A) DATE.—An authorized private investor in the Fund may redeem a guarantee under paragraph (1) at any time after the total investments in the Fund and the total losses of the authorized private investor as of the date of redemption—

(i) on the date that is 5 years after the date of incorporation of the Fund; or

(ii) annually thereafter.

(B) EFFECT OF REDEMPTION.—On redemption of a guarantee under paragraph (1), the shares in the Fund of the authorized private investor shall be redeemed; and

(C) INVESTMENT OF FUNDS.—The authorized private investor shall be prohibited from making any future investment in the Fund.

(d) DEBT—

(1) IN GENERAL.—The Fund may, at the discretion of the Board, raise additional capital through the issuance of debentures and other securities issued by the Fund that are approved by the Board.

(2) GUARANTEED DEBT BY SECRETARY.—

(A) IN GENERAL.—The Secretary may guarantee 100 percent of the principal of, and interest on, debentures or other securities issued by the Fund that are approved by the Secretary.

(B) MAXIMUM DEBT GUARANTEED BY SECRETARY.—The outstanding value of debentures or other securities issued by the Fund that are approved and guaranteed by the Secretary shall not exceed the lesser of—

(i) the amount equal to twice the value of the assets held by the Fund; or

(ii) $500,000,000.

(C) RECAPTURE OF GUARANTEE PAYMENTS.—If the Secretary makes a payment on a debenture issued by the Fund as a result of a guaranty issued by the Secretary under this paragraph, the Secretary shall have priority over other creditors for repayment of the debenture.

(d) AUTHORIZED PRIVATE INVESTORS.—An authorized private investor may purchase debentures and other securities issued by the Fund.

SEC. 391F. INVESTMENTS AND OTHER ACTIVITIES OF THE FUND.

(a) INVESTMENTS.—

(1) IN GENERAL.—

(A) TYPE.—Subject to paragraphs (B) and (C), the Fund may—

(i) make equity investments in an entity that meets the requirements of paragraph (6) and such other requirements as the Board may establish; and

(ii) extend credit to such an entity in—

(i) the form of mezzanine debt or subordinated debt; or

(ii) any other form of quasi-equity.

(b) LIMITATION ON EQUITY INVESTMENTS.—After the initial equity investment in an entity described in subparagraph (A)(i), the Fund may not make additional equity investments in the entity if the additional equity investments provided by the Fund owning more than 30 percent of the equity of the entity.

(c) LIMITATION ON NON-EQUITY INVESTMENTS.—Except in the case of a project to assist a rural cooperative, the total amount of nonequity investments described in subparagraph (A)(ii) that may be provided by the Fund shall not exceed 20 percent of the total investments of the Fund in the project.

(d) PROCEDURES.—The Fund shall implement procedures to ensure that—

(A) the financing arrangements of the Fund meet the Fund’s primary focus of providing equity capital; and

(B) the Fund does not compete with conventional sources of credit.

(e) DIVERSITY OF PROJECTS.—The Fund—

(A) shall seek to make equity investments in a variety of projects, with a significant share of investments—

(i) in smaller projects in rural communities of diverse sizes; and

(ii) in cooperative and noncooperative enterprises; and

(B) shall be managed in such a way as to diversify the risks to the Fund among a variety of projects.

(f) LIMITATION ON RURAL BUSINESSES ASSISTED.—The Fund shall not invest in any rural business that is primarily retail in nature (as determined by the Board), other than a purchasing cooperative.

(g) INTEREST RATE LIMITATIONS.—Returns on investments in and by the Fund and returns to the external equity investors in projects assisted by the Fund, shall not be subject to any State or Federal law establishing a maximum allowable interest rate.

(h) REQUIREMENTS FOR RECIPIENTS.—

(A) OTHER INVESTMENTS.—Any recipient of amounts from the Fund shall make or obtain a significant investment from a source of capital other than the Fund.

(B) SPONSORSHIP.—Rural business investment projects to be considered for an equity investment by the Fund shall be sponsored by a regional, State, or local sponsoring or endorsing organization such as—

(i) a financial institution;

(ii) a development organization; or

(iii) any other entity described in subparagraph (A)(ii) that meets the requirements of paragraph (6) and such other requirements as the Board may establish.

(C) ANNUAL AUDIT.—The Board shall provide and make available to the public an annual audit of the financial statements of the Fund.

(D) ANNUAL REPORT.—The Board shall prepare and make available to the public an annual report that—

(A) describes the projects funded with amounts from the Fund; and

(B) specifies the recipients of amounts from the Fund.

(E) TECHNICAL ASSISTANCE.—The Board shall adopt regulations to carry out the requirements of this section.
“(4) meets the reporting requirements, if any, of the State under the law of which the Fund is established.

(e) Other Authorities.—The Board may exercise such other authorities as are necessary to carry out this subtitle.

SEC. 391G. GOVERNANCE OF THE FUND.

(a) In General.—The Fund shall be governed by a board of directors that represents all of the authorized private investors in the Fund and the Federal Government and that consists of—

(1) the Secretary or a designee;

(2) 2 members who are appointed by the Secretary and are not Federal employees, including—

(A) a member with expertise in venture capital investment; and

(B) 1 member with expertise in cooperative development;

(3) 8 members who are elected by the authorized private investors with investments in the Fund; and

(4) 1 member who is appointed by the Board and who is a community banker from an insured depository institution with total assets equal to or less than $250,000,000.

(b) Limitation on Voting Control.—No individual or group of similar investors may control more than 25 percent of the votes on the Board.

TITLE III—COUNTRY OF ORIGIN LABELING

SEC. 301. COUNTRY OF ORIGIN LABELING.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) is amended by adding at the end the following:

“Subtitle C—Country of Origin Labeling

SEC. 271. DEFINITIONS.

“... In this subtitle—

(1) 'BEef.'—The term ‘beef’ means meat produced from cattle (including veal).

(2) 'Covered Commodity.'—The term ‘covered commodity’ means—

(A) muscle cuts of beef, lamb, and pork;

(B) ground beef, ground lamb, and ground pork; and

(C) perishable agricultural commodity.

(3) Food Service Establishment.—The term ‘food service establishment’ means a restaurant, cafeteria, lunch room, food stand, bar, lounge, or other similar facility operated as an enterprise engaged in the business of selling food to the public.

(4) 'Lamb.'—The term ‘lamb’ means meat, other than mutton, produced from sheep.

(5) 'Packer.'—The term ‘packer’ has the meaning given in the term in section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191).

(6) Perishable Agricultural Commodity; Retailer.—The terms ‘perishable agricultural commodity’ and ‘retailer’ have the meanings given in the terms in section 1(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b)).

(7) ‘Pork.’—The term ‘pork’ means meat produced from hogs.

(8) Secretary.—The term ‘Secretary’ means the Secretary of Agriculture, acting through the Agricultural Marketing Service.

SEC. 272. NOTICE OF COUNTRY OF ORIGIN.

(a) In General.—

(1) Requirement.—Except as provided in subsection (b), a retailer of a covered commodity shall inform consumers, at the final point of sale of the covered commodity to consumers, of the country of origin of the covered commodity.

(2) United States Country of Origin.—A retailer of a covered commodity (other than a perishable agricultural commodity) may designate country of origin as having a United States country of origin only if the covered commodity is exclusively from an animal that is exclusively born, raised, and slaughtered in the United States.

(3) Food Service Establishment.—Subsection (a) shall not apply to a food service establishment.

(4) Food for Sale or Sold at the Food Service Establishment.—Subsection (a) shall not apply to sale or sold at the food service establishment in normal retail quantities; or

(b) Served to Consumers at the Food Service Establishment.—Subsection (a) shall not apply if the food service establishment is exclusively for retail sale to consumers at the food service establishment.

(c) Method of Notification.—

(1) In General.—The information required by subsection (a) may be provided to consumers as part of a label, stamp, mark, placard, or other clear and visible sign on the food service establishment.

(2) Labeled Commodity.—If the covered commodity is already individually labeled or sung of country of origin by the packer, importer, or other person, the retailer shall not be required to provide any additional information to comply with this section.

(d) Audit Verification System.—The Secretary may require by regulation that any person that prepares, stores, handles, or distributes a covered commodity shall maintain a verifiable recordkeeping system that will permit the Secretary to ensure compliance with the regulations promulgated by the Secretary under section 274.

(e) Information.—A packer and any other person engaged in the business of supplying a covered commodity shall provide information to the retailer indicating the country of origin of the covered commodity.

SEC. 273. ENFORCEMENT.

Section 258 shall apply to a violation of this subtitle.

SEC. 274. REGULATIONS.

(a) In General.—The Secretary shall promulgate such regulations as are necessary to carry out this subtitle.

(b) Partnerships With States.—In promulgating the regulations, the Secretary shall, to the maximum extent practicable, coordinate with States with enforcement infrastructure to carry out this subtitle.

SEC. 275. APPLICATION.

This subtitle shall apply to the retail sale of a covered commodity beginning on the date that is 180 days after the date of the enactment of this subtitle.

TITLE IV—MARKETING ASSISTANCE LOAN RATE EQUALIZATION

SEC. 401. LOAN RATES FOR MARKETING ASSISTANCE LOANS.

Section 132 of the Agricultural Marketing Act of 2000 (7 U.S.C. 1732d) is amended to read as follows:

“SEC. 132. LOAN RATES FOR MARKETING ASSISTANCE LOANS.

(a) Wheat.—The loan rate for a marketing assistance loan under section 131 for wheat shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of wheat.

(b) Feed Grains.—

(1) Corn.—The loan rate for a marketing assistance loan under section 131 for corn shall be based on 80 percent of the average full economic cost of production per bushel (based on yield per planted acre), as determined by the Secretary, for the immediately preceding 3 crops of corn.

(2) Other Feed Grains.—...
TITLE VI—CIVIL RIGHTS

SEC. 601. SENSE OF CONGRESS ON PARTICIPATION OF SOCIALLY DISADVANTAGED GROUPS IN DEPARTMENT OF AGRICULTURE PROGRAMS.

It is the sense of Congress that the Secretary of Agriculture should take such actions as are necessary to ensure, to the maximum extent practicable (i) that members of socially disadvantaged groups (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 355(e))—

(1) are informed of the eligibility requirements to participate in programs of the Department of Agriculture; and

(2) receive technical support and assistance from the Department to participate in the programs.

Mr. HARKIN. I am pleased to cosponsor this legislation introduced by the Democratic leader, Senator DASCHLE. The bill contains a number of important features that constitute a strong start for our work toward a new farm bill.

In particular, I want to call attention to the provisions in this bill that will address directly the rapid changes occurring in the structure of our food and agriculture industry and the impact those changes on America's farm and ranch families and rural communities. This bill will give USDA a new authority to deal with economic concentration and consolidation in agriculture: to prevent mergers and acquisitions that change the character of rural communities and to prevent and take enforcement action against anti-competitive and unfair practices in dealings by agribusinesses with farmers.

The legislation also incorporates legislation I introduced in the previous Congress to establish new protections for agricultural producers who are involved in contracting arrangements with agribusiness processors and to establish new protections that will enhance the ability of agricultural processors to purchase crops or other products from socially disadvantaged farmers who are interested in selling their commodities to processors and buyers of agricultural products.

I am also pleased that this bill incorporates my legislation to create a new fund that will spur new equity capital investment in rural areas. The legislation has the support of a wide range of the key interested parties in providing and boosting financing and business investment in rural America. Clearly, if rural America is to grow, and if agricultural producers are to develop new strategies for overcoming the barriers to new equity and financing that they face, they will need new protections.

This bill also makes a strong start toward improving the shortcomings of the commodity program provisions of the current farm bill. We have all observed the critical need for emergency assistance packages to shore up the Freedom to Farm bill over the past several years. Many farm families and rural communities need a predictable and dependable system of farm income protection. This bill would provide for loan rates that are more realistic in light of current production costs in order to improve the farm income protection. It focuses on providing better assistance when it is needed, rather than simply making additional fixed payments regardless of actual market conditions.

As I said, I believe the marketing assistance loan rate provisions in this bill are a strong start. We recognize that under the current formula, even without the existing loan rate cuts, the marketing loan rates would have declined quite substantially as market prices suffered in recent years. That means a less effective system of farm income protection. However, further work and discussion on loan rate formulas and program details will be necessary as we work further on the next farm bill. In particular, it is important that the relative loan rates among the various commodities are in balance. Of course, that is the main objective of these provisions: to bring other loan rates into reasonable equivalence with the loan rates for oilseeds. But we do not want to create any new inequality while trying to address what is now felt to be an imbalance.

It is also important for us to contemplate the consequences of any changes in loan rates that we may ultimately enact, including any impacts on production levels and patterns, and how those would impact farmers under the program for family-size farms in comparison with those for much larger operations. For that reason I believe that there must be some restriction or limitation on the quantity of production that is eligible for higher loan rates. Otherwise, I am concerned that we are providing only a small amount of help to family-size farms, but far more to their larger and already better capitalized neighbors simply because they have much larger quantities of loan-eligible commodities. Similarly, if the loan rate is increased for every unit of production of a given commodity on every farm, no matter how large, we must consider the incentives for higher production that will be put into markets that are in surplus.

The commodity provisions are, of course, only one part of a comprehensive approach to a new farm bill. I very strongly believe that the next farm bill should include a new system of incentives for farm and ranch conservation practices. In this way we will improve farm income while also enhancing conservation of natural resources for our children and succeeding generations. I have not proposed a substitute for our existing conservation programs, nor am I proposing to abandon commodity and farm income protection programs. But I believe that we can accomplish a great deal by adding to our farm policy a new system of conservation incentive programs.

In conclusion, I am pleased to cosponsor this bill and look forward to working with my colleagues to work further together on crafting a new farm bill.
By Mr. HAGEL (for himself, Ms. LANDRIEU, Mr. BREAUx, Mr. DEWINE, Mrs. HUTCHISON, Mr. NELson of Nebraska, Mr. SMith of Oregon, and Mr. THOMAS):

S. 22. A bill to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes; to the Committee on Rules and Administration.

OPEN AND ACCOUNTABLE CAMPAIGN FINANCING ACT OF 2001

Mr. HAGEL. Mr. President, today, I join several of my colleagues, including the Presiding Officer, in introducing the Open and Accountable Campaign Financing Act of 2001, S. 22. I am pleased to be joined by not only the Presiding Officer, my new colleague from Nebraska, but also by Senators LANDRIEU, BREAUx, DEWINE, HUTCHISON, SMith of New Hampshire, and THOMAS, in introducing this legislation today.

I also want to acknowledge the two Senators who have led the fight on campaign finance reform over the years—Mr. LANDRIEU and Mrs. HUTCHISON. Their commitment to this issue and leadership has elevated the debate on this very important part of our democratic system. They deserve recognition and they deserve credit.

Mr. President, S. 22 has three primary components, as you know. First, it expands and codifies disclosure for candidates, political parties and all organizations and individuals who participate in the political process. Second, it caps and regulates soft money donations to the National political parties. Third, it increases hard money contribution limits and then indexes these limits to inflation for future years.

Our campaign finance system is broken. As all of us know, in politics, as in life, perception is an important dynamic of reality. The American people’s perception of the integrity of our political system is directly connected to their confidence in the system. Americans see a political system controlled by special interests and those able to pump in millions of unaccountable dollars. As our citizens become demoralized and disaffected by what they see as abuse of their political system, they feel they are powerless, they lower their expectations and standards for government and our officeholders. As a result, the American people are losing confidence in our system. They are losing trust in their elected officials. We need to fix the system.

The Senate will engage in an open, honest and wide-ranging debate on campaign finance reform this year, as it should be.

The debate must be thoughtful, factual and deliberate. Any legislative action will have immense consequences for our political system and all who participate in it. S. 22 represents a strong, bipartisan foundation from which consensus can be built and real campaign finance reform can be established.

Our bill is imperfect. It does not address all of the issues. It does not have all the answers. But it is a genuine attempt to bring about real reforms, including greater disclosure and more accountability. Greater disclosure, I believe, is the heart of campaign finance reform. We should not fear an educated and informed body politic. We should welcome it.

In recent years, so-called independent groups and individuals have played and increasingly dominant role in the political process launching late TV blitzes, moving poll numbers in the final weeks and days of a campaign, and then disappearing without the public ever knowing who they were and how much they spent for or against the candidate.

There are several provisions in S. 22 that will increase the disclosure of campaign financing and election activity. But the most significant is the provision affecting what information is made public regarding political broadcast ads, especially ads referred to as issue advocacy ads.

Issue advocacy adds generally refer to a Federal candidate and his or her positions on issues, but since the ads do not expressly advocate the election or defeat of a Federal candidate, they now fall outside the disclosure requirements of the Federal Election Campaign Act. Even though these ads don’t expressly advocate for or against any candidate, many people consider the clear intent of these ads, which is to influence the outcome of elections.

Our legislation addresses the problems associated with the disclosure of these issue ads by requiring disclosure of the relevant information at the broadcast stations who broadcast these ads both on radio and TV.

Currently, broadcast stations must comply with Federal communications regulations requiring them to place in their public file information on ads run by Federal candidates and political parties. This includes a record of the times the spots are scheduled to air, the overall amount of time purchased, and at what rates, and the names of the officers of the organization placing the ad.

However, presently, there is no requirement that any of this information be placed in the public file for political ads run by independent organizations or individuals. Our legislation will codify these regulations and expand them to cover all political broadcast ads without violating anyone’s constitutional rights. Under this bill, the American public and the media will know who is buying these ads and how much they are spending for the ads.

Also, let me make clear one thing this provision does not do. It does not require organizations to identify individual donors or provide membership lists. It preserves a reasonable balance between the public’s right to know and the privacy rights of members and donors.

In addition to increased disclosure, this legislation regulates and caps soft money donations. It limits individuals, corporations, and unions, to an aggregate of $60,000 per year in soft money contributions to the national political parties. These donations are disclosed at the Federal Election Commission.

We already have constitutionally tested limits on hard money. Political parties have to deal with this. These contributions are reported from the political parties and from the candidates and their campaigns. We should look at placing limits on soft money contributions as well.

This legislation also adjusts the hard money, or Federal contributions, that is already fully disclosed and regulated by the Federal Election Commission.

Currently, an individual contribution limit is now set at $1,000. That limit was originally set in 1974. Our legislation would move that current $1,000 limit to $3,000 per candidate per election. Indexed to inflation, today a $1974 $1,000 contribution is worth $3,000. In future years, all individual limits would be indexed to inflation. This would have a positive effect on the system because more campaign money would go directly to the candidates, where there is the most disclosure and accountability.

Any legislation to reform America’s campaign finance system needs to reverse the sharply rising trend of money going outside the reportable system toward unaccountable, independent groups and individuals who do not report, who are not required to report or disclose. This trend has been more and more away from the candidates in the political parties. Any legislation must also ensure that any campaign finance reform genuinely improves the system and doesn’t result in unintended consequences that actually make it worse. The challenge in reforming our campaign finance system is to do so without infringing upon the constitutional rights of Americans to freely express themselves under the first amendment and the guarantees of equal protection under the law in the fifth amendment.

Any effort, no matter how well-intentioned, that doesn’t pass constitutional muster will be an effort in futility, adding further to the erosion of public confidence in our system. Congress has an opportunity this year to pass a relevant and responsible campaign finance reform bill that the President will sign.

My colleagues and I will be fully engaged in this debate this year with the ultimate goal of making our campaign finance system more open and accountable—the essence of any reform.

Mr. LOTT (for Mr. SPECTER):
Mr. SPECTER. Mr. President. I have sought recognition to introduce legislation that would address the plight of our nation’s cities. With 20 percent of the U.S. population living in metropolitan areas, there is an urgent need to improve our urban economies and the quality of life for the millions of Americans who live and work in cities. By simply making our cities an appealing place to live, work, and visit, urban areas can rebound to the vibrant economic centers they once were.

There is a common perception that most urban areas are abandoned and stripped of their resources, burdened with poverty and crime. However, cities have a wealth of resources available to not only the urban dweller, but to cultural centers, business hubs, and some of the finest educational and medical institutions. The real problem is that we do not draw upon these riches or strive to better coordinate them to serve people, especially those in need.

My proposal, the “New Urban Agenda Act of 2001,” is based on legislation which I have endeavored to enact into law since the 103rd Congress. The bill constitutes an effort to give our cities some much-needed attention, but reflects the federal budgetary constraints which govern our actions in Congress. This bill, based in significant part on suggestions by Former Philadelphia Mayor Edward G. Rendell and the League of Cities as well as current Mayor Edward G. Rendell and the League of Cities as well as current Philadelphia Mayor John Street and Pittsburgh Mayor Tom Murphy, offers aid to the cities while containing federal expenditures and re-instituting important cost-effective tax breaks.

Urban areas remain integral to America’s greatness as centers of commerce, industry, education, health care, and culture. Yet urban areas, particularly the inner cities which tend to have a disproportionate share of our nation’s poor, also have special needs which must be recognized. We must develop ways of aiding our cities that do not require either new taxes or more government bureaucracy.

With that in mind, I am pleased that Congress recognized included an initiative to aid our cities in the fiscal year 2001 Omnibus Appropriations Act. This initiative provides important incentives for businesses to invest and locate in our nation’s cities by stimulating new private capital investments in economically distressed communities, expanding empowerment zones, increasing the low income housing tax credit, creating new market venture capital firms, and creating 40 Renewal Communities, which will provide additional key incentives to spur investment. I am particularly pleased that a close relative of the Urban Agenda bill was included as part of this initiative, which will provide a 60 percent exclusion for capital gains tax purposes for any gain resulting from targeted investments in small businesses located in urban empowerment zones, enterprise communities, or enterprise zones. A targeted capital gain will serve as a catalyst for job creation and economic growth in our cities by encouraging additional private investment in our urban areas. While all of these initiatives are an important first step in assisting our cities, I believe that there is still more that needs to be accomplished to revitalize America’s metropolitan areas.

If we are to address many of the serious social issues that we face—unemployment, drug abuse, juvenile violence, welfare dependency, and other pressing issues—we cannot give up on our cities. We must continue to develop new strategies for dealing with the problems of urban America. The days of creating “Great Society” federal aid programs are clearly past, but that is no excuse for the national government to ignore the problems of the cities.

As a Philadelphia resident, I have first-hand knowledge of the growing problems that plague our cities. I have long supported a variety of programs to assist the inner city with increased funding for Community Development Block Grants and legislation to establish enterprise and empowerment zones. To encourage similar efforts, in April 1994, I hosted my Senate Republican colleagues on a visit to explore urban problems in my hometown. We talked with people who wanted to obtain work, but had discovered few opportunities. We saw a crumbling infrastructure and its impact on residents and businesses. We were reminded of the devastating effect that the loss of inner city businesses and jobs has had on our neighborhoods. What my Republican colleagues saw in Philadelphia is the urban rule across our country, not the exception.

There are many who do not know of city life, who are far removed from the cities and would not be expected to have any key interest in what goes on in the big cities of America. I cite my own boyhood experience illustratively:

Born in Wichita, Kansas, raised in Russell, a small town of 5,000 people on the plains of Kansas, there is not much detailed knowledge of what goes on in Philadelphia, Pennsylvania, or other big cities like Los Angeles, San Francisco, New York, Minneapolis, Pittsburgh, Dallas, Detroit or Chicago.

Those big cities are alien to many in America. But there is a growing understanding that the problems of big cities contribute significantly to the general problems affecting our nation as a whole and have an economic impact, at the very least, on our small towns. For rural America to prosper, we need to make sure that urban America pros pers and vice-versa. For example, if cities had more economic growth, taxes could be lower for businesses at the federal and state level because revenues would increase and social welfare spending would be reduced.

There is indeed a domino effect from our cities to rural communities throughout the country. Lately, we have witnessed this in the violent behavior of adolescents. School violence, juvenile crime and drug abuse are no longer endemic to urban living. Take for example the Bloods and the Crips gangs from Los Angeles, California, and similar gangs: that are all over America. They are in Lancaster, Pennsylvania; Des Moines, Iowa; Portland, Oregon; Jacksonville, Florida; Madison, Wisconsin; and Martinsburg, West Virginia. They are literally everywhere, big city and small city alike. Additionally, while drug abuse among teens has historically been viewed solely as an inner city problem, recent statistics indicate that teen drug abuse in the suburbs is an increasing epidemic. According to an October 10, 1999 Philadelphia Inquirer article, in the seven county Philadelphia suburbs, the rate of treatment for drug treatment jumped from 77 to 84 per 100,000 people between 1995 and 1998. In the Baltimore suburbs, 25 percent of teens admitted to drug treatment centers used heroin compared to 17 percent in inner city Baltimore.

In the U.S. Department of Housing and Urban Development’s 2000 report on the “State of the Cities,” findings show that large urban schools still deal with a higher concentration of violence and the represents crimes which were serious enough to report to the police. An estimated 3 million crimes each year are committed in or near the nation’s 85,000 public schools. During the 1996-97 school year alone, one-fifth of public high schools and middle schools reported at least one violent crime, such as murder, rape or robbery. More than half reported less serious crimes. Homicide is now the third leading cause of death for children age 10 to 14. Murder is now the leading cause of death among minority youth between the ages of 15 and 24. The School District of Philadelphia’s most recent report on school violence shows that in the 1994-1995 academic year, students, teachers and administrators were the victims of 2,147 reported criminal incidents, up by almost 100% from the previous year. These included assault, robbery, rape, and students being stabbed or even shot. The school district also is releasing news about absense attendance rates. On any given day, more than one in every four students are absent.

In an effort to seriously address the problem of youth violence, during the summer of 1998, I convened three extensive roundtable discussions with experts from the Department of Education, Health and Human Services, Labor and Justice, who administer programs targeted at children from prenatal to age seventeen. On June 7, 1999, I convened the second roundtable discussion on youth violence and juvenile crime as part of the White House Conference on Mental Health. As a result of these meeting, $911 million in
fiscal year 2000 and $1.6 billion in fiscal year 2001 have been reallocated across government agencies to tackle the problem of youth violence, focusing on the Safe and Drug Free Schools Program, mental health services for children, character education, and literacy programs. These programs pick up on the conclusion that Surgeon General Koop made in 1982—that juvenile violence is a national health problem.

I am pleased to note that the HUD 2000 “State of the Cities” report found that the national poverty rate declined from 13.7% in 1996 to 12.7% in 1998. Encouragingly, the poverty rate also decreased in central cities during this same period from 19.6% to 18.5%. However, despite the dramatic record of job gains, one in eight cities still faces high unemployment and significant population loss or high poverty rates. The report further found that the overall poverty rate in the cities remains twice that of the suburbs. In fact, there are 67 large cities that have an unemployment rate of 50% or higher than the U.S. rate. These facts emphasize the need for more efforts to be focused on strengthening our inner city businesses which, in turn, will boost local economic growth in our cities such as initiatives to spur job creation and economic growth in our cities such as a targeted capital gains exclusion, economic revitalization tax credit, and commercial revitalization tax credit, his-benefit based on employment and earnings possibilities.

To facilitate economic development and job creation in the United States, I supported the balanced Budget Act of 1995, which contained such provisions as the Job Training Partnership Act and the Targeted Job Tax Credit. As Congress put the final touches on that legislation, I circulated a joint letter with several Senators to then-Majority Leader Dole and Speaker Gingrich which recommended several new urban initiatives to spur job creation and economic growth in our cities such as a targeted capital gains exclusion, commercial revitalization tax credit, and economic revitalization tax credit, historic tax credit, and child care credit. In 1996, I introduced the “Job Preparation and Retention Training Act,” which was included in the Workforce Development act of 1998.

My legislation authorized funding for States to enroll long-term welfare de-pendents into a training program to provide the necessary skills to locate and maintain gainful and unsubsidized employment.

A number of jobs are becoming available due to the high tech industry and high tech growth is a substantial contrib-utor to recent economic gains in cities. According to the HUD 2000 “State of the Cities” report, high tech jobs ac-count for 27% of new employment in cities. However, there is an even greater digital divide in high tech jobs between cities and suburbs. High tech job growth in suburbs is 30% faster than that of cities. In effort to bridge the digital di-vide, I was an original cosponsor with Senator Biden of the Kline 2001 legislation which would authorize $120 billion to build computer technology centers in Boys and Girls Clubs nationwide and allow the funds to be used to pay for computer teachers, who are crucial to the success of this initiative. The federal funds would be complemented by donations from private sources. I have also been supportive of collabo-rative efforts like PowerUp, founded by America Online (AOL) Chief Executive Officer Steve Case. This program provides computer technology centers, major corporations, and Federal agencies to help close the digi-tal divide. The goal of this initiative is to help ensure that America’s under-served youth acquire the skills, experi-ences, and resources needed to succeed in the digital age. Initiatives like Kids 2000 and PowerUp are steps in the right direction to provide American children with the skills necessary to compete in an increasingly techno-logically-advanced workforce. These initiatives offer training for those seg-ments of the American population which currently have no opportunity to learn these technology-based skills, and thus offer extraordinary employ-ment and earning possibilities.

Each day, small business owners question whether they should remain in the city because they fear for the safety of their children, their employ-ees, and, ultimately, their businesses. I have personally met and spoken with shop owners in the University City sec-tion of Philadelphia who tell me that they look desperately for reasons to stay, but it gets harder and harder. I have long supported legislation to encourage the growth of small business, as small businesses provide the bulk of the jobs in this country. To that end, I am again introducing legislation to provide targeted tax incentives for in-vesting in small minority or women-owned businesses called “Minority and Women Capital Formation Act.” Many minority entrepreneurs, for instance, have told me that they are dedicated to staying in the cities to continue to pro vide employment opportunities, but are continuing to maintain the necessary capital. My legislation would help remove the capital access barriers, thereby enabling these entrepre-neurs to grow their businesses and payrolls.

The economic problems our cities are facing are not easy to deal with or an-swer. Municipal leaders stress many of the same concerns that business people have voiced. Additionally, in a report by the National League of Cities entitled “City Fiscal Conditions in 1996,” municipal officials from 381 cities an-swered questions on the economic state of their cities. The report found that 21.7 percent of responding cities re duced municipal employment and 18.5 percent had frozen municipal employ-ment due to state budgetary problems. Nearly six out of ten cities raised or imposed new taxes or user fees during the past twelve months.

These numbers are of concern to me and Steve Case, who they highlight the need for federal legislation to enhance the ability of cities to achieve competitive economic status. An added concern is that city managers are forced to bal ance cuts in services or enact higher taxes. Neither choice is easy, and it often counteracts municipal efforts to retain residents or businesses.

One issue in particular that is hurting many cities is the erosion of their middle-class base, evidenced particularly by middle-class flight to the suburbs. Mr. Ronald Waiters, professor of Political Science at Howard University, in testi mony before the Senate Banking Com mittee, stated that 67 percent of American’s lived outside central cit ies; by 1998, that number rose to 46 per cent. The District of Columbia’s popula tion loss is among the worst in the nation, with a quarter of its population relocating to the suburbs since the 1970s. This trend of shrinking urban populations gives no sign of ending. Middle-class families continue to leave for the suburbs where there are typi cally better public services. According to the September 2000 General Ac counting Office Report on Community Development, over 50 percent of U.S. cities reported that an inadequate tax base for supporting schools and serv ices is among the most growth related challenges. As America’s cities struggle with the exodus of residents, businesses and industry, city, residents who remain are faced with problems ranging from increased tax burdens and lesser services to dwindling economic opportunities, leading to welfare de-pendence and unemployment assist ance.

The September 2000 General Accounting Office Report on Community Devel opment also found that of the 2000 cit ies surveyed, 83 percent reported that revitalizing their downtown areas was their top priority. The federal govern ment has attempted to revitalize our ailing urban infrastructure by pro viding federal funding for transit and sewer systems, roads and bridges. As a member of the Transportation Appropriations Subcommittee, I have been a strong supporter of public transit, which provides critical trans- portation services in urban areas. Transit helps cities meet clean air standards, reduce traffic congestion, and allows disadvantaged persons access to jobs. Federal assistance for urban areas, however, has become in creasingly scarce as we grapple with the nation’s deficit and debt. There fore, we must find alternatives to rein vigorate our nation’s cities so they can once again become economically pro ductive areas providing oppor-tunities for residents and neigh boring areas. To address the need for reliable transportation systems in our nation’s cities and to provide access to jobs for city residents, I introduced reauthorization legislation, which was successfully included in the 1998 “TEA-21” highway and transit reauthorization bill. The bill authorized over five years access-to-job transit grants targeting low-income individuals, a program that $10 million per year may be used for reverse commute projects to move individuals from cit ies to suburban job centers.
In addition to support for infrastructure, I believe there are many other opportunities for Congress to assist the America’s urban areas. Over the past few years, I have worked with Former Mayor Ed Rendell to develop a legislative package which contains many good ideas. Over the past, many suggestions and have since added and revised provisions to take into account new developments at the federal, state and local levels to create the “New Urban Agenda Act of 2001.”

First, I believe that the federal government is the nation’s largest purchaser of goods and services, my legislation would require that no less than 15 percent of federal government purchases be made from businesses and industries within designated urban Empowerment Zones, Enterprise Communities and Renewal Communities. Similarly, my bill would required that no less than 15 percent of foreign aid funds be rededicated through purchases of products manufactured in urban Empowerment Zones, Enterprise Communities and Renewal Communities. The General Services Administration would be required to submit to Congress its assessment of the extent to which federal agencies committed to this policy, and in general, economic revitalization in distressed urban areas.

The second major provision of this bill would commit the federal government to a role in restoring the economic health of our cities by encouraging the location, or relocation, of all federal facilities in urban areas. To accomplish this, all federal agencies would be required to prepare and submit to the President an Urban Impact Statement detailing the impact that relocation or downsizing decisions would have on the affected city. Presidential approval would be required to place a federal facility outside an urban area, or to downsize a city-based agency.

The third critical component of this bill would revive and expand federal tax incentives that were eliminated or restricted in the Tax Relief Act of 1986. Until there is passage of legislation on the flat tax, which would provide benefits superior to all targeted tax breaks, I believe America’s cities should have the advantages of such tax benefits. These provisions offer meaningful incentives to businesses to invest in our cities by creating the role in restoring the economic health of our cities by encouraging the location, or relocation, of all federal facilities in urban areas. To accomplish this, all federal agencies would be required to prepare and submit to the President an Urban Impact Statement detailing the impact that relocation or downsizing decisions would have on the affected city. Presidential approval would be required to place a federal facility outside an urban area, or to downsize a city-based agency.

First, my bill would amend the National Affordable Housing Act and the Community Development Block Act of 1974 to make municipal employees such as policemen, firemen, maintenance workers and teachers eligible for home ownership assistance. Municipal employees and teachers contribute to the health, safety and vitality of the communities in which they work. In a growing number of metropolitan areas, home buyers who make the median income in their region cannot afford their median-priced housing, and therefore, must live outside the community in which they work, resulting in longer commutes. The impact of the September 2000 GAO Report, the shortage of funding for affordable housing in urban areas has forced people to move to the fringes of
metropolitan areas, where housing is typically less expensive. This provision would seek to remedy this situation by providing communities with the tools needed to increase home ownership opportunities for those who form the backbone of our cities and who are an integral component of our commitment to revitalize our urban areas.

Second, my bill would provide a tax credit for income-eligible individuals and families to purchase homes in distressed areas. Under the 1999 Taxpayer Relief Act, Congress approved such a tax credit for home buyers in the District of Columbia. While single family home sales can be attributed to a multitude of factors, such as historically low interest rates and a strong economy, it is important to note some interesting statistics related to home ownership since enactment of the tax credit in the District of Columbia. The Home Purchase Assistance Program through the District of Columbia’s Office of Housing and Community Development helped 410 families purchase homes. Further, a group called the “Washington Partners for Home ownership,” a collaboration of realtors, banks, community-based organizations, has set a goal last year to create 1,000 new homeowners in the District of Columbia for each of the next three years. Remarkably, the Washington Partners reached that goal before the end of the first year. That this community effort will reap extraordinary benefits if we expand such a credit on a national basis, as I propose in the “New Urban Agenda Act of 2001.”

I believe that the revitalization of cities will require social and economic facets, but is also imperative that our cities are safe and clean. This last component of my bill helps urban areas to address their unique environmental challenges and reforms Superfund law. First, my bill authorizes a federal brownfields program to help clean up idle or underused industrial and commercial facilities and waives federal liability for persons who fully comply with a state cleanup plan to clean sites in urban or other areas pursuant to state law, providing that the site is not listed or proposed to be listed on the National Priorities List. Many states, including Pennsylvania, have developed their own toxic waste cleanup programs and have done good work to clean up many of these sites. Pennsylvania Governor Tom Ridge has developed an extensive plan, where contaminated sites are made safe based on source control, returning the site to productive use through the development of uniform cleanup standards, by creating a set of standardized review procedures, by releasing owners and developers from liability who fully comply with the state cleanup standards and procedures, and by providing financial assistance. However, the efforts of states like Pennsylvania are often stifled because the federal government has not been willing to work with the States to release owners and developers from liability, even when they fully comply with the state plans.

This section of my bill only applies to sites that are not on the National Priorities List. These are sites that the state has identified for which the state has created a comprehensive cleanup plan. If the federal government has concerns with the cleanup procedure or the safety of the site, then the government has full authority to place that site on the National Priority List. The plans, like that developed by Governor Ridge, deal with sites not controlled by the Superfund law. By not allowing the individual states to take the initiative to clean up these sites, and by not providing a waiver for federal liability to those who comply with the procedures and standards of the state cleanup, the federal government impedes the efforts of the states to work to clean up their own sites. This provision takes a significant step toward encouraging states to take the responsibility for their toxic waste sites and to encourage the effective cleanup of these sites in our nation’s urban areas.

Mr. President, we must take a comprehensive approach to reversing urban decay. My bill seeks to accomplish this by fashioning a stronger plan of action to help cities face their pressing problems. I ask unanimous consent that my bill be printed in the RECORD.

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

8. 23

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 “New Urban Agenda Act of 2001”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLe I—FEDERAL COMMITMENT TO URBAN ECONOMIC DEVELOPMENT

Sec. 101. Federal purchases from businesses in empowerment zones, enterprise communities, and renewal communities.
Sec. 102. Minimum allocation of foreign assistance for purchase of certain United States goods.
Sec. 103. Preference for location of manufacturing outreach centers in urban areas.
Sec. 104. Preference for construction and improvement of Federal facilities in distressed urban areas.
Sec. 105. Definitions.

TITLe II—TAX INCENTIVES TO STIMULATE URBAN ECONOMIC DEVELOPMENT

Sec. 201. Treatment of rehabilitation credit under passive activity limitations.
Sec. 202. Rehabilitation credit allowed to offset portion of alternative minimum tax.
Sec. 203. Commercial industrial development bonds.
Sec. 204. Increase in amount of qualified small issue bonds permitted for facilities to be used by related principal users.
Sec. 205. Simplification of arbitrage interest rebate waiver.
Sec. 206. Qualified residential rental project bond interest exempt from State volume cap.
Sec. 207. Expansion of qualified wages subject to work opportunity credit.
Sec. 208. Homebuyer credit for empowerment zones, enterprise communities, and renewal communities.

TITLe III—COMMUNITY-BASED HOUSING DEVELOPMENT

Sec. 301. Block grant study.
Sec. 302. Homeownership for municipal employees.
Sec. 303. Community development.
TITLED IV—RESPONSE TO URBAN ENVIRONMENTAL CHALLENGES

Sec. 401. Release from liability of persons that fulfill requirements of State and local law.

Sec. 402. Brennan program.

SEC. 2. FINDINGS AND PURPOSES.
(a) FINDINGS.—The Congress finds that—
(1) cities in the United States have been facing an economic downhill trend in the past several years; and
(2) a new approach to help such cities prosper is necessary.
(b) PURPOSE.—It is the purpose of this Act to—
(1) provide various incentives for the economic growth of cities in the United States; and
(2) encourage economic diversification and to reverse current urban economic trends; and
(3) revitalize the jobs and tax base of such cities without significant new Federal outlays.

TITLE I—FEDERAL COMMITMENT TO URBAN ECONOMIC DEVELOPMENT

SEC. 101. FEDERAL PURCHASES FROM BUSINESSES IN EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND RENEWAL COMMUNITIES.

(a) REQUIREMENTS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"Purchases from Businesses in Empowerment Zones, Enterprise Communities, and Renewal Communities.

Sec. 40. Minimum Purchase Requirement.

(b) United States Assistance.

(1) Designation.—In designating an organization as a manufacturing outreach center under subsection (c)(1) of section 5 of the Stevenson-Wyler Technology Innovation Act of 1980 (15 U.S.C. 3704), the Secretary of Commerce shall, to the maximum extent practicable, designate organizations that are located in empowerment zones, enterprise communities, or renewal communities.

(c) Regulations.—The Federal Acquisition Regulating Committee shall, consistent with applicable law, the head of an executive agency shall purchase recycled products that meet the needs of the executive agency from businesses located in empowerment zones, enterprise communities, or renewal communities.

SEC. 40. Minimum Purchase Requirement.

(a) Minimum Purchase Requirement.—Not less than 15 percent of the total amount expended by executive agencies for the purchase of goods in a fiscal year shall be expended for the purchase of goods from businesses located in empowerment zones, enterprise communities, or renewal communities.

(b) Recycled Products.—To the maximum extent practicable consistent with applicable law, the head of an executive agency shall purchase recycled products that meet the needs of the executive agency from businesses located in empowerment zones, enterprise communities, or renewal communities.

(c) Regulations.—The Federal Acquisition Regulating Committee shall, consistent with applicable law, the head of an executive agency shall purchase recycled products that meet the needs of the executive agency from businesses located in empowerment zones, enterprise communities, or renewal communities.

(d) Definitions.—In this section:

(1) distressed urban area means a zone designated as an empowerment zone pursuant to subchapter U of chapter I of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.), or

(2) The term ‘enterprise community’ means a community designated as an enterprise community pursuant to subchapter U of chapter I of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.), or

(3) The term ‘renewal community’ means a community designated as a renewal community pursuant to section 5 of the Office of Federal Procurement Policy Act of 1986 (26 U.S.C. 1392 et seq.), and

(b) Office of Federal Procurement Policy Act, as added by subsection (a), shall take effect on the date of enactment of this Act and shall apply with respect to fiscal years beginning after September 30, 2001.

(d) CONFORMING AMENDMENT.—The table of contents in section 101 of the Office of Federal Procurement Policy Act is amended by adding at the end the following new item:

"Sec. 40. Purchases from businesses in empowerment zones, enterprise communities, and renewal communities."

SEC. 102. MINIMUM ALLOCATION OF FOREIGN ASSISTANCE OF CERTAIN UNITED STATES GOODS.

(a) Allocation of Assistance.—Notwithstanding any other provision of law, effective with fiscal year 2002, not less than 15 percent of any assistance provided in a fiscal year shall be provided in the form of credits which may only be used for the purchase of United States goods produced, manufactured, or assembled in empowerment zones, enterprise communities, or renewal communities within the United States.

(b) United States Assistance.—As used in this section, the term ‘United States assistance’ means—

(1) any assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.);

(2) sales or financing of sales under the Arms Export Control Act (22 U.S.C. 2751 et seq.); and

(3) assistance and other activities under the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.).

SEC. 103. PREFERENCE FOR LOCATION OF MANUFACTURING OUTREACH CENTERS IN URBAN AREAS.

(a) DESIGNATION.—In designating an organization as a manufacturing outreach center, the Head of the Executive agency shall, to the maximum extent practicable, designate organizations that are located in empowerment zones, enterprise communities, or renewal communities.

(b) Financial Assistance.—In utilizing a competitive, merit-based review process to determine the manufacturing outreach centers to which to provide financial assistance under this section, the Secretary shall give such additional preference to centers located in empowerment zones, enterprise communities, and renewal communities as the Secretary determines is necessary in order to ensure the continuing existence of such centers in such zones and communities.

SEC. 104. PREFERENCE FOR CONSTRUCTION AND IMPROVEMENT OF FEDERAL FACILITIES IN DISTRESSED URBAN AREAS.

(a) Definitions.—In this section:

(1) Distressed Urban Area.—The term ‘distressed urban area’ means an area having a population of more than 100,000 that, as determined by the Secretary of Housing and Urban Development, meets the qualifications of subparagraphs (A) and (B) of section 205 of the Fair and Affordable Housing Act of 1987 (42 U.S.C. 3601).

(b) Office of Federal Procurement Policy Act, as added by subsection (a), shall take effect on the date of enactment of this Act and shall apply with respect to fiscal years beginning after September 30, 2001.

(d) Conforming Amendment.—The table of contents in section 101 of the Office of Federal Procurement Policy Act is amended by adding at the end the following new item:

"Sec. 40. Purchases from businesses in empowerment zones, enterprise communities, and renewal communities."

SEC. 105. URBAN IMPACT STATEMENT.—A determination to construct a new facility of an Executive agency, to improve an existing facility, or to relocate the functions of an Executive agency shall not be made until the head of the Executive agency making the determination submits to the President a report that—

(1) in the case of a facility to be constructed—

(A) identifies at least 1 distressed urban area that would be an appropriate location for the facility;

(B) determines the costs and benefits arising from the construction and use of the facility in the distressed urban area, including the effects of the construction and use on the rate of unemployment in the distressed urban area; and

(C) describes the effect of the economy of the area of the closure or consolidation, if any, of facilities located in the distressed urban area during the 10-year period ending on the date of the report, including the number of Federal and non-Federal employment positions terminated in the distressed urban area as a result of the closure or consolidation;

(2) in the case of a facility to be improved that is not located in a distressed urban area—

(A) identifies at least 1 facility located in a distressed urban area that would serve as an alternative location for the facility;

(B) describes the costs and benefits arising from the improvement and use of the facility in the distressed urban area, including the effect of the improvement and use of the facility on the rate of unemployment in the distressed urban area; and

(C) describes the effect of the economy of the distressed urban area during the 10-year period ending on the date of the report, including the number of Federal and non-Federal employment positions terminated in the distressed urban area as a result of the closure or consolidation; and

(D) in the case of a facility to be improved that is located in a distressed urban area—

(A) describes the costs and benefits arising from the improvement and use of the facility in the distressed urban area, including the effect of the improvement and use of the facility on the rate of unemployment in the distressed urban area; and

(B) describes the effect of the improvement and use of the facility in the distressed urban area, including the effect of the improvement and use of the facility on the rate of unemployment in the distressed urban area.
TITLE II—TAX INCENTIVES TO STIMULATE URBAN ECONOMIC DEVELOPMENT

SEC. 201. TREATMENT OF REHABILITATION CREDIT AS OTHER PASSIVE ACTIVITY LIMITATIONS.

(a) GENERAL RULE.—Paragraphs (2) and (3) of section 469(f) of the Internal Revenue Code of 1986 (relating to $25,000 offset for rental real estate activities) are amended to read as follows:

‘‘(2) DOLLAR LIMITATIONS.—

‘‘(A) IN GENERAL.—Except as otherwise provided in this paragraph, the aggregate amount to which paragraph (1) applies for any taxable year shall not exceed $25,000, reduced (but not below zero) by 50 percent of the amount (if any) by which the adjusted gross income of the taxpayer for the taxable year exceeds $100,000.

‘‘(B) PHASEOUT NOT APPLICABLE TO LOW-INCOME HOUSING CREDIT.—In the case of the portion of the credit for any taxable year which is attributable to any credit determined under section 49(a)(10) of the Internal Revenue Code of 1986 (relating to $25,000 offset for residential rehabilitation expenditures), paragraphs (1) and (2) of section 49(a)(10) shall not apply, and the aggregate amount of the credit which is attributable to such expenditures shall be reduced by 50 percent of the amount (if any) by which the adjusted gross income of the taxpayer for the taxable year exceeds $100,000.

‘‘(C) LIMITS ON DETERMINATION OF AMOUNT OF CREDIT.—In the case of any credit determined under section 49(a)(10) of the Internal Revenue Code of 1986 (relating to $25,000 offset for residential rehabilitation expenditures), paragraphs (1) and (2) of section 49(a)(10) shall not apply, and the aggregate amount of the credit which is attributable to such expenditures shall be reduced by 50 percent of the amount (if any) by which the adjusted gross income of the taxpayer for the taxable year exceeds $100,000.

‘‘(D) Rule of Construction.—Except as otherwise provided in this paragraph, the aggregate amount to which paragraph (1) applies for any taxable year shall not exceed $25,000, reduced (but not below zero) by 50 percent of the amount (if any) by which the adjusted gross income of the taxpayer for the taxable year exceeds $100,000.

(b) CONFORMING AMENDMENT.—Section 38(d) of the Internal Revenue Code of 1986 (relating to components of investment credit) is amended by adding at the end the following new paragraph:

‘‘(4) SPECIAL RULE FOR REHABILITATION CREDIT.—Notwithstanding paragraphs (1) and (2), the rehabilitation investment tax credit defined in subsection (c)(2)(C) shall be treated as used last.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.
1986 (relating to $10,000,000 limit in certain cases) is amended by striking "$10,000,000" and inserting "$5,000,000/"

(b) Clerical Amendment.—The heading of paragraph (2) of section 148(f)(4)(C) of the Internal Revenue Code of 1986 is amended by striking "$3,000,000,000" and inserting "$5,000,000,000/"

(c) Effective Date.—The amendments made by this section shall apply to—

(1) obligations issued after the date of enactment of this Act, and

(2) capital expenditures made after such date with respect to obligations issued on or before such date.

SEC. 205. SIMPLIFICATION OF ARBITRAGE INTEREST WAIVER.

(a) In General.—Clause II of section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to exception from rebate for certain proceeds to be used for financed construction expenditures) is amended to read as follows:

'(1) SPENDING REQUIREMENT.—The spending requirement of this clause is met if 100 percent of the available construction proceeds of the construction issue are spent for the governmental purposes of the issue within the 3-year period beginning on the date the bonds are issued./'

(b) Conforming Amendments.—

(1) Section 148(f)(4)(C) of the Internal Revenue Code of 1986 (relating to exception for reasonable retenation) is repealed.

(2) Subclause (II) of section 148(f)(4)(C)(vi) of such Code is amended by striking "2 year period" and inserting "3 year period.

(3) Subclause (I) of section 148(f)(4)(C)(vii) of such Code is amended by striking "subject to a deduction for penalty in lieu of rebate" and inserting "subject to a deduction for penalty".

(4) Clause (viii) of section 148(f)(4)(C) of such Code (relating to election to terminate 1½ percent penalty) is amended by striking "with respect to each 6 month period after the date the bonds were issued," and inserting "of to verify the eligibility of taxpayers for the credit allowable under this section, the excepted provided by section 6045(e)(5) shall not apply.

SEC. 206. QUALIFIED RESIDENTIAL RENTAL PROVISIONS FULLY EXEMPT FROM STATE VOLUME CAP.

(a) In General.—Section 148(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting "and", and by inserting after paragraph (4) the following new paragraph:

'(5) 75 percent of any exempt facility bond issued under paragraphs (1) through (4) described in section 142(a)(7) (relating to qualified residential rental projects).'/

(b) Effective Date.—The amendments made by this section shall apply to bonds issued after the date of enactment of this Act.

SEC. 207. EXPANSION OF QUALIFIED WAGES SUBJECT TO WORK OPPORTUNITY CREDIT.

(a) Increase in Percentage.—Section 51(a) of the Internal Revenue Code of 1986 (relating to determination of amount) is amended by striking "40 percent" and inserting "50 percent/"

(b) First 3 Years of Wages Subject to Credit.—Section 51 of the Internal Revenue Code of 1986 (relating to amount of credit) is amended by adding after subsection (a) a new subsection (b)(3), by striking "first-year"; and

(2) in subsection (b)—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

'(1) IN GENERAL.—The term ‘qualified wages’ means wages incurred by the employer during the taxable year—

(A) with respect to an individual who is a member of a targeted group, and

(B) attributable to service rendered by such individual during the 3-year period beginning with the day the individual begins work for the employer./'; and

(b) Effective Date.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of enactment of this Act.

SEC. 208. HOMEBUYER CREDIT FOR EMPowerMent ZONES AND ENTERPRISE COMMUNITIES, AND RENEWAL COMMUNITIES.

(a) In General.—Part II of subchapter U of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

'SEC. 1395. HOMEBUYER CREDIT.

'(a) ALLOWABLE AMOUNT.—In the case of an individual who purchases a principal residence in an empowerment zone or enterprise community during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to so much of the purchase price of the residence as does not exceed $5,000.

'(b) LIMITATIONS.—

'(1) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

'(A) IN GENERAL.—The amount allowable as a credit under subsection (a) (determined without regard to this subsection and subsection (d)) for the taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to the credit so allowable as—

(i) the excess (if any) of—

(I) the taxpayer’s modified adjusted gross income for such taxable year, over

(II) $70,000 ($110,000 in the case of a joint return), bears to

(ii) $20,000.

'(B) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), the term ‘modified adjusted gross income’ means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

'(2) PURCHASE PRICE LIMITATION.—A credit shall not be allowed under subsection (a) with respect to the purchase of a residence the purchase price of which exceeds $225,000.

'(c) PRINCIPAL RESIDENCE.—For purposes of this section, the term ‘principal residence’ has the same meaning as when used in section 267.

'(d) CARRYOVER OF CREDIT.—If the credit allowable under subsection (a) exceeds the credit limitation imposed by section 267 for such taxable year reduced by the sum of the credits allowable under part A of part IV of subchapter A of chapter 1 of such Code, the excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

'(e) Special Rules.—For purposes of this section—

(1) ALLOCATION OF DOLLAR LIMITATION.—

(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, subsection (a) shall be applied by substituting "$2,500" for "$5,000/"

(B) OTHER TAXPAYERS.—If 2 or more individuals who are not married purchase a principal residence, the amount of the credit allowable under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $5,000.

'(2) PURCHASE.—

'(A) IN GENERAL.—The term ‘purchase’ means any acquisition, but only if—

(i) the property is not acquired from a person whose relationship to the person acquiring the property would result in the disallowance of losses under section 1226 or 1070(b) (but, in applying section 267(b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants), and

(ii) the basis of the property in the hands of the person acquiring it is not determined—

(1) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

(II) under section 1014(a) (relating to property acquired from a decedent.

'(B) CONSTRUCTION.—A residence which is constructed by the taxpayer shall be treated as purchased by the taxpayer on the date the taxpayer first occupies such residence.

'(B) PURCHASE PRICE.—For purposes of this section, the purchase price means the adjusted basis of the principal residence on the date such residence is purchased.

'(g) REPORTING.—If the Secretary requires information reporting under section 6045 by a person described in subsection (e)(2) thereof to verify the eligibility of taxpayers for the credit allowable under this section, the exception provided by section 6045(e)(5) shall not apply.

'(h) CREDIT TREATED AS NONREFUNDABLE PERSONAL CREDIT.—For purposes of this title, the credit allowed by this section shall be treated as a credit allowable under subpart A of part IV of subchapter A of chapter 1 of such Code.

'(i) BASIS ADJUSTMENT.—For purposes of this subtitile, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

'(j) APPLICATION OF SECTION.—This section shall apply to property purchased after December 31, 2001, and before January 1, 2005.

(b) Application to Renewal Communities.—Part III of subchapter X of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

'SEC. 1400K. HOMEOWNER CREDIT.

‘For purposes of section 1395, a renewal community shall be treated as an empowerment zone.

(c) Conforming Amendments.—

(1) Part II of subchapter U of chapter 1 of the Internal Revenue Code of 1986 is amended to read as follows:

‘PART II—INCENTIVES FOR EMPowerMent ZONES AND ENTERPRISE COMMUNITIES.’

(2) The table of parts of subchapter U of chapter 1 of such Code is amended to read as follows:

‘Part II. Incentives for empowerment zones and enterprise communities.’

(3) The table of sections of part II of subchapter U of chapter 1 of such Code is amended by adding at the end the following new item:

‘Sec. 1395. Homebuyer credit.’
TITLE III—COMMUNITY-BASED HOUSING DEVELOPMENT

SEC. 301. BLOCK GRANT STUDY.
(a) STUDY.—The Secretary of Housing and Urban Development shall conduct a study regarding—
(1) the feasibility of consolidating existing public and low-income housing programs under the United States Housing Act of 1937 into a comprehensive block grant system of Federal aid that—
(i) provides assistance on an annual basis; and
(ii) maximizes funding certainty and flexibility; and
(2) Public Housing/Section 8 Moving to Work Demonstration.—In conducting the study described in paragraph (1), the Secretary shall consider—
(a) the results of the demonstration conducted under subsection (a); and
(b) any recommendations for legislation.

(c) ELIGIBLE INVESTMENTS.—Section 212(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12744(b)) is amended by adding at the end the following:
(1) DEFINITION OF URBAN NONLISTED FACILITY.—In this section, the term "urban nonlisted facility" means a facility that is not listed or proposed for listing on the National Priorities List.

SEC. 302. HOMEOWNERSHIP FOR MUNICIPAL EMPLOYEES.
(a) ELIGIBLE ACTIVITIES.—Section 301(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12744(b)(2)) is amended to read as follows:
(2) is a uniformed employee (which shall include policemen, firemen, and sanitation and other maintenance workers) or a teacher who is an employee of the participating jurisdiction (or an agency or school district serving such jurisdiction) that is investing funds made available under this sub- title to support homeownership of the residence.

(b) DEFINITION OF BROWNFIELD FACILITY.—In this section, the term "brownfield facility" means a facility that is listed or proposed for listing on the National Priorities List.

(c) RELEASE FROM LIABILITY OF PERSONS FULLY RESPONSIBLE FOR CLEANUP ACTIVITY.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:
(1) IN GENERAL.—There is established within the Environmental Protection Agency a brownfield program.
(2) COMPONENTS.—Under the brownfield program, the Administrator of the Environmental Protection Agency may—
(A) expend funds to examine, identify as brownfield facilities, and include in the brownfield program, idle or underused industrial or commercial facilities; and
(B) provide grants to States and local governments to clean up brownfield facilities
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and return brownfield facilities to productive use.

"(c) Maintenance of Preexisting Brownfield Program.—In carrying out subsection (b), the Administrator shall maintain any brownfield program established by the Administrator before the date of enactment of this section.

"(d) Maximum Grant Amount.—A grant under subsection (b) shall not exceed 200,000 with respect to any brownfield facility.

"(e) Authorization of Appropriations.—There are authorized to be appropriated out of the Hazardous Substance Superfund to carry out this section—

"(1) $100,000,000 for fiscal year 2002;

"(2) $105,000,000 for fiscal year 2003; and

"(3) $110,000,000 for fiscal year 2004.

By Mr. LOTT (for Mr. SPECTER):

S. 24. A bill to provide improved access to health care, enhance informed individual choice regarding health care services, lower health care costs through the use of appropriate providers, improve the quality of health care, improve access to long-term care, and for other purposes; to the Committee on Finance.

HEALTH CARE ASSURANCE ACT OF 2001

Mr. SPECTER. Mr. President, as the 107th Congress enters, those of us elected to serve in the most evenly divided Senate and House in history recognize that whatever our parties’ differences may be, we have a new opportunity to make a positive impact on the lives of the American people. The narrow margins in both legislative bodies offer us a chance to learn from the past, determine how best to respond to the challenges that are before us, and forge important alliances which will enable us to pass legislation important to this nation. I believe it is clear that one of our first priorities must be additional incremental reforms of our health care system.

There is no time to waste. Many of our health care problems are getting worse, not better. In its April 2000 report, the Employee Benefit Research Institute (EBRI) analyzed the March 1999 Current Population Survey, a document generated yearly by the U.S. Census Bureau. EBRI’s analysis tells us that in 1998, about 184.7 million working-age Americans derived their health insurance coverage as follows: approximately 65 percent from employer plans; 10.4 percent from Medicare and Medicaid within a total of 14.0 percent from public sources of coverage; and 7 percent from other private insurance. While this survey shows us where the insured are obtaining their coverage, it also details a troubling statistic: 43.9 million Americans, or 18 percent of the U.S. population, were uninsured. While the rate of growth of the number of uninsured is slowing, our goal of actually reducing the number of people without access to health care coverage and services remains clear.

As I have said many times, we can fix the problems facing Americans without resorting to big government and without completely overhauling our current system, one that works well for most Americans—serving 81.6 percent of our non-elderly citizens. We must enact reforms that improve upon our current market-based health care system, as it is clearly the best health care system in the world.

According to the Health Care Assurance Act of 2001, which, if enacted, will take us further down the path of the incremental reforms started by the Health Insurance Portability and Accountability Act of 1996 (Kassebaum-Kennedy) and various health care provisions enacted during the 105th and 106th Congresses, I would note that the final version of Kassebaum-Kennedy contained many elements which were in S. 18, the incremental health care reform bill I introduced when the 104th Congress began on January 4, 1995.

The bill I am introducing today is distinct from my longstanding efforts regarding managed care reform. During the 105th and 106th Congresses, I joined Republican and Democrat sponsors to introduce the Promoting Responsible Managed Care Act of 1998 and 1999, balanced proposals which would ensure that patients receive the benefits and services to which they are entitled, without compromising an coordination of care that can be achieved through managed care.

The managed care debate, which aims to improve insurance coverage for those who already have it and those who have never even had the option to purchase it—or who simply could not afford it—due to market constraints.

Given the importance of enacting this type of legislation, it is worth reviewing recent history which has taught us that bipartisanship is crucial in accomplishing any goal. In particular, the bipartisan President Clinton’s Health Security Act during the 103rd Congress is replete with lessons concerning the pitfalls that inevitably lead to legislative failure. Several times during the 103rd Congress, I spoke on the Senate floor to address what seemed to be the wisest course—pass incremental health care reforms with which we could all agree. Unfortunately, what seemed obvious to me, based on comments and suggestions by a majority of Senators who favored a moderate approach, was not obvious at the time to the Senate’s Democratic leadership.

This failure to understand the merits of an incremental approach was demonstrated in April 1993, during my attempts to offer a health care reform amendment based on the text of S. 631, an incremental reform bill I had introduced earlier in the session. This bill incorporated moderate, consensus principles in a reasonable reform package. This bill as an amendment to legislation dealing with debt ceilings. Subsequently, I was informed that the floor consideration of this bill would be structured in a way that precluded my offering an amendment. Therefore, I prepared to offer my health care bill as an amendment to the fiscal year 1993 Emergency Supplemental Appropriations bill. To my dismay, then Majority Leader Mitchell, and Senator BYRD, then Chairman of the Appropriations Committee, worked together to ensure that I could not offer my amendment by keeping the Senate in a quorum call, a parliamentary tactic used to delay and obstruct. I was unable to obtain unanimous consent to end the quorum call, and thus could not proceed with my amendment.

Three years later, well after the Demical Clinton health care reform bill was derailed, the Senate once again endured a lengthy political battle concerning the Kassebaum-Kennedy bill, which I was pleased to cosponsor. When the Senate balked, frustration of the American people, we achieved a breakthrough in August 1996, and Kassebaum-Kennedy’s vital health insurance market reforms were finally passed. The 1996 Kassebaum-Kennedy-Nance stepped forward in addressing troubling issues in health care—such as increasing the ease of portability of health insurance coverage—but I continue to recognize that there is much more to be done. That bill’s incremental approach to health care reform is what allowed it to generate bipartisan, consensus support in the Senate. We knew that it did not address every single problem in the health care delivery system, but it would make life better for millions of American men, women, and children.

I urge my colleagues to note a most important fact: the Kassebaum-Kennedy-Nance was enacted only after Democrats abandoned their hopes for passing a nationalized, big government health care scheme, and Republicans abandoned their position that access to health care is not a major problem in the United States that demands Federal action.

Perhaps the greatest recent example of the power of bipartisanship took place during the 105th Congress, with the passage of the Balanced Budget Act of 1997. This historic bipartisan agreement between Congress and the White House to balance the budget by 2002 extended the life of the vital Medicare hospital trust fund by ten years, while escaping needed seniors. The new law created a National Bipartisan Commission on the Future of Medicare to address the implications of the retirement of the Baby Boom generation, and marked the first balanced Federal budget in 35 years. This landmark accomplishment clearly would not have occurred without all members of Congress and the Administration crossing party lines, compromising, and doing what was right for the American people regardless of political affiliations.

Despite the historic nature of the Balanced Budget Act of 1997, however,
many providers, hospitals, home health agencies, and insurers argued that the cuts went too deep, and that patient access and care were being compromised. In both the 105th and 106th Congresses, I supported bipartisan efforts to carefully relieve and infuse additional dollars into areas which suffered too greatly from Medicare cuts, without upsetting the delicate balance of the budget.

We must realize that if we are to continue to be successful in meeting the nation’s health care needs, the solutions to the system’s problems must come from the political center, not from the extremes.

I have advocated health care reform in one form or another throughout my 18 years in the Senate. My strong interest in health care dates back to my first term, when I sponsored S. 811, the Health Care for Displaced Workers Act of 1983, and S. 2051, the Health Care Cost Containment Act of 1983, which would have granted a limited antitrust exemption to health insurers, permitting them to engage in certain joint activities relating to the processing of health care claims and their distribution, and to collect and distribute insurance claims for health care services aimed at curtailing then escalating health care costs. In 1985, I introduced the Community Based Disease Prevention and Health Promotion Projects Act of 1985, S. 1873, directed at reducing the human tragedy of low birth weight babies and infant mortality.

Since 1983, I have introduced and cosponsored numerous other bills concerning health care in our country. A complete list of the 31 health care bills that I have sponsored since 1983 is included for the RECORD.

During the 102nd Congress, I pressed the Senate to take action on the health care market issue. On July 29, 1992, I offered an amendment to legislation then pending on the Senate floor, which included a change from 25 percent to 100 percent deductibility for health insurance purchased by self-employed individuals, and small business insurance market reforms to make health coverage more affordable for small businesses. Included in this amendment were provisions from a bill introduced by the late Senator John Chafee, legislation which I cosponsored and which was previously proposed by Senators Bentsen and Durenberger.

When then-Majority Leader Mitchell argued that the health care amendment did not belong on the Senate floor, I offered to withdraw the amendment if he would set a date certain to take up health care, similar to an arrangement made on product liability legislation, which had been placed on the calendar for September 9, 1992. The Majority Leader rejected that suggestion and the Senate did not consider comprehensive health care legislation during the balance of the 102nd Congress. My July 29, 1992 amendment was defeated on a procedural motion by a vote of 35 to 60, along party lines.

The substance of that amendment, however, was adopted later by the Senate on September 23, 1992, when it was included in a Bentsen/Durenberger amendment which I cosponsored to broaden tax legislation (H.R. 11). This amendment, which included essentially the same self-employed tax deductibility and small group reforms I had proposed previously, was passed by voice vote. Unfortunately, these provisions were later dropped from H.R. 11 in the House-Senate conference.

On August 21, 1992, I introduced legislation entitled the Health Care Affordability and Quality Improvement Act of 1992, S. 3176, that would have enhanced informed individual choice regarding health care services by providing certain information to health care recipients, would have lowered the cost of health care through use of the most appropriate provider, and would have improved the quality of health care.

On January 21, 1993, the first day of the 103rd Congress, I introduced the Comprehensive Health Care Act of 1993, S. 18. This legislation was comprised of reforms that our health care system could have adopted immediately. These initiatives would have both improved access and affordability of insurance coverage and would have implemented systemic changes to lower the escalating cost of care in this country. S. 18 is the principal basis of the legislation I introduced in the last three Congresses as well.

On March 23, 1993, I introduced the Comprehensive Access and Affordability Health Care Act of 1993, S. 631, which was a composite of health care legislation introduced by Senators Cohen, Kassebaum, Bond, and McCain, and included pieces of my bill. S. 18. I introduced this legislation in an attempt to move ahead on the consideration of health care legislation and provide a starting point for debate. As noted previously by Majority Leader Mitchell from obtaining Senate consideration of my legislation as a floor amendment on several occasions. Finally, on April 28, 1993, I offered the text of S. 631 as an amendment to the pending Department of the Environment Act (S. 171) in an attempt to urge the Senate to act on health care reform. My amendment was defeated 65 to 33 on a procedural motion, but the Senate had finally been forced to contemplate action on health care reform.

On the first day of the 104th Congress, January 4, 1995, I introduced a slightly modified version of S. 18, the Health Care Assurance Act of 1995 (also S. 18), which contained provisions similar to those ultimately enacted in the Kassebaum-Kennedy legislation, including insurance market reforms, an extension of the tax deductibility of health insurance for the self-employed, and tax deductibility of long term care insurance.

I continued these efforts in the 105th Congress, with the introduction of Health Care Assurance Act of 1997 (S. 24), which included market reforms similar to my previous proposals with the addition of a new Title I, an innovative program to provide vouchers to States to cover children who lack health insurance coverage. I also introduced Title I of this legislation as a standalone bill, the Healthy Children’s Pilot Program of 1997 (S. 435) on March 13, 1997. This proposal targeted the approximately 4.2 million children of the working poor who lacked health insurance at that time. These are children whose parents earn too much to be eligible for Medicaid, but do not earn enough to afford private health care coverage for their families. This legislation would have established a $10 billion/year discretionary pilot program to cover these uninsured children by providing grants to States. Modeled after Pennsylvania’s extraordinarily successful Caring and BlueCHIP programs, this legislation was the first Republican-sponsored child health insurance bill during the 105th Congress. I was encouraged that the Balanced Budget Act of 1997, signed into law on August 5, 1997, included a combination of the best provisions from many of the child health insurance proposals throughout this Congress. This legislation allocated $24 billion over five years to establish State Child Health Insurance Programs, funded in part by a slight increase in the cigarette tax.

On the first day of the 106th Congress, I again introduced the Health Care Assurance Act of 1999, also designated S. 24. This bill contained similar insurance market reforms, as well as new provisions to augment the new State Child Health Insurance Program, to assist individuals with disabilities in maintaining quality health care coverage, and to establish a National Fund for Health Research to supplement the funding of the National Institutes of Health. All these new initiatives, as well as the market reforms that I supported previously, the goals of covering more individuals and stemming the tide of rising health costs.

My commitment to the issue of health care reform across all populations has been consistently evident during my tenure in the Senate, as I have taken to this floor and offered health care reform bills and amendments on countless occasions. I will continue to stress the importance of the Federal government’s investment in and attention to the system’s future.

As my colleagues are aware, I can personally report on the miracles of modern medicine. Seven and one half years ago, an MRI detected a benign tumor (meningioma) at the outer edge of my brain. It was removed by conventional surgery, with five days of hospitalization and five more weeks of recuperation. A small growth was detected by a follow-up MRI in June 1996, it was treated with high powered radiation using a remarkable device called the
"Gamma Knife." I entered the hospital on the morning of October 11, 1996, and left the same afternoon, ready to resume my regular schedule. Like the MRI, the Gamma Knife is a recent innovation, coming into widespread use only in the past decade.

In July 1998, I was pleased to return to the Senate after a relatively brief period of convalescence following heart bypass surgery. This experience again led me to marvel at our health care system as I wish we had realized more than ever to support Federal funding for biomedical research and to support legislation which will incrementally make health care available to all Americans.

My concern about health care has long pre-dated my own personal benefits from the MRI and other diagnostic and curative procedures. As I have previously discussed, my concern about health care began many years ago and has been intensified by my service on the Senate Labor, Health, and Human Services, and Education, which I now have the honor to chair.

My own experience as a patient has given me deeper insights into the American health care system beyond my perspective from the U.S. Senate. I have learned: (1) our health care system, the best in the world, is worth every cent we pay for it; (2) patients sometimes have to press their own case beyond doctors' standard advice; (3) greater flexibility must be provided on testing and treatment; (4) our system has the resources to treat the 43.9 million Americans currently uninsured, but we must find the way to pay for it; and (5) all Americans deserve the access to health care from which I and others with coverage have benefited.

I have long been convinced that our Federal budget of $1.8 trillion could provide sufficient funding for America's needs if we establish our real priorities. Over the past eight years, I believe we have learned a great deal about our health care system and what the American people are willing to accept from the Federal government. The message we heard loudest was that Americans do not want a massive overhaul of the health care system. Instead, our constituents want Congress to proceed at a slower pace and to target what is not working in the health care system while leaving in place what is working.

As I have said both publicly and privately, I had been willing to cooperate with the Clinton Administration in solving the health care problems facing our country. However, I found many important areas where I differed with President Clinton's approach to solutions and I did so because I believed that the proposals would have been detrimental to my fellow Pennsylvanians, to the American people, and to our health care system as a whole. Most importantly, as the President proposed in 1993, I did not support creating a large new government bureaucracy because I believe that savings should go to health care services and not bureaucracies.

On this latter issue, I first became concerned about the potential growth in bureaucracy in September 1993 after reading the President's preliminary health care reform proposal. I was surprised by the number of new boards, agencies, and commissions, so I asked my legislative assistant, Sharon Helfant, to make me a list of all of them. Instead, she decided to make a chart. The initial chart depicted 77 new entities and 54 existing entities with new or additional responsibilities.

When the President's 1,342-page Health Security Act was transmitted to Congress on October 27, 1993, my staff reviewed it and found an increase to 105 new agencies, boards, and commissions and 47 existing departments, programs and agencies with new or expanded jobs. This chart received national attention after being used by Senator Bob Dole in his response to the President's State of the Union address on January 24, 1994.

The response to the chart was tremendous, with more than 12,000 people from across the country contacting my office requesting copies of the chart nearly eight years later. Groups and associations, such as United We Stand America, the American Small Business Association, the National Federation of Republican Women, and the Christian Coalition, reprinted the chart in their publications—amounting to hundreds of thousands more in distribution. Bob Woodward of the Washington Post later stated that he thought the chart was the single biggest factor contributing to the demise of the Clinton health care plan. And, as recently as the November 1996 election, my chart was used by Senator Dole in his presidential campaign to illustrate the need for incremental health care reform as opposed to a big government solution.

With the history of the health care reform debate in mind and building on my previous efforts, I am again introducing an incremental bill which would provide quality health care without adversely affecting the many positive aspects of our health care system. It is more prudent to implement targeted reforms and then act later to improve upon what we have done. I call this trial and modification. We must be careful not the positive aspects of our health care system upon which more than 194.7 million Americans justifiably rely.

The legislation I am introducing today has three objectives: (1) to provide affordable health insurance for those now not covered; (2) to reduce health care costs for all Americans; and (3) to improve coverage for underinsured individuals, families, and children.

This bill includes provisions to expand the Medicaid program to cover higher income individuals than currently allowed, to encourage the formation of small group insurance purchase arrangements, to expand access to health insurance for children, to improve health benefits for individuals with disabilities, to strengthen preventive health benefits under the Medicare program, to increase access to health care, to improve the prevention of low birth weight babies, to strengthen patients' rights regarding medical care at the end of life, to expand access to primary and preventive health services, to reform the Federal mandate varies across age, income, and disability status; for instance, there are different federal mandates for preschool age children than for school-age children and for disabled individuals. Further, current law does not allow any Federal contributions for coverage of people ages 16-18 or for adults with children. I recognize that states may certainly choose to establish programs to cover these and other categories of low-income people, but usually will not do so without Federal help.

Title II of the bill builds on the State Children Health Insurance Program (SCHIP) law, which was established in the Balanced Budget Act of 1997, which allocated $24 billion over five years to increase health insurance coverage for children. The SCHIP program gives...
States the option to use federally funded grants to provide vouchers to eligible families to purchase health insurance for their children, or to expand Medicaid coverage for those uninsured children, or a combination of both. This increase in the income eligibility to families with incomes at or below 235 percent of the Federal poverty level ($40,067 annually for a family of four). The Health Care Financing Administration reported that nearly two million individuals were enrolled in the SCHIP program during fiscal year 1999. The Administration’s goal is to enroll five million more children in the program by the end of fiscal year 2002. This provision would allow eligibility for approximately another $50,000 uninsured children.

Title III assists another of our Nation’s most vulnerable populations by improving the delivery of care for individuals with long-term disabilities. This title would allow for Medicaid reimbursement to community-based attendant care services, as an alternative to institutionalization, for eligible individuals who require such services based on functional need, without regard to the individual’s age or the nature of their disability. The modified income data available tell us that 6.64 million individuals receive care for disabilities under the Medicaid program.

This title builds on S. 1935, legislation I introduced during the 106th Congress to provide community-based attendant care services, as an alternative to institutionalization, for eligible individuals who require such services based on functional need, without regard to the individual’s age or the nature of their disability. The modified income data available tell us that 6.64 million individuals receive care for disabilities under the Medicaid program.

I am pleased to report that my fiscal year 2001 Labor, HHS, and Education Appropriations bill provided $50 million for “Real Choice, Systems Change” grants for states to fund initiatives for systems improvements and to provide long term services and supports, including community-based attendant care. In addition, $20 million was provided in my Housing and Urban Development Appropriations bill for demonstration projects on Medicaid coverage of community-based attendant care services. Title III of this bill expands and authorizes the programs we have been funding as demonstration projects in order to establish a permanent infrastructure for the new benefits.

The next title contains provisions to make it easier for small businesses to buy health insurance for their workers by establishing voluntary purchasing groups. It also obligates employers to offer, but not pay for, at least two health insurance plans that protect individual freedom of choice and that meet a standard minimum benefits package. It extends COBRA benefits and coverage options to provide portability and security of affordable coverage between jobs.

Specifically, Title IV extends the COBRA benefit option from 18 months to 24 months, to allow employers to leave their job, either through a lay-off or by choice, to continue receiving their health care benefits by paying the full cost of such coverage. By extending this option, such unemployed persons will have enhanced coverage options, particularly when compared to what they would be able to buy in the individual insurance market.

In addition, options under COBRA are expanded to include plans with lower premiums and higher deductibles of either $1,000 or $3,000. This provision is incorporated from legislation introduced by the Congress by Senator Phil Gramm and will provide an extra cushion of coverage options for people in transition. According to Senator Gramm, with these options, the typical monthly premium paid for a family of four would drop by 20 percent when switching to a $1,000 deductible and as much as 52 percent when switching to a $3,000 deductible.

This title also includes a provision which would extend to 36 months the time many groups have to cover a child who is no longer a dependent under a parent’s health insurance policy. Uninsured workers tend to be concentrated among those under age 35, although the average age of uninsured workers is increasing. EBRI statistics indicate that 24 percent of young adults between the ages of 18 and 24 were without coverage in 1998. This provision would allow those who are no longer dependents on their parents’ plans to keep their health insurance.

With respect to the uninsured and underinsured, my bill would permit individuals and families to purchase guaranteed, comprehensive health coverage through purchasing groups. Health insurance plans offered through the purchasing groups would be required to meet basic, comprehensive standards with respect to benefits.

My bill would also create health insurance purchasing groups for individuals who are self-employed. This provision is incorporated from legislation by Senators Greenspan and Bayh. It is estimated that 70 percent of uninsured workers in private-sector firms with fewer than 25 employees were uninsured, compared with only 13 percent of workers in private-sector firms with 1000 or more employees. The bill anticipates that the decreased costs to employers electing to cover their employees as provided under Title IV in my bill would be offset by the administrative savings generated by development of the small employer purchasing group model. These savings have been estimated at levels as high as $9 billion annually. In addition, by addressing some of the areas within the health care system that have exacerbated costs, significant savings can be achieved and then redirected toward direct health care services.

Although our existing health care system suffers from serious structural problems, common sense steps can be taken to head off the remaining problem before they reach crisis proportions. Title V of my bill includes initiatives which will enhance primary and preventive care services aimed at preventing disease.

Each year about 7.6 percent of babies born in the United States are born with a low birth weight, multiplying their risk of death and disability. Most of the deaths which do occur are preventable. Although the infant mortality rate in the United States fell to an all-time low in 1999, and infant mortality increased by 47 percent between 1988 and 1998, too many babies continue to be born of low birth weight. The Executive Director of the National Commission To Prevent Infant Mortality put it this way: “More babies are being born at risk and all we are doing is saving them with expensive technology.”

It is a human tragedy for a child to be born weighing 16 ounces with attendant problems which last a lifetime. I first saw one pound babies in 1984 and was humbled to learn that Pittsburgh, Pennsylvania, had the highest infant mortality rate of African-American babies of any city in the

Kassebaum-Kenney bill extended the deductibility of health insurance for the self-employed to 80 percent by 2006. The Balanced Budget Act of 1997 and the Omnibus Appropriations Act for fiscal year 1999 both contained new provisions for health insurance deductibility for the self-employed. Currently, self-employed persons may deduct 60 percent of their health insurance costs through 2002, to be fully deductable in 2003. My bill would speed up the phase-in: health insurance costs would be 70 percent deductible in 2001 and fully deductible in 2002, thereby giving the currently 3.1 million self-employed Americans who are uninsured a better incentive to purchase coverage.
United States. I wondered how that could be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a one pound baby, about as big as my hand. However, I am pleased to report that as a result of successful prevention initiatives like the federal Healthy Start program, Pittsburgh’s infant mortality has decreased 20 percent.

The Department of Health and Human Services has estimated that between $1.1 billion and $2.5 billion per year could be saved if the number of low birth weight children were reduced by 82,000 births. We know that in most instances, prenatal care is effective in preventing low birth weight babies. Numerous studies have demonstrated that low birth weight that does not have a genetic link is most often associated with inadequate prenatal care or the lack of prenatal care. The short and long-term costs of saving and caring for infants of low birth weight is staggering. In the most recent available study on the costs of low birth weight babies, the Office of Technology Assessment in 1988 concluded that $8 billion was expended in 1987 for the care of very low birth weight infants in excess of that which would have been spent on an equivalent number of babies born of normal birth weight, averted by earlier or more frequent prenatal care.

To reduce pregnancy outcomes for women at risk of delivering babies of low birth weight, my legislation would strengthen the Healthy Start program to reduce infant mortality and the incidence of low birth weight births, as well as to improve the health and well-being of mothers and their families, pregnant women and infants. Funds are awarded under this program with the goal of developing and coordinating effective health care and social support services for women and their babies. I initiated an action that led to the creation of the Healthy Start program in 1991, working with the Bush Administration and Senator HARKIN. As Chairman of the Appropriations Subcommittee with jurisdiction over the Department of Health and Human Services, I have worked with my colleagues to ensure the continued growth of this important program. In 1991, we allocated $25 million for the development of demonstration projects. This number grew to 22 in 1994, to 75 projects in 1998, and the Health Resources and Services Administration expects this number to continue to increase. For both fiscal years 2000 and 2001, we secured $90 million for this vital program.

Title V also provides increased support to local educational agencies to develop and strengthen comprehensive health education programs, and to Head Start resource centers to support health education training programs for teachers and other day care workers. Many studies indicate that poor health and social habits are carried into adulthood and often passed on to the next generation. To interrupt this tragic cycle, our nation must invest in proven preventive health education programs.

Title V also expands the authorization of health programs, such as breast and cervical cancer prevention, childhood immunizations, family planning, and community health centers. These existing programs are designed to improve public health care through primary and secondary prevention initiatives. It is essential that we invest more resources in these programs now if we are to make any substantial progress in reducing the costs of acute care in this country.

As Chairman of the Labor, HHS and Education Appropriations Subcommittee, I have greatly encouraged the development of prevention programs which are essential to keeping people healthy and lowering the cost of health care in this country. In my view, no aspect of health care policy is more important. Accordingly, my prevention efforts have been widespread. Specifically, I joined my colleagues in efforts to ensure that funding for the Centers for Disease Control and Prevention (CDC) increased $2.92 billion or 290 percent since 1989, for a fiscal year 2001 total of $3.92 billion. We have also worked to increase funding for CDC’s breast and cervical cancer early detection and screening program. In fiscal year 2001, almost one and a half times its 1993 total.

I have also supported programs at CDC which help children. CDC’s childhood immunization program seeks to eliminate preventable diseases through immunization and to ensure that at least 90 percent of 2 year olds are vaccinated. The CDC also continues to educate parents and caregivers on the importance of immunization for children. In the last two years, along with my colleagues on the Appropriations Committee, I have helped ensure that funding for this important program totaled $323.5 million for fiscal year 2001. The CDC’s lead poisoning prevention program annually identifies about 50,000 children with elevated blood levels and places those children under medical management. The program prevents the amount of lead in children’s blood from reaching dangerous levels and is currently funded at $36 million.

In recent years, we have also strengthened funding for Community Health Centers, which provide immunizations, health advice, and health professionals training. These Centers, administered by the Health Resources and Services Administration, provide a critical primary care safety net to rural and medically underserved communities, as well as uninsured individuals, migrant workers, the homeless, residents of public housing, and Medicaid recipients. For fiscal year 2001, these Centers received over $1.2 billion. As former Chairman of the Select Committee on Intelligence and current Chairman of the Appropriations Subcommittee with jurisdiction over non-defense biomedical research, I have worked to transfer CIA imaging technology to the fight against breast cancer. Through the Office of Women’s Health within the Department of Health and Human Services, I secured a $2 million contract in fiscal year 1996 for a research consortium led by the University of Pennsylvania to perform the first clinical trials testing the use of intelligence technology for breast cancer detection. Millions of dollars since that time.

I have also been a strong supporter of funding for AIDS research, education, and prevention programs. Funding for Ryan White AIDS programs has increased from $757.4 million in 1996 to $1.6 billion for fiscal year 2001. Within the fiscal year 2001 funding, $65 million was included for pediatric AIDS programs and $899 million for the AIDS Drug Assistance Program (ADAP). AIDS research at the NIH totaled $742.4 million in 1989, and has increased to an estimated $2.1 billion in fiscal year 2001.

The health care community continues to recognize the importance of prevention in improving health status and reducing health care costs. The Balanced Budget Act of 1997 and the Consolidated Omnibus Appropriations Act of fiscal year 2001 established new and enhanced preventive benefits within the Medicare program, such as flu shots, bone mass measurements, yearly mammograms, biennial pap smears and pelvic exams, and coverage of colonoscopy for high risk patients. However, some of these ‘wellness’ benefits have cost obligations, such as co-payments or deductibles. In this bill, I have also included provisions which refine and strengthen preventive benefits included in the Medicare program, including coverage of yearly pap smears, pelvic exams, and screening and diagnostic mammography with no copayment or Part B deductible; and coverage of insulin pumps for certain Type 1 Diabetics.

The proposed expansions in preventive health services included in Title V of my bill are conservatively projected to save approximately $2.5 billion per year or $12.5 billion over five years. It is clearly difficult to quantify today the savings that will surely be achieved when future generations of children are truly educated in a range of health-related subjects.

Title VI of my bill would establish a federal standard and create uniform forms concerning a patient’s right to decline medical treatment. Nothing in my bill mandates the use of uniform forms. Rather, the purpose of this provision is to make it easier for individuals to make their own choices and ensure that they can obtain their treatment during this vulnerable and highly personal time. Studies have also indicated that advance directives do...
not increase health care costs. Data indicate that end-of-life costs account for 10 percent of total health expenditures and 28 percent of total Medicare expenditures. Loose projections indicate that a 10 percent savings made in the final days of life would result in approximately $10 billion of savings in medical costs per year, and about $4.7 billion in savings for Medicare alone.

However, economic considerations are not the only reasons for using advance directives. They provide a means for patients to exercise their autonomy over end-of-life decisions. A study done at the Thomas Jefferson University Medical College in Philadelphia cited research which found that about 90 percent of the American population has expressed interest in discussing advance directives. However, even more recent studies indicate that living wills would be used by many more Americans if they were better understood. My bill would provide information on an individual’s rights regarding living wills and advanced directives, and would make it easier for people to have their wishes known and honored. In my view, no one deserves to be needlessly and unlAWFULLY treated against their will. No health care provider would be permitted to treat an adult contrary to the adult’s wishes as outlined in an advance directive. However, in many cases would the use of advance directives condone assisted suicide or any affirmative act to end human life.

The next title addresses the unique barriers to coverage which exist in both rural and urban medically underserved areas. Within Pennsylvania, such barriers result from a lack of health care providers in rural areas, and other problems associated with the lack of opportunities for individuals living in inner cities. Title VII of my bill improves access to health care services for these populations by: (1) expanding Public Health Service programs and training more primary care providers to serve in such areas; (2) increasing the utilization of non-physician providers, including nurse practitioners, clinical nurse specialists and physician assistants, through increased reimbursements under the Medicare and Medicaid programs; and (3) increasing support for education and outreach. I believe these provisions will also yield substantial savings. A study of the Canadian health system utilizing nurse practitioners reported savings of 10 to 15 percent of all medical costs. While our system is dramatically different from that of Canada, it may not be unreasonable to project annual savings of five percent, or $57.5 billion, from implementing provisions similar to those of my bill.

Outcomes research is another area where we can achieve considerable long term health care savings while also improving the quality of care. According to most outcomes management experts, it is estimated that about 25 to 30 percent of medical care is inappropriate or unnecessary. Dr. Marcia Angell, former editor-in-chief of the New England Journal of Medicine, also stated that 20 to 30 percent of health care procedures are either inappropriate, ineffective or unnecessary. I joined my distinguished colleagues, Senators HARKIN and INOUYE, in response to the November 29, 1999, Institute of Medicine report, “To Err Is Human: Building a Safer Health System.” The report concluded that medical mistakes have led to numerous injuries and deaths, affecting an estimated three to four percent of all hospital patients. The IOM report also concluded that health care is a decade or more behind other high-risk industries in its attention to ensuring basic safety.

According to the IOM, at least 44,000 Americans die each year as a result of medical errors, and the number may be as high as 98,000—which catapults medical errors to the fifth leading cause of death. In the total number of deaths from motor vehicle accidents, breast cancer, and AIDS. Further, medical errors resulting in injury are estimated to cost the nation between $17 billion and $29 billion, including additional health care costs, lost income, lost household production, and disability costs.

The IOM findings are startling and beg for national attention to determine ways to reduce the number of medical errors. On January 15, 2000, I chaired a hearing of the Labor, HHS, Education Appropriations Subcommittee to hear details of IOM’s report findings. On January 25, 2000, I chaired a joint hearing of the Labor, HHS, and Education Appropriations Subcommittees to consider national trends in medical errors.

The provision also requires the Secretary of HHS to provide patient education programs to all individuals covered by federal health plans. I am pleased to report that my Appropriations Subcommittee has already taken some critical first steps to reduce the incidence of deaths and injuries related to medical error. In fiscal year 2001, $50 million has been provided to explore opportunities for a better understanding of the systemic problems in health care, in the hope that we can dramatically reduce the incidence of medical errors. The requirement is also based on the successful initiatives on developing guidance to assist in States’ development of data collection systems so that national trends can be determined and analyzed. In addition, the Committee has encouraged health care providers to explore new technologies and other methods in reducing medical errors.

Nursing home care is another significant issue which must be addressed. Spending on long term care totaled $115 billion in 1997, and over 40 percent of that cost was borne by the Medicaid program. Despite these large public expenditures, the elderly face significant uncovered liability for long term care. Title IX of my bill would provide a tax credit for premiums paid to purchase private long-term care insurance. Other tax incentives and reforms provided in my bill to make long term care insurance more affordable include: (1) allowing employees to select long-term care insurance as part of a cafeteria plan and allowing employers to deduct this expense; (2) excluding from income tax the life insurance savings used to pay for long term care; and (3) setting standards for long term care insurance that reduce the bias that currently favors institutional care over community and home-based alternatives.

The final title of my bill would create a national fund for health research that would be established and administered by the Secretary of Health and Human Services. However, my distinguished colleagues, Senators Mark Hatfield and Tom HARKIN. Their idea is a sound one and ought to be...
I urge the Congressional leadership, including the appropriate committee chairmen, to move this legislation and other health care bills forward promptly. I ask unanimous consent that the full text of the bill, a summary, and a list of my health reform bills be printed in the RECORD.

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

SEC. 24. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE II—EXPANSION OF THE STATE CHILDREN’S HEALTH INSURANCE PROGRAM

Sec. 201. Increase in income eligibility.

Sec. 202. Expansion of state health insuranc

Sec. 203. Coverage of community-based att

Sec. 204. Grants to develop and establish re

Sec. 205. State option for eligibility for i

Sec. 206. Studies and reports.

Sec. 207. Task force on financing of long-

TITLE IV—HEALTH CARE INSURANCE COVERAGE

Sec. 401. Amendments to the Employee Ret

Sec. 402. Amendments to the Public Health S

Sec. 403. Amendment to the Public Health Se

Sec. 404. Effective Date.

Sec. 405. Title B—Tax Provisions

Sec. 406. Enforcement with respect to health i

Sec. 407. Enforcement with respect to small p

Sec. 408. Enforcement by excise tax on qualifie

Sec. 409. Deduction for health insurance costs of self-employed individ

Sec. 410. Amendments to COBRA.

TITLE V—PRIMARY AND PREVENTIVE CARE SERVICES

Sec. 501. Improvement of medicare preventiv

Sec. 502. Authorization of appropriations for healthy start program.

Sec. 503. Reauthorization of certain programs providing primary and preventive care.

Sec. 504. Comprehensive school health education program.

Sec. 505. Comprehensive early childhood health education program.

Sec. 506. Adolescent family life and abstinence.

TITLE VI—PATIENT’S RIGHT TO DECLINE MEDICAL TREATMENT

Sec. 601. Patient’s right to decline medical treatment.

TITLE VII—PRIMARY AND PREVENTIVE CARE PROVIDERS

Sec. 701. Increased medicare reimbursement for physician assistants, nurse practitioners, and clinical nurse specialists.

Sec. 702. Requirements of certain non-physician providers under the medicare program.

Sec. 703. Medical student tutorial program grants.

Sec. 704. General medical practice grants.

TITLE VIII—SAFE AND COST-EFFECTIVE MEDICAL TREATMENT

Sec. 801. Enhancing investment in cost-effec

Sec. 802. Medical Errors Reduction.

TITLE IX—TAX INCENTIVES FOR PURCHASE OF QUALIFIED LONG-TERM CARE INSURANCE

Sec. 901. Credit for qualified long-term care premiums.

Sec. 902. Inclusion of qualified long-term care in cafeteria plans and flexible spending ar

Sec. 903. Exclusion from gross income for amounts received on cancellation of life insurance policies and used for qualified long-term care insurance.

Sec. 904. Use of gain from sale of principal residence for purchase of qualified long-term care insurance.

TITLE X—NATIONAL FUND FOR HEALTH RESEARCH

Sec. 1001. Establishment of Fund.

TITLE XI—EXPANDED MEDICAID COVERAGE FOR LOW-INCOME INDIVIDUALS

Sec. 1101. Expanded Medicaid Coverage for Low-Income Individuals.

(a) Required Coverage of Individuals Up To 133 Percent of Poverty—Section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)) is amended—

(1) by striking “or” at the end of subsection (V); and

(2) by inserting “or” after the semicolon at the end of subsection (V); and

(b) Optional Coverage of Individuals Up To 200 Percent of Poverty—Section 1902(a)(10)(A)(i)(VIII) of the Social Security Act, as added by subsection (a)(3), is amended by inserting “(200 percent, at State option)” after “133 percent.”

(c) Effective Date.

(1) In General.—The amendments made by this section take effect on October 1, 2001.

(2) Extension of State Law Amendments Required in the Case of the District of Columbia—Section 1902(a)(10)(A)(i)(IV) of the Social Security Act, as added under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

TITLE XII—EXPANSION OF THE STATE CHILDREN’S HEALTH INSURANCE PROGRAM

Sec. 1201. Increase in income eligibility.

(a) Definition of Low-Income Child.—Section 211(b)(4) of the Social Security Act (42 U.S.C. 1396a(c)(4)) is amended by striking “two hundred” and inserting “two hundred and fifty”.

(b) Effective Date.—The amendment made by subsection (a) takes effect on Octob

TITLE XIII—EXPANDED HEALTH SERVICES FOR DISABLED INDIVIDUALS

Sec. 1301. Coverage of Community Attendant Services and Supports Under the Medicaid Program.

(a) Required Coverage for Individuals Entitled to Nursing Facility Services or Eligible for Intermediate Care Facility Services for the Mentally Retarded.—Section 1902(a)(10)(D) of the Social Security Act (42 U.S.C. 1396a(a)(10)(D)) is amended—

(1) by inserting “or” after the semicolon; and

(2) by adding “and” after the semicolon; and
(3) by adding at the end the following:

"(ii) subject to section 1936, for the inclusion of community attendant services and supports for any individual who is eligible for medical assistance under the State plan and with respect to whom there has been a determination that the individual requires the level of care provided in a nursing facility or intermediate care facility for the mentally retarded (whether or not coverage of such intermediate care facility is provided under the State plan) and who requires such community attendant services and supports based on functional need and without regard to age or disability;"

(b) Minimum Coverage of Community Attendant Services and Supports.—

(1) in general.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by—

(A) redesignating section 1935 as section 1936; and

(B) by adding after section 1934 the following:

"community attendant services and supports"—Sec. 1935. (a) Definitions.—In this title:

"(1) COMMUNITY ATTENDANT SERVICES AND SUPPORTS.—

"(A) In general.—The term "community attendant services and supports" means attendant services furnished to an individual, as needed, to assist in accomplishing activities of daily living, instrumental activities of daily living, and health-related functions through hands-on assistance, supervision, or cueing—

"(i) under a plan of services and supports that is based on an assessment of functional need and that is agreed to by the individual or, as appropriate, the individual's representative;

"(ii) in a home or community setting, which may include a school, workplace, or recreation or religious facility, but does not include a nursing facility, an intermediate care facility for the mentally retarded, or other congregate facility;

"(iii) under an agency-provider model or other model (as defined in paragraph (2)(C)); and

"(iv) the furnishing of which is selected, managed, and dismissed by the individual, or, as appropriate, with assistance from the individual or the individual's representative;"

"(B) INCLUDED SERVICES AND SUPPORTS.—Such term includes—

"(i) tasks necessary to assist an individual in accomplishing activities of daily living, instrumental activities of daily living, and health-related functions;

"(ii) acquisition, maintenance, and enhancement of skills necessary for the individual to accomplish activities of daily living, instrumental activities of daily living, and health-related functions;

"(iii) backup systems or mechanisms (such as the use of beepers) to ensure continuity of services and supports; and

"(iv) voluntary training on how to select, manage, and dismiss attendants;"

"(C) EXCLUDED SERVICES AND SUPPORTS.—Subject to subparagraph (D), such term does not include—

"(i) provision of room and board for the individual;

"(ii) special education and related services provided under the Individuals with Disabilities Education Act and vocational rehabilitation services provided under the Rehabilitation Act of 1973;

"(iii) assistive technology devices and assistive technology services; (iv) durable medical equipment; or

"(v) home modifications.

"(D) FLEXIBILITY IN TRANSITION TO COMMUNITY-BASED HOME SETTINGS.—The term "services and supports" includes expenditures for transitional costs, such as rent and utility deposits, first month's rent and utilities, bedding, basic kitchen supplies, and other necessities required for an individual to make the transition from a nursing facility or an intermediate care facility for the mentally retarded (whether or not coverage of such intermediate care facility is provided under the State plan) and who requires such community attendant services and supports based on functional need and without regard to age or disability;"

"(E) DELIVERY MODELS.—

"(1) AGENCY-PROVIDER MODEL.—The term "agency-provider model" means a method of providing services and supports that allow the individual, or where appropriate, the individual's representative, maximum control of the community attendant services and supports, regardless of who acts as the employer of record."

"(2) DELIVERY MODELS.—

"(ii) consumer directed means a method of providing services and supports that allow the individual, or where appropriate, the individual's representative, maximum control of the provision of such services and supports, regardless of who acts as the employer of record."

"(1) AGENCY-PROVIDER MODEL.—The term "agency-provider model" means a method of providing consumer-directed services and supports which allow the individual to select, manage, and dismiss the furnished services and supports, and to choose to receive medical assistance for such services and supports, regardless of who acts as the employer of record."

"(2) DELIVERY MODELS.—

"(ii) consumer directed means a method of providing services and supports that allow the individual, or where appropriate, the individual's representative, maximum control of the provision of such services and supports, regardless of who acts as the employer of record."

"(E) INSTRUMENTAL ACTIVITIES OF DAILY LIVING.—The term "instrumental activities of daily living" includes meal planning and preparation, grocery shopping, shopping for food, clothing and other essential items, performing essential household chores, communicating by phone and other media, and getting around and participating in the community.

"(F) INDIVIDUAL'S REPRESENTATIVE.—The term "individual's representative" means a parent, a family member, a guardian, an advocate, or an authorized representative of an individual.

"(G) LIMITATION ON AMOUNT OF EXPENDITURES UNDER THIS TITLE.—In carrying out section 1902(a)(10)(D)(i), a State shall permit an individual who has a level of severity of physical or mental impairment that entitles such individual to medical assistance with respect to nursing facility services to qualify the individual for intermediate care facility services for the mentally retarded to choose to receive medical assistance for community attendant services and supports (rather than medical assistance for institutional services and supports), in the most integrated setting appropriate to the needs of the individual, so long as the aggregate amount of Federal expenditures for community attendant services and supports for all such individuals in a fiscal year does not exceed the total that would have been expended for such individuals to receive such institutional services and supports in the year.

"(H) MAINTENANCE OF EFFORT.—With respect to a fiscal year quarter, no Federal funds may be paid to a State for medical assistance provided to individuals described in section 1902(a)(10)(D)(i) for such fiscal year quarter if the Secretary determines that the total of the State expenditures for programs to enable such individuals with disabilities (including services and supports) and such community attendant services and supports (or services and supports that are similar to such services and supports) under other provisions of this title for the preceding fiscal year quarter is less than the total of such expenditures for the same fiscal year quarter for the preceding fiscal year.

"(J) FEDERAL ROLE IN QUALITY ASSURANCE.—The Secretary shall conduct a periodic sample review of outcomes for individuals based upon the individual's plan of support and based upon the quality assurance program of the State. The Secretary shall conduct targeted reviews upon receipt of allegations of neglect, abuse, or exploitation."

"(K) INCLUSION OF OPTIONAL ELIGIBILITY CLASSIFICATION.—Section 1902(a)(10)(A)(iv)(V) of the Social Security Act (42 U.S.C. 1396d(a)(10)(A)(iv)(V)) is amended by inserting "or community attendant services and supports described in
section 1935” after “section 1915” each place such term appears.

(d) COVERAGE AS MEDICAL ASSISTANCE.—

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

(A) by striking “and” at the end of paragraph (2);

(B) by redesignating paragraph (27) as paragraph (28); and

(C) by inserting after paragraph (26) the following:

“(27) community attendant services and supports (to the extent allowed and as defined in section 1935); and”.

(2) ADDITIONAL COVERAGES.—Section 1902(a)(10)(C)(i)(y) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting “certain States that have a relatively higher proportion of individuals with disabilities” after “(27)” after “(24”).

(e) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2001, and apply to medical assistance provided under title XVIII of the Social Security Act (42 U.S.C. 1396 et seq.) on or after that date.

SEC. 302. GRANTS TO DEVELOP AND ESTABLISH REAL CHOICE SYSTEMS CHANGE INITIATIVES.

(a) ESTABLISHMENT.—

(1) disability. The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall award grants described in subsection (b) to States for a fiscal year beginning after fiscal year 2002 and for each fiscal year thereafter, in accordance with this section, to establish, develop, implement, and evaluate comprehensive Statewide systems change initiatives that establish specific action steps and specific timelines to provide consumer-responsive long-term services and supports that are supported in community settings as well as institutional settings, and the expected change in demand for services provided in home and community-based settings as well as institutional settings.

(b) GRANTS FOR REAL CHOICE SYSTEMS CHANGE INITIATIVES.—

(1) IN GENERAL.—From funds appropriated under subsection (g), the Secretary shall award grants to States for a fiscal year to—

(A) support the establishment, implementation, and operation of the State real choice systems change initiatives described in subsection (a); and

(B) conduct outreach campaigns regarding the existence of such initiatives.

(2) DETERMINATION OF AWARDS; STATE ALLOTMENTS.—The Secretary shall develop a formula for the distribution of funds to States for each fiscal year under subsection (a). Such formula shall give preference to States that have a relatively higher proportion of long-term services and supports furnished to individuals in an institutional setting but who have a plan described in an application submitted under subsection (a)(2).

(3) DEFINITION OF STATE.—In this section, the term “State” includes each State, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(4) FUNDS ALLOTTED TO STATES.—The Secretary shall award grants to States in accordance with subsection (d) and, in accomplishing such purposes described in subsection (a), may include information about the number of individuals within the State who are receiving long-term services and supports in unnecessarily institutional settings and extent to which current programs respond to the preferences of individuals with disabilities to receive services in home and community-based settings.

(5) INSTITUTIONAL BIAS.—The State may use funds to develop, implement, and evaluate specific strategies and practices, and procedures that unnecessarily bias the provision of long-term services and supports toward institutional settings and away from home and community-based settings, including policies, practices, and procedures governing state, local, and county standards, comparability in amount, duration, and scope of services, financial eligibility, functional assessments, and screenings (including individual and family involvement), and knowledge about service options.

(6) OVER MEASURED ELIGIBILITY OF SERVICES.—The State may use funds to identify, develop, and implement strategies to reduce over-measured eligibility, including financial eligibility, functional assessments and screenings (including individual and family involvement), and knowledge about service options.

(7) DOWNSIZING OF LARGE INSTITUTIONS.—The State may use funds to support activities that establish specific action steps and/or timelines that are consistent with the ‘‘27’’ community attendant services and supports (to the extent allowed and as defined in section 1935) and ‘‘28’’ institutional settings, and the expected change in demand for services provided in home and community settings as well as institutional settings.

(8) INTERAGENCY COORDINATION; SINGLE POINT OF ENTRY.—The State may use funds to support activities that are provided for individuals with disabilities, and, as appropriate, their representatives, attendants, and other personnel (including professionals, para-professionals, volunteers, and other members of the community), to the extent that quality services and supports can be provided by other qualified individuals, including policies, practices, and procedures governing service authorization, case management, and service coordination, service delivery options, quality controls, and supervision and training.

(9) DEMONSTRATIONS OF NEW APPROACHES.—The State may use funds to develop, implement, and evaluate specific strategies and practices, and procedures that unnecessarily bias the provision of long-term services and supports toward institutional settings and away from home and community-based settings.

(10) DEMONSTRATIONS OF NEW APPROACHES.—The State may use funds to develop, implement, and evaluate specific strategies and practices, and procedures that unnecessarily bias the provision of long-term services and supports toward institutional settings and away from home and community-based settings.

(11) OTHER ACTIVITIES.—

(A) The State may use funds for systems change activities that are not described in any of the preceding paragraphs of this section and are necessary for developing, implementing, or evaluating the comprehensive statewide system of long-term services and supports.

(B) CONSUMER TASK FORCE.—

(1) ESTABLISHMENT AND DUTIES.—To be eligible to receive a grant under this section, each State shall establish a Consumer Task Force to perform the duties of the ‘‘Task Force’’ to assist the State in the development, implementation, and evaluation of real choice systems change initiatives.

(2) APPOINTMENT.—Members of the Task Force shall be appointed by the Chief Executive Officer of the State in accordance with the requirements of paragraph (3), after the solicitation of recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

(3) COMPOSITION.—

(A) IN GENERAL.—The Task Force shall represent a broad range of individuals with disabilities from backgrounds that include representatives from Developmental Disabilities Councils, State Independent Living Councils, Commissions on Aging, organizations that provide services to individuals with disabilities and consumers of long-term services and supports.

(B) INDIVIDUALS WITH DISABILITIES.—A majority of the members of the Task Force shall be individuals with disabilities or the representatives of such individuals.

(C) LIMITATION.—The Task Force shall not include employees of any State agency providing services to individuals with disabilities other than employees of agencies described in the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.).

(4) AVAILABILITY OF FUNDS.—

(A) FUNDS ALLOCATED TO STATES.—Funds allocated to a State under this section for a fiscal year shall remain available until expended.

(B) FUNDS NOT ALLOCATED TO STATES.—Funds not allotted to a State under this section for the fiscal year for which they are appropriated shall remain available in succeeding fiscal years for allocation by the Secretary using the allotment formula established by the Secretary under subsection (b)(2).

(5) ANNUAL REPORT.—A State that receives a grant under this section shall submit an annual report to the Secretary on the use of funds provided under the grant. Each report shall include the number of individuals with disabilities served by the State during the period covered by the report, the extent of the increase in the availability of choices available to individuals with disabilities out of specific facilities and into community-based settings.

(g) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to be appropriated to make grants under this section for—

(1) fiscal year 2002, $25,000,000; and

(2) for fiscal year 2003 and each fiscal year thereafter, such sums as may be necessary to carry out this section.

SEC. 303. STATE OPTION FOR ELIGIBILITY FOR FUNDING OF INDIVIDUALS.

(a) IN GENERAL.—Section 1905(c) of the Social Security Act (42 U.S.C. 1396b(i)) is amended—

(1) by redesignating paragraphs (1) through (23) as paragraphs (24) through (46);
in paragraph (4)(C), by inserting "subject to paragraph (5)," after "does not exceed," and

(2) by adding at the end the following:

"(5) A State may waive the income, resources, and deeming limitations described in paragraph (4)(C) in such cases as the Secretary determines to be appropriate as a result of the application of such subparagraph, the State may, notwithstanding section 1916(b), place a premium based on a sliding scale related to income.

SECTION 305. TASK FORCE ON FINANCING OF LONG-TERM CARE SERVICES.

SEC. 305. TASK FORCE ON FINANCING OF LONG-TERM CARE SERVICES.

(a) Review of, and Report on, Regulations.

The National Council on Disability established under title IV of the Rehabilitation Act of 1973 (29 U.S.C. 780 et seq.) shall review regulations in existence under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on the date of enactment of this Act insofar as such regulations regulate the provision of home health services, personal care services, and other services in home and community-based settings and, not later than 1 year after such date, submit a report to Congress on the results of such study, together with any recommendations for legislation that the Council determines to be appropriate as a result of the study.

(b) Report on Reduced Title XIX Expenditures.

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on how expenditures under the program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) can be reduced by the furnishing of community attendant services and supports in accordance with section 1905 of the Social Security Act (as added by section 301(b) of this Act).

SECTION 306. TASK FORCE ON FINANCING OF LONG-TERM CARE SERVICES.

The Secretary of Health and Human Services shall establish a task force to examine appropriate methods for financing long-term services and supports. The task force shall include significant representation of individuals (and representatives of individuals) who receive such services and supports.

CHAPTER 1—INCREASED AVAILABILITY AND CONTINUITY OF HEALTH COVERAGE

SEC. 721A. ACTUARIAL EQUIVALENCE IN BENEFITS.

(a) Set of Rules of Actuarial Equivalence.

(1) Initial Determination.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this subpart, a set of rules which the NAIC determines to be appropriate as a result of the application of such subparagraph, the State may, notwithstanding section 1916(b), place a premium based on a sliding scale related to income.

(2) Effective Date.—The amendments made by subsection (a) shall apply to medical assistance provided for community attendant services and supports described in section 1935 of the Social Security Act, as added by section 301(b) of this Act, furnished on or after October 1, 2001.

SEC. 304. STUDIES AND REPORTS.

(a) Review of, and Report on, Regulations.

The National Council on Disability established under title IV of the Rehabilitation Act of 1973 (29 U.S.C. 780 et seq.) shall review regulations in existence under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on the date of enactment of this Act insofar as such regulations regulate the provision of home health services, personal care services, and other services in home and community-based settings and, not later than 1 year after such date, submit a report to Congress on the results of such study, together with any recommendations for legislation that the Council determines to be appropriate as a result of the study.

(b) Report on Reduced Title XIX Expenditures.

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on how expenditures under the program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) can be reduced by the furnishing of community attendant services and supports in accordance with section 1905 of the Social Security Act (as added by section 301(b) of this Act).

SEC. 305. TASK FORCE ON FINANCING OF LONG-TERM CARE SERVICES.

The Secretary of Health and Human Services shall establish a task force to examine appropriate methods for financing long-term services and supports. The task force shall include significant representation of individuals (and representatives of individuals) who receive such services and supports.

TITLE IV—HEALTH CARE INSURANCE COVERAGE

Subtitle A—General Provisions

SEC. 401. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) In General.—Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181 et seq.) is amended—

(1) by redesignating subpart C as subpart D; and

(2) by inserting after subpart B, the following:

"SUBPART C—GENERAL INSURANCE COVERAGE REFORMS"

"CHAPTER 1.—INCREASED AVAILABILITY AND CONTINUITY OF HEALTH COVERAGE

SEC. 721. DEFINITION.

"As used in this subpart, the term 'qualified group health plan' means a group health plan, and a health insurance issuer offering group health insurance coverage, that is designed to provide standard coverage (consistent with section 721A(b)),"
includes certain uninsured individuals (as defined under section 721B, (3), the standard premium for each group health plan to which this section applies shall be the same, but shall not include the costs of premium processing and enrollment which vary depending on whether the method of enrollment is through a qualified small employer purchasing group, through a small employer, or through a broker.

(ii) ELIGIBLE INDIVIDUALS. For purposes of this section, the term ‘eligible individuals’ includes certain uninsured individuals (as described in section 721B).

(b) UNIFORM PREMIUMS WITHIN COMMUNITY RATING AREAS.—

(1) IN GENERAL. Projects paragraphs (2) and (3) of section 721B for each group health plan to which this section applies shall be the same, but shall not include the costs of premium processing and enrollment which vary depending on whether the method of enrollment is through a qualified small employer purchasing group, through a small employer, or through a broker.

(2) Exception. The premium charged shall be the product of

(i) the standard premium (established under subparagraph (B)); and

(ii) the age adjustment factor specified under subparagraph (C).

(B) FAMILY ADJUSTMENT FACTOR.—

(i) In general. The standards established under section 721B shall specify family adjustment factors that reflect the relative actuarial costs of benefit packages based on family classes of enrollment (as compared with such costs for individual enrollment).

(ii) Classes of enrollment. For purposes of this subpart, there are 4 classes of enrollment:

(I) Coverage only of an individual (referred to in this subpart as the ‘single parent’ enrollment or class of enrollment).

(II) Coverage of an individual and one or more children (referred to in this subpart as the ‘family’ enrollment or class of enrollment).

(III) Coverage of a married couple and one or more children (referred to in this subpart as the ‘couple-only’ enrollment or class of enrollment).

(IV) Coverage of a married couple without children (referred to in this subpart as the ‘couple’ enrollment or class of enrollment).

(2) Class of enrollment other than individual enrollment, the family adjustment factor specified under paragraph (B); and

(3) the age adjustment factor specified under subparagraph (C).

(C) A GE ADJUSTMENT FACTOR. In accordance with the standards established under section 721B, a group health plan which covers eligible employees and eligible individuals may add a charge to the premium for each enrollee which is based on identifiable differences in legitimate administrative costs and which is applied uniformly for individuals enrolling through the group. Nothing in this subparagraph may be construed as preventing a qualified small employer purchasing group from negotiating a unique administrative charge with an insurer for a group health plan.

(b) Enrollment through a qualified small employer purchasing group.—In the case of an administrative charge under subparagraph (A) for enrollment through a qualified small employer purchasing group, such charge may not exceed the lowest charge for such enrollment other than through a qualified small employer purchasing group in such area.

(c) Treatment of negotiated rate as community rating area. Subject to paragraphs (2) and (3), the standard premium for each group health plan shall be the same, but shall not include the costs of premium processing and enrollment which vary depending on whether the method of enrollment is through a qualified small employer purchasing group, through a small employer, or through a broker.

(d) Classes of enrollment. For purposes of this subpart, there are 4 classes of enrollment:

(I) Coverage only of an individual (referred to in this subpart as the ‘single parent’ enrollment or class of enrollment).

(II) Coverage of an individual and one or more children (referred to in this subpart as the ‘family’ enrollment or class of enrollment).

(III) Coverage of a married couple and one or more children (referred to in this subpart as the ‘couple-only’ enrollment or class of enrollment).

(IV) Coverage of a married couple without children (referred to in this subpart as the ‘couple’ enrollment or class of enrollment).

(e) Class of enrollment other than individual enrollment, the family adjustment factor specified under paragraph (B); and

(f) the age adjustment factor specified under subparagraph (C).

(f) An insurer, agent, broker, or any other individual or entity engaged in the sale of insurance:

(i) does not form or underwrite; and

(ii) does not hold or control any right to vote with respect to.

(g) State certification. A qualified small employer purchasing group formed under this section shall submit an application to the State for certification. The State shall determine whether to issue a certificate of authority to the group in accordance with the requirements of this subpart.

(h) Special rule. Notwithstanding paragraph (1)(B), an employer member of a small employer purchasing group has been certified by the State as meeting the requirements of paragraphs (1) and (2) may retain its membership in the group if the number of employees of the employer increases such that the employer is no longer a small employer.

(i) Board of Directors. Each qualified small employer purchasing group established under this section shall be governed by a board of directors or have active input from an advisory board consisting of individuals and businesses participating in the group.

(j) Domiciliary State. For purposes of this section, a qualified small employer purchasing group operating in more than one State shall be certified by the State in which the group is domiciled.

(k) Membership. In general. A qualified small employer purchasing group shall accept all small employers and certain uninsured individuals residing within the area served by the group as members if such employers or individuals request such membership.

(l) Voting. Members of a qualified small employer purchasing group shall have voting rights consistent with the rules established by the State.
“(e) DUTIES OF QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.—Each qualified small employer purchasing group shall—

(1) enter into agreements with insurers offering qualified group health plans;

(2) enter into agreements with small employers under section 721F;

(3) enroll only eligible employees, eligible individuals, and certain uninsured individuals in qualified group health plans, in accordance with section 721G;

(4) provide enrollee information to the State;

(5) meet the marketing requirements under section 721J; and

(6) carry out other functions provided for under this subpart.

(f) LIMITATION ON ACTIVITIES.—A qualified small employer purchasing group shall not—

(1) perform any activity involving approval or enforcement of payment rates for providers;

(2) perform any activity (other than the reporting of noncompliance) relating to compliance of qualified group health plans with the requirements of this subpart;

(3) assume financial risk in relation to any such health plan; or

(4) engage in activities identified by the State as being inconsistent with the performance of its duties under this subpart.

(g) ESTABLISHMENT NOT REQUIRED.—Nothing in this section shall be construed as requiring—

(A) that a State organize, operate or otherwise establish a qualified small employer purchasing group, or otherwise require the establishment of purchasing groups; and

(B) that there be only one qualified small employer purchasing group established with respect to a community rating area.

(h) SINGLE ORGANIZATION SERVING MULTIPLE STATES.—Nothing in this section shall be construed as preventing a single entity from being a qualified small employer purchasing group in more than one community rating area or in more than one State.

(i) VOLUNTARY PARTICIPATION.—Nothing in this section shall be construed as requiring any individual or small employer to purchase a qualified group health plan exclusively through a qualified small employer purchasing group.

SEC. 721F. AGREEMENTS WITH SMALL EMPLOYERS.

(a) IN GENERAL.—A qualified small employer purchasing group shall offer to enter into an agreement under this section with each small employer that is a member of a qualified small employer purchasing group or a dependent of such individual.

SEC. 721H. RECEIPT OF PREMIUMS.

(a) ENROLLMENT CHARGE.—The amount charged by a qualified small employer purchasing group for coverage under a qualified group health plan shall be equal to the sum of—

(1) the premium rate offered by such health plan;

(2) the administrative charge for such health plan; and

(3) the purchasing group administrative charge for enrollment of eligible employees, eligible individuals and certain uninsured individuals through the group.

(1) the premium rate offered by such health plan;

(2) the administrative charge for such health plan; and

(3) the purchasing group administrative charge for enrollment of eligible employees, eligible individuals and certain uninsured individuals through the group.

SEC. 721J. GRANTS TO STATES AND QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

(a) IN GENERAL.—The Secretary shall award grants to States and small employer purchasing groups to assist such States and groups in planning, developing, and operating qualified small employer purchasing groups.

(b) APPLICATION REQUIREMENTS.—To be eligible to receive a grant under this section, a State or small employer purchasing group shall prepare and submit to the Secretary an application in such form, and containing such information, certifications, and assurances as the Secretary shall reasonably require.

(c) USE OF FUNDS.—Amounts awarded under this section may be used to finance costs associated with planning, developing, and operating a qualified small employer purchasing group.

SEC. 721K. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS ESTABLISHED BY A STATE.

A State may establish a system in all or part of the State under which qualified small employer purchasing groups are the sole employer plan for coverage under the plan of eligible individuals with respect to such group health plan.

SEC. 7221L. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in this chapter, the provisions of this chapter are effective on the date of the enactment of this subpart.

(b) EXCEPTION.—The provisions of section 7221C(b) shall apply to contracts which are in effect, or renewed, after the date which is 18 months after the date of the enactment of this subpart.

CHAPTER 2—REQUIRED COVERAGE OPTIONS FOR ELIGIBLE EMPLOYEES AND DEPENDENTS OF SMALL EMPLOYERS

SEC. 722. REQUIRING SMALL EMPLOYERS TO OFFER COVERAGE FOR ELIGIBLE INDIVIDUALS.

(a) REQUIREMENT TO OFFER.—Each small employer shall make available with respect to each eligible employee a group health plan under which—

(1) coverage of each eligible individual with respect to such an eligible employee may be elected on an annual basis for each plan year;

(2) coverage is provided for at least the standard coverage specified in section 721A(b); and

(3) each eligible employee electing such coverage may elect to have any premiums owed by the employee collected through payroll deduction.

(b) QUALIFIED EMPLOYER CONTRIBUTION REQUIRED.—An employer is not required under subsection (a) to make any contribution to the cost of coverage under a group health plan described in such subsection.

(c) SPECIAL RULES.—

(1) EXCLUSION OF NEW EMPLOYERS AND CERTAIN VERY SMALL EMPLOYERS.—Subsection (a) shall not apply to an employer for any plan year if, as of the beginning of such plan year,

(A) such employer (including any predecessor thereof) has been an employer for less than 2 years;

(B) such employer has no more than 2 eligible employees; or

(C) no more than 2 eligible employees are not covered under any group health plan.

(2) EXCLUSION OF FAMILY MEMBERS.—Under such procedures as the Secretary may prescribe, any relative of a small employer may be, at the election of the employer, excluded from consideration as an eligible employee for purposes of applying the requirements of subsection (a). In the event of a small employer that is not an individual, an employee who is a relative of a key employee (as defined in section 416(i) of the Internal Revenue Code of 1986) shall be deemed to be an eligible employee for purposes of applying the requirements of subsection (a). In the event of a small employer that is not an individual, an employee who is a relative of a key employee (as defined in section 416(i) of the Internal Revenue Code of 1986) shall be deemed to be an eligible employee for purposes of applying the requirements of subsection (a).

(3) OPTIONAL APPLICATION OF WAITING PERIOD.—A group health plan and a health insurance issuer offering group health insurance coverage shall not be treated as failing to meet the requirements of subsection (a) solely because a period of service by an eligible employee of not more than 60 days is required to become eligible under the plan of eligible individuals with respect to such employee.

(4) CONSTRUCTION.—Nothing in this section shall be construed as limiting the group health plans, or types of coverage under such a plan, that an employer may offer to an employee.

SEC. 722A. COMPLIANCE WITH APPLICABLE REQUIREMENTS THROUGH MULTIPLE EMPLOYER HEALTH ARRANGEMENTS.

SECTION 722A. COMPLIANCE WITH APPLICABLE REQUIREMENTS THROUGH MULTIPLE EMPLOYER HEALTH ARRANGEMENTS.

(a) IN GENERAL.—In any case in which an eligible employee is, for any plan year, a participant in a group health plan which is a multiple employer health arrangement, section 7221(a) shall be deemed to be met with respect to such employee for such plan year if...
the employer requirements of subsection (b) are met with respect to the eligible employee, irrespective of whether, or to what extent, the employer makes employer contributions to the eligible employee.

(b) EMPLOYER REQUIREMENTS. — The employer requirements of this subsection are met under a group health plan with respect to an eligible employee if —

(1) the employee is eligible under the plan to elect coverage on an annual basis and is provided a reasonable opportunity to make the election in such form and manner and at such times as are provided by the plan;

(2) coverage is provided for at least the standard coverage specified in section 721(b)(1); and

(3) the employer facilitates collection of any employee contributions under the plan and permits the employee to elect to have employee contributions be deducted from compensation and collected through payroll deduction; and

(4) in the case of a plan to which part 1 does not otherwise apply, the employer provides to the employees a summary plan description described in section 102(a)(1) in the form and manner and at such times as are required under such part 1 with respect to eligible employees of such plan.

CHAPTER 3—REQUIRED COVERAGE OPTIONS FOR INDIVIDUALS INSURED THROUGH ASSOCIATION PLANS

Subchapter A—Qualified Association Plans

SEC. 723. TREATMENT OF QUALIFIED ASSOCIATION PLANS.

(a) GENERAL RULE. — For purposes of this chapter, in the case of a qualified association plan—

(1) except as otherwise provided in this subchapter, the plan shall meet all applicable requirements of chapter 1 and chapter 2 for group health plans offered to and by small employers;

(2) if such plan is certified as meeting such requirements and the requirements of this subchapter, such plan shall be treated as a plan established and maintained by a small employer, and individuals enrolled in such plan shall be treated as eligible employees; and

(3) any individual eligible to enroll in the plan who does not enroll in the plan shall not be treated as an eligible employee solely by reason of being eligible to enroll in the plan.

(b) MODIFIED STANDARDS. —

(1) CERTIFYING AUTHORITY. — For purposes of paragraph (1), the Secretary shall be the appropriate certifying authority with respect to a plan to which this section applies.

(2) AVAILABILITY. — Rules similar to the rules in subsection (e) of section 721A shall apply to a plan to which this section applies.

(3) ACCESS. — An employer which, pursuant to a collective bargaining agreement, offers an employee the opportunity to enroll in a plan described in subsection (c)(2) shall not be required to make any other plan available to the employee.

(c) PLANS TO WHICH SECTION APPLIES.—

The section shall apply to a health plan which—

(1) is a church plan (as defined in section 414(e) of the Internal Revenue Code of 1986) with at least 100 participants in the United States;

(2) is a multiemployer plan which is maintained by a health plan sponsor described in section 330B(e)(1) and which has at least 500 participants in the United States; or

(3) is a plan which is maintained by a rural electric cooperative or a rural telephone cooperative association and which has at least 500 participants in the United States.

Conforming Amendments. —Section 731(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1186(d)) is amended by adding at the end the following:

"(4) ELIGIBLE INDIVIDUAL. — The term ‘eligible individual’ means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service for that employer.

(5) NAIC. — The term ‘NAIC’ means the National Association of Insurance Commissioners.

SEC. 723B. DEFINITIONS AND SPECIAL RULES.

(a) QUALIFIED ASSOCIATION.— For purposes of this subchapter, the term ‘qualified association’ means any organization which—

(1) is organized and maintained in good faith by a trade association, an industry association, a professional association, a chamber of commerce, a religious organization, a public entity association, or other business association serving a common or similar industry;

(2) is organized and maintained for substantial purposes other than to provide a health plan;

(3) has a constitution, bylaws, or other similar governing document which states its purpose; and

(4) receives a substantial portion of its financial support from its active, affiliated, or federation members.

(b) COORDINATION.— The term ‘qualified association plan’ shall not include a plan to which subchapter B applies.

Subchapter B—Special Rule for Church, Multiemployer, and Cooperative Plans

SEC. 723F. SPECIAL RULE FOR CHURCH, MULTIEMPLOYER, AND COOPERATIVE PLANS.

(a) GENERAL RULE. — For purposes of this chapter, in the case of a group health plan to which this section applies—

(1) except as otherwise provided in this subchapter, the plan shall be required to meet all applicable requirements of chapter 1 and chapter 2 for group health plans offered to and by small employers;

(2) if such plan is certified as meeting such requirements, such plan shall be treated as a plan established and maintained by a small employer and individuals enrolled in such plan shall be treated as eligible employees; and

(3) any individual eligible to enroll in the plan who does not enroll in the plan shall not be treated as an eligible employee solely by reason of being eligible to enroll in the plan.

(3) any individual eligible to enroll in the plan who does not enroll in the plan shall not be treated as an eligible employee solely by reason of being eligible to enroll in the plan.

(3) any individual eligible to enroll in the plan who does not enroll in the plan shall not be treated as an eligible employee solely by reason of being eligible to enroll in the plan.
(a) In General.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended—

(1) by inserting after the subpart heading the following:

"CHAPTER 1—MISCELLANEOUS REQUIREMENTS;"

and

(2) by adding at the end the following:

"CHAPTER 2—GENERAL INSURANCE COVERAGE REFORMS"

Subchapter A—Increased Availability and Continuity of Health Coverage

SEC. 2707. DEFINITION.

"As used in this chapter, the term 'qualified group health plan' means a group health plan, and a health insurance issuer offering group health insurance coverage, that is designed to provide standard coverage (consistent with section 2707A(b))."

SEC. 2707A. ACTUARIAL EQUIVALENCE IN BENEFITS PERMITTED.

"(a) SET OF RULES OF ACTUARIAL EQUIVALENCE.—

(1) INITIAL DETERMINATION.—The NAIC is requested to submit to the Secretary, within 6 months after the date of the enactment of this chapter, a set of rules which the NAIC determines is sufficient for determining, in the case of any group health plan, or a health insurance issuer offering group health insurance coverage, and for purposes of this section, the actuarial value of the coverage offered by the plan or coverage.

(2) SECRETARY.—The Secretary may by regulation require the NAIC to develop a set of rules that meet such requirements.

(b) STANDARD COVERAGE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall be considered to provide standard coverage consistent with the requirements of this section, if the benefits are determined, in accordance with the set of actuarial equivalence rules certified under subsection (a), to have a value that is within 5 percent of the target actuarial value for standard coverage established under paragraph (2).

(2) INITIAL DETERMINATION OF TARGET ACTUARIAL VALUE FOR STANDARD COVERAGE.—

(A) (i) NAIC.—The NAIC is requested to submit to the Secretary, with the appropriate certification, a set of rules for use under this chapter, that meets such requirements.

(B) EXPERIENCE.—The standards established under section 2707B shall specify family adjustment factors that reflect the relative actuarial costs of benefit packages based on family classes of enrollment (as compared with such costs for individual enrollment).

(C) SUBSEQUENT REVISIONS.

(i) NAIC.—The NAIC may submit from time to time to the Secretary revisions of the set of rules of actuarial equivalence and target actuarial values established under this section if the NAIC determines that such revisions are necessary to take into account changes in the relevant types of health benefits provisions or in demographic conditions which form the basis for the set of rules of actuarial equivalence or the target actuarial values. The pronouncements of subsection (a)(2) shall apply to such a revision in the same manner as they apply to the initial determination of the set of rules.

(ii) SECRETARY.—The Secretary may by regulation require the NAIC to develop such standards as necessary to take into account changes described in paragraph (1).

SEC. 2707B. ESTABLISHMENT OF PLAN STANDARDS.

"(a) Establishment of General Standards.—

(1) ROLE OF NAIC.—The NAIC is requested to submit to the Secretary, within 9 months after the date of the enactment of this chapter, model regulations that specify standards for making qualified group health plans available to small employers. If the NAIC develops recommended regulations specifying such standards within such period, the Secretary shall review the standards. Such review shall be completed within 60 days after the date the regulations are developed. Such standards shall serve as the standards under this section, with such amendments as the Secretary deems necessary. Such standards shall be nonbinding (except as provided in chapter 4).

(2) CONTINUITY.—If the NAIC does not develop such model regulations within the period prescribed in paragraph (1), the Secretary shall specify, within 15 months after the date of the enactment of this chapter, model regulations that specify standards for ensuring group health plans available to small employers. Such standards shall be nonbinding (except as provided in chapter 4).

(b) EFFECTIVE DATE.—The standards specified in the model regulations shall apply to group health plans and health insurance issuers offering group health insurance coverage, with the appropriate certification, as of the respective dates the standards are implemented in the State.

(3) PREEMPTION OF STATE LAW.—A State may implement standards for group health plans available, and health insurance issuers offering group health insurance coverage offered, to small employers that are more stringent than the standards under this section, except that a State may not implement standards that prevent the offering of at least one group health plan that provides such benefits (as described in section 2707A(b)).

SEC. 2707C. RATING LIMITATIONS FOR COMMUNITY-RATED MARKET.

"(a) Standard Premium for each Group Health Plan—

(1) IN GENERAL.—Each group health plan offered, and each health insurance issuer offering group health insurance coverage, to a small employer shall establish within each geographic area of the State, a standard premium that is equal to the average actuarial value for standard coverage offered in a portion of the interstate metropolitan statistical area to vary based on the State in which the coverage is offered; and

(2) SUBSEQUENT REVISIONS.—

(i) NAIC.—The NAIC may, upon agreement with one or more adjacent States, identify multi-State geographic areas consistent with clauses (i) and (ii).

(ii) Secrecy.—For purposes of this section, the term 'eligible individuals' includes certain uninsured individuals (as described in section 2707A(b)).

(b) Uniform Premiums Within Community Rating Areas.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the standard premium for each group health plan to which this section applies shall be the same, but shall not include the costs of coverage available to eligible individuals (as described in section 2707A(b)).

(2) APPLICATION TO ENROLLERS.—

(A) IN GENERAL.—The premium charged for coverage in a group health plan which covers eligible employees and eligible individuals shall be the product of—

(1) the standard premium (established under paragraph (1));

(2) the age adjustment factor (specified under subparagraph (C));

(3) the occupation adjustment factor; and

(B) FAMILY ADJUSTMENT FACTOR.—

(A) IN GENERAL.—The premium charged for coverage in a group health plan which covers eligible employees and eligible individuals shall be the product of—

(1) the standard premium (established under paragraph (1));

(2) the age adjustment factor (specified under subparagraph (C));

(3) the occupation adjustment factor; and

(4) the family adjustment factor (specified under subparagraph (C)).

(3) REFERENCES TO FAMILY AND COUPLE CLASSES OF ENROLLMENT.—In this chapter:
...upon an examination by the individual which includes a review of the appropriate records and of the actuarial assumptions of such plan or insurer and methods used by the plan or insurer in estimating the rates and administrative charges for group health plans—

(A) such plan or insurer is in compliance with the applicable provisions of this chapter; and

(B) the rating methods are actuarially sound.

Each plan and issuer shall retain a copy of such statement at its principal place of business for examination by any individual.

In accordance with the requirements of this chapter.

A qualified small employer purchasing group shall—

(1) in general.—With respect to a new enrollee in a group health plan, the plan may require advanced payment of an amount equal to the monthly applicable premium for the plan at the time such individual is enrolled.

(2) notification of failure to receive premium.—If a group health plan or a health insurance issuer offering health insurance coverage fails to receive payment on a premium due with respect to an eligible employee or eligible individual covered under the plan involved, the plan or issuer shall provide notice of such failure to the employee or individual at least 20 days after the date on which such premium payment was due. A plan or issuer may not terminate the enrollment of an eligible employee or eligible individual if such employee or individual has been notified of any overdue premiums and has provided a reasonable opportunity to respond to such notice.

**SEC. 2707E. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.**

(a) QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.—

(1) IN GENERAL.—A qualified small employer purchasing group is an entity that—

(A) is a nonprofit entity certified under State law;

(B) has a membership consisting solely of small employers;

(C) is administered solely under the authority and control of its member employers; and

(D) with respect to each State in which its members are located, consists of no fewer than the number of small employers established by the State as appropriate for such a group;

(E) offers a program under which qualified group health plans are offered to eligible employers through such group membership, and its member employers and to certain uninsured individuals in accordance with section 2707I; and

(F) an insurer, agent, broker, or any other individual or entity engaged in the sale of insurance—

(i) does not form or underwrite; and

(ii) does not establish or control any right to vote with respect to.

(2) STATE CERTIFICATION.—A qualified small employer purchasing group formed under this chapter shall be certified by the State in which its member employers are located.

(3) SPECIAL RULE.—Notwithstanding paragraph (1)(B), an employer member of a small employer purchasing group that has been certified by the State may retain its membership in the group if the number of members of the group is fewer than the number of small employers certified by the State.

(b) ELIGIBLE EMPLOYERS.—

(1) IN GENERAL.—A qualified small employer purchasing group shall have voting rights consistent with the rules established by the State.

(2) VOTING.—Members of a qualified small employer purchasing group shall have voting rights consistent with the rules established by the State.

(c) DUTIES OF QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.—Each qualified small employer purchasing group shall—

(1) enter into agreements with insurers offering qualified group health plans;

(2) enter into agreements with small employers under section 2707F;

(3) enroll only eligible employees, eligible individuals, and certain uninsured individuals in qualified group health plans, in accordance with section 2707G;

(4) provide enrollee information to the State; and

(5) meet the marketing requirements under section 2707I; and

(6) carry out other functions provided for under this chapter.

(d) LIMITATION ON ACTIVITIES.—A qualified small employer purchasing group shall not—

(1) perform any activity involving approval or enforcement of payment rates for providers; and

(2) perform any activity (other than the reporting of noncompliance) relating to compliance with the requirements of this chapter;

(3) assume financial risk in relation to any such health plan; or

(4) perform other activities identified by the State as being inconsistent with the performance of its duties under this chapter.

(e) RULES OF CONSTRUCTION.—

(1) ESTABLISHMENT NOT REQUIRED.—Nothing in this section shall be construed as requiring—

(A) that a State organize, operate, or otherwise establish a qualified small employer purchasing group, or otherwise require the establishment of purchasing groups; and

(B) that there be only one qualified small employer purchasing group in a community rating area.

(2) SINGLE ORGANIZATION SERVING MULTIPLE AREAS AND STATES.—Nothing in this section shall be construed as preventing a single entity from being a qualified small employer purchasing group in more than one community rating area or in more than one State.

(3) VOLUNTARY PARTICIPATION.—Nothing in this section shall be construed as requiring any individual or small employer to purchase group health plans through a qualified group health plan established by a qualified small employer purchasing group, or otherwise require the establishment of purchasing groups; and

(4) MEMBERSHIP.—Each qualified small employer purchasing group shall have voting rights consistent with the rules established by the State.

**SEC. 2707F. AGREEMENTS WITH SMALL EMPLOYERS.**

(a) IN GENERAL.—A qualified small employer purchasing group shall offer to enter into an agreement under this section with each small employer that employs eligible employees in the area served by the group.

(b) PAYROLL DEDUCTION.—

(1) IN GENERAL.—Under an agreement under this section between a small employer and a qualified small employer purchasing group, the small employer shall deduct premiums from an eligible employee’s wages.

(2) ADDITIONAL PREMIUMS.—If the amount withheld under paragraph (1) is not sufficient
to cover the entire cost of the premiums, the eligible employee shall be responsible for paying directly to the qualified small employer purchasing group the difference between the amount withheld and the amount withheld.

"SEC. 2707G. ENROLLING ELIGIBLE EMPLOYEES, ELIGIBLE INDIVIDUALS, AND CERTAIN UNINSURED INDIVIDUALS IN QUALIFIED GROUP HEALTH PLANS."

(a) in general.—Each qualified small employer purchasing group shall offer—

(1) eligible employees,

(2) eligible individuals, and

(3) certain uninsured individuals.

(b) uninsured individuals.—For purposes of this subsection, an individual is uninsured if such individual is not an eligible employee of a small employer that is a member of a qualified small employer purchasing group or a dependent of such individual.

"SEC. 2707H. RECEIPT OF PREMIUMS."

(a) Enrollment Charge.—The amount charged by a qualified small employer purchasing group for that group health plan which has an agreement with the qualified small employer purchasing group for the community rating area in which such employees and individuals reside.

(b) Uninsured Individuals.—For purposes of this section, an individual is described in subsection (a)(3) if such individual is an uninsured individual who is not an eligible employee of a small employer that is a member of a qualified small employer purchasing group or a dependent of such individual.

"SEC. 2707I. MARKETING ACTIVITIES."

Each qualified small employer purchasing group shall market qualified group health plans throughout the entire community rating area served by the purchasing group.

"SEC. 2707J. GRANTS TO STATES AND QUALIFIED SMALL EMPLOYER PURCHASING GROUPS."

(a) in general.—The Secretary shall award grants to States and small employer purchasing groups to assist such States and groups in planning, developing, and operating qualified small employer purchasing groups.

(b) Application Requirements.—To be eligible to receive a grant under this section, a State or small employer purchasing group shall submit to the Secretary an application in such form, at such time, and containing such information, certifications, and assurances as the Secretary shall reasonably require.

(c) Use of Funds.—Amounts awarded under this section may be used to finance the costs associated with planning, developing, and operating qualified small employer purchasing groups.

(1) engaging in education and outreach efforts to inform small employers, insurers, and the public about the small employer purchasing group;

(2) soliciting bids and negotiating with insurers and operating qualified small employer purchasing groups;

(3) preparing the documentation required to receive certification by the Secretary as a qualified small employer purchasing group; and

(4) such other activities determined appropriate by the Secretary.

(2) Authorization of Appropriations.—There are authorized to be appropriated for awarding grants under this section such sums as may be necessary.

"SEC. 2707K. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS ESTABLISHED BY A STATE."

(a) in general.—A State shall establish a system in all or part of the State under which qualified small employer purchasing groups are the sole mechanism through which health care coverage for the eligible employees of small employers shall be purchased or provided.

(b) Effective Dates. —(a) in general.—Except as provided in this chapter, the provisions of this chapter are effective on the date of the enactment of this chapter.

(b) Exception.—The provisions of section 2707(b) shall apply to contracts which are issued, or renewed, after the date which is 18 months after the date of the enactment of this chapter.

"Subchapter B—Required Coverage Options for Eligible Employees and Dependents of Small Employers"

"SEC. 2708. REQUIRING SMALL EMPLOYERS TO OFFER COVERAGE FOR ELIGIBLE INDIVIDUALS."

(a) Requirement to Offer.—Each small employer shall make available with respect to each eligible employee a group health plan under which—

(1) coverage of each eligible individual with respect to such an eligible employee may be elected on an annual basis for each plan year;

(2) coverage is provided for at least the standard coverage specified in section 2707(b); and

(3) each eligible employee electing such coverage may elect to have any premiums owed by the employee collected through payroll deduction.

(b) No Employer Contribution Required.—An employer is not required under subsection (a) to make any contribution to the cost of coverage under a group health plan described in subsection (a).

(c) SPECIAL RULES.—

(1) Exclusion of New Employers and Certain Very Small Employers.—Subsection (a) shall not apply with respect to a small employer for any plan year if, as of the beginning of such plan year—

(A) such employer (including any predecessor thereof) has been an employer for less than 2 years;

(B) such employer has no more than 2 eligible employees; or

(C) neither the employer nor 2 eligible employees are not covered under any group health plan.

(2) Exclusion of Family Members.—Under such procedures as the Secretary may prescribe, any relative of a small employer may, at the election of the employer, excluded from consideration as an eligible employee for purposes of applying the requirements of subsection (a). In the case of a small employer that is not an individual, an employee who is a relative of a key employee (as defined in section 1461(1) of the Internal Revenue Code of 1986) of the employer may, at the election of the key employee, be considered a relative excluded under this paragraph.

(3) Optional Application of Waiting Period.—A group health plan and a health insurance issuer offering group health insurance coverage shall not be treated as failing to meet the requirements of subsection (a) solely because a period of service by an eligible employee of not more than 60 days is required under the plan for coverage under the plan of eligible individuals with respect to such employee.

(d) Construction.—Nothing in this section shall be construed to limit the types of coverage under such a plan, that an employer may offer to an employee.

"SEC. 2708A. COMPLIANCE WITH APPLICABLE REQUIREMENTS THROUGH MULTIPLE EMPLOYER HEALTH ARRANGEMENTS."

(a) in general.—In any case in which an eligible employee is, for any plan year, a participant in a group health plan which is a multiple employer plan, the requirements of section 2722(a) shall be deemed to be met with respect to such employee for such plan year if the employer requirements of subsection (b) are met with respect to the eligible employee, irrespective of whether, or to what extent, the employer makes employer contributions on behalf of the eligible employee.

(b) Employer Requirements.—The employer requirements of this subsection are met under a group health plan with respect to an eligible employee if—

(1) the employee is eligible under the plan to elect coverage on an annual basis and is provided a reasonable opportunity to make the election in such form and manner and at such times as are provided under such a plan;

(2) coverage is provided for at least the standard coverage specified in section 2707(b); and

(3) the employer facilitates collection of any employee contributions under the plan and permits the employee to elect to have employee contributions under the plan collected through payroll deduction.

(c) Exclusions.—(1) in general.—In the case of a plan to which such a plan does not apply, the employer provides to the employee a summary plan description that describes in section 1003(a)(1) of the Employee Retirement Income Security Act of 1974 in the form and manner and at such times as are required under such a plan.

"Subchapter C—Required Coverage Options for Individuals Insured Through Association Plans"

"SEC. 2709. TREATMENT OF QUALIFIED ASSOCIATION PLANS."

(a) General Rule.—For purposes of this chapter, in the case of a qualified association plan, the term "employee" shall mean—

(1) except as otherwise provided in this chapter, any individual who is a member of the association;

(2) if such plan is certified as meeting the requirements of this chapter, such plan shall be treated as a plan established and maintained by a small employer, and individuals enrolled in such plan shall be treated as eligible employees; and

(3) any individual who is a member of the association not enrolled in the plan shall not be treated as an eligible employee solely by reason of membership in such association.

(b) Election to be Treated as Purchasing Cooperative.—Subsection (a) shall not apply to a qualified association plan if—

(1) the health insurance issuer makes an irrevocable election to be treated as a qualified small employer purchasing group for purposes of section 2707D; and

(2) the employer satisfies the requirements of this chapter applicable to a purchasing cooperative.

"SEC. 2709A. QUALIFIED ASSOCIATION PLAN DESCRIPTION AND REQUIREMENTS."

(a) General Rule.—For purposes of this chapter, a plan is a qualified association plan...
if the plan is a multiple employer welfare arrangement or similar arrangement—

"(1) which is maintained by a qualified association;

"(2) to which at least 500 participants in the United States;

"(3) under which the benefits provided consist solely of medical care (as defined in section 213(d) of the Internal Revenue Code of 1986);

"(4) which may not condition participation in the plan, or terminate coverage under the plan, on the basis of the health status or health claims experience of any employee or member or dependant of either;

"(5) which provides for bonding, in accordance with regulations providing rules similar to the rules under section 412, of all persons operating or administering the plan or involved in the financial affairs of the plan; and

"(6) which notifies each participant or provider that it is certified as meeting the requirements of this chapter applicable to it.

(b) SPLIT-INSURED PLANS.—In the case of a plan which is not fully insured (within the meaning of section 514(b)(6)(D)), the plan shall be treated as a qualified association plan only if—

"(1) the plan meets minimum financial solvency standards and reserves requirements for claims which are established by the Secretary and which shall be in lieu of any other such requirements under this chapter;

"(2) the plan appoints a plan sponsor who is responsible for operating the plan and ensuring compliance with applicable Federal and State laws.

(c) CERTIFICATION.—(1) GENERAL.—A plan shall not be treated as a qualified association plan for any period unless there is in effect a certification by the Secretary that the plan meets the requirements of this subchapter. For purposes of this chapter, the Secretary shall be the appropriate certifying authority with respect to the plan.

"(2) FEES.—The Secretary shall require a $5,000 fee for the original certification under paragraph (1) and may charge a reasonable annual fee to cover the costs of processing and reviewing the annual statements of the plan.

"(3) EXPEDITED PROCEDURES.—The Secretary may by regulation provide for expedited registration, certification, and comment procedures.

"(4) AGREEMENTS.—The Secretary of Labor may enter into agreements with the States to carry out the Secretary's responsibilities under this subchapter.

"(d) AVAILABILITY.—Notwithstanding any other provision of this chapter, a qualified association plan may limit coverage to individuals who are members of the qualified association establishing or maintaining the plan, an employee of such member, or a dependent of either.

"(e) SPECIAL RULES FOR EXISTING PLANS.—In the case of a plan in existence on January 1, 2001, the Secretary shall require that the plan—

"(1) the requirements of subsection (a) (other than paragraphs (4), (5), and (6) thereof) shall not apply;

"(2) no original certification shall be required under this subchapter; and

"(3) no annual report or funding statement shall be required before January 1, 2003, but the plan shall be subject to the quarterly description of the plan and the name of the health insurance issuer.

"SEC. 2708B. DEFINITIONS AND SPECIAL RULES.

"(a) QUALIFIED ASSOCIATION.—For purposes of this subchapter, the term ‘qualified association’ means any organization which—

"(1) is organized in good faith by a trade association, an industry association, a professional association, a chamber of commerce, a religious organization, a public entity association, or other business association serving a common or similar industry;

"(2) is organized and maintained for substantial purposes other than to provide a health plan;

"(3) has a constitution, bylaws, or other similar governing document which states its purpose; and

"(4) receives a substantial portion of its financial support from its active, affiliated, or federation members.

"(b) COORDINATION.—The term ‘qualified association plan’ shall not include a plan which is organized and maintained for substantial purposes other than to provide a health plan and which is not fully insured (within the meaning of section 514(b)(6)(D)), the plan shall be treated as a qualified association plan only if—

"(1) the plan meets minimum financial solvency standards and reserves requirements for claims which are established by the Secretary and which shall be in lieu of any other such requirements under this chapter;

"(2) the plan appoints a plan sponsor who is responsible for operating the plan and ensuring compliance with applicable Federal and State laws.

"(c) CERTIFYING AUTHORITY.—(1) IN GENERAL.—A plan shall not be treated as a qualified association plan for any period unless there is in effect a certification by the Secretary that the plan meets the requirements of this subchapter. For purposes of this chapter, the Secretary shall be the appropriate certifying authority with respect to the plan.

"(2) FEES.—The Secretary shall require a $5,000 fee for the original certification under paragraph (1) and may charge a reasonable annual fee to cover the costs of processing and reviewing the annual statements of the plan.

"(3) EXPEDITED PROCEDURES.—The Secretary may by regulation provide for expedited registration, certification, and comment procedures.

"(4) AGREEMENTS.—The Secretary of Labor may enter into agreements with the States to carry out the Secretary's responsibilities under this subchapter.

"(d) AVAILABILITY.—Notwithstanding any other provision of this chapter, a qualified association plan may limit coverage to individuals who are members of the qualified association establishing or maintaining the plan, an employee of such member, or a dependent of either.

"(e) SPECIAL RULES FOR EXISTING PLANS.—In the case of a plan in existence on January 1, 2001, the Secretary shall require that the plan—

"(1) the requirements of subsection (a) (other than paragraphs (4), (5), and (6) thereof) shall not apply;

"(2) no original certification shall be required under this subchapter; and

"(3) no annual report or funding statement shall be required before January 1, 2003, but the plan shall be subject to the quarterly description of the plan and the name of the health insurance issuer.

"SEC. 2709C. SPECIAL RULE FOR CHURCH, MULTI-EMPLOYER, AND COOPERATIVE PLANS.

"(a) GENERAL RULE.—For purposes of this chapter, in the case of a group health plan to which this section applies—

"(1) except in the case of a plan otherwise provided in this subchapter, the plan shall be required to meet all applicable requirements of subchapter A and subchapter B for group health plans offered to single employers;

"(2) if such plan is certified as meeting such requirements, such plan shall be treated as a plan established and maintained by a small employer and individuals enrolled in such plan shall be treated as eligible employees; and

"(3) any individual eligible to enroll in the plan who does not enroll in the plan shall not be treated as an eligible employee solely by reason of being eligible to enroll in the plan.

"(b) MODIFIED STANDARDS.—(1) CERTIFYING AUTHORITY.—For purposes of this chapter, the Secretary shall be the appropriate certifying authority with respect to a plan to which this section applies.

"(2) AVAILABILITY.—Rules similar to the rules of subsection (e) of section 2706A shall apply to a plan to which this section applies.

"(3) ACCESS.—An employer which, pursuant to a collective bargaining agreement, offers an employee the opportunity to enroll in a plan described in subsection (c)(1) shall not be required to make any other plan available to the employee.

"(4) TREATMENT UNDER STATE LAWS.—A church plan described in section 3(10) which is certified as meeting the requirements of this section shall not be deemed to be a multiple employer welfare arrangement or an insurance company or other insurer, or to be engaged in the business of insurance, for purposes of any State law purporting to regulate insurance companies or insurance contracts.

"(c) PLANS TO WHICH SECTION APPLIES.—This section shall apply to a health plan which—

"(1) is a church plan (as defined in section 3(10) of the Internal Revenue Code of 1986) which has at least 100 participants in the United States;

"(2) is a multiemployer plan which is maintained by a health plan sponsor described in section 3(10)(B)(ii) of the Employee Retirement Income Security Act of 1974 and which has at least 500 participants in the United States;

"(3) is a plan maintained by a religious organization or a rural telephone cooperative association and which has at least 500 participants in the United States.

"(b) CONFORMING AMENDMENTS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg-91(d)) is amended by adding at the end the following:

"(15) ELIGIBLE EMPLOYEE.—The term ‘eligible employee’ means, with respect to an employer plan, the employer plan's CEO and any person who normally performs on a monthly basis at least 30 hours of service per week for that employer.

"(16) ELIGIBLE INDIVIDUAL.—The term ‘eligible individual’ means, with respect to an eligible employee, any person to whom such employee is the dependent of such employee.

"(17) NAIC.—The term ‘NAIC’ means the National Association of Insurance Commissioners.

"SEC. 2709D. QUALIFIED GROUP HEALTH PLAN.—The term ‘qualified group health plan’ shall have the meaning given the term in section 2707.

"SEC. 403. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.

"The first subpart 3 of part 20 of title XXVII of the Public Health Service Act (42 U.S.C. 300g-51 and seq.) is amended—

"(1) by redesignating such subpart as subpart 2; and

"(2) by adding at the end the following:

"SEC. 2753. APPLICABILITY OF GENERAL INSURANCE MARKET REFORMS.

"The provisions of chapter 2 of part 20 of part A shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

"SEC. 404. EFFECTIVE DATE.

"The amendments made by this subtitle shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated on or after January 1, 2002.

Subtitle B—Tax Provisions

SEC. 411. ENFORCEMENT WITH RESPECT TO HEALTH INSURANCE ISSUERS.

"(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end the following:

"SEC. 4980F. FAILURE OF INSURER TO COMPLY WITH CERTAIN STANDARDS FOR HEALTH INSURANCE COVERAGE.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed a tax on the failure of a health insurance issuer to comply with the requirements applicable to such issuer—

"(A) chapter 2 of part 20 of title XXVII of the Public Health Service Act;

"(B) section 2733 of the Public Health Service Act; and


"(b) EXEMPTION.—Paragraph (1) shall not apply to a failure by a health insurance issuer in a State if the Secretary of Health and Human Services determines that the failure has in effect a mechanism that provides adequate sanctions with respect to such failure by such an issuer.

"(c) AMOUNT OF TAX.—

"(1) IN GENERAL.—Subject to paragraph (2), the amount of the tax imposed by subsection (a) shall be $100 for each day during which such failure persists for each person to whom such failure relates. A rule similar to the rule of section 4898D(b)(3) shall apply for purposes of this section.

"(2) LIMITATION.—The amount of the tax imposed by subsection (a) for a health insurance issuer with respect to health insurance coverage shall not exceed 25 percent of the amounts received under the mechanism for coverage during the period such failure persists.

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(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the health insurance issuer issuing the health insurance coverage.

(2) LIMITATIONS ON AMOUNT OF TAX.—

(1) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

(A) such failure was due to reasonable cause and not to willful neglect, and

(B) such failure is corrected during the 30-day period (or such period as the Secretary may determine appropriate) beginning on the first date the health insurance issuer knows, or exercising reasonable diligence could have known, that such failure existed.

(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

(e) DEFINITIONS.—For purposes of this section, the terms ‘‘health insurance coverage’’ and ‘‘health insurance issuer’’ have the meanings given such terms in section 2709A of the Public Health Service Act and section 733 of the Employee Retirement Income Security Act of 1974.

(b) CONFORMING AMENDMENT.—The table of sections for such chapter 43 is amended by adding the following new section:

‘‘Sec. 4980F. Failure of insurer to comply with certain standards for health insurance coverage.’’.

SEC. 412. ENFORCEMENT WITH RESPECT TO SMALL EMPLOYERS.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to excise taxes on certain group health plans) is amended by inserting after section 5000 the following new section:

‘‘Sec. 5000A. Employer Medicare requirements.

(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any small employer to comply with the requirements applicable to such employer under—

(1) subchapter C of chapter 2 of part 2 of title XXVII of the Public Health Service Act;

(2) section 2753 of the Public Health Service Act; and

(3) section 2761 of the Public Health Service Act.

(b) AMOUNT OF TAX.—(1) The tax imposed by section 2761 shall be $100 for each month that the small employer fails to comply with the requirements applicable to such employer under this section.

(2) The tax imposed by section 2753 shall be $250 for each month that the small employer fails to comply with the requirements applicable to such employer under this section.

(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the qualified association or plan.

(d) LIMITATIONS ON AMOUNT OF TAX.—(1) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

(A) such failure was due to reasonable cause and not to willful neglect, and

(B) such failure is corrected during the 30-day period (or such period as the Secretary may determine appropriate) beginning on the first date the health insurance issuer knows, or exercising reasonable diligence could have known, that such failure existed.

(2) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

(b) CONFORMING AMENDMENT.—The table of sections for such chapter 47 is amended by adding the following new section:

‘‘Sec. 5000A. Employer Medicare requirements.’’.

SEC. 413. ENFORCEMENT BY EXCISE TAX ON QUALIFIED ASSOCIATIONS.

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans), as amended by section 411, is amended by adding at the end the following new section:

‘‘Sec. 4980G. Failure of qualified associations, etc., to comply with certain standards for health insurance coverage.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—There is hereby imposed a tax on a failure of a qualified association (as defined in section 4203) or plan maintained by a rural telephone cooperative association (as defined in section 4203) to comply with certain standards for health insurance coverage.

(2) LIMITATIONS ON AMOUNT OF TAX.—(A) The tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved, is amended by inserting after section 5000 the following new section:

‘‘Sec. 5000A. Employer Medicare requirements.

(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any small employer to comply with the requirements applicable to such employer under—

(1) subchapter C of chapter 2 of part 2 of title XXVII of the Public Health Service Act;

(2) section 2753 of the Public Health Service Act; and

(b) section 2761 of the Public Health Service Act;

(3) section 2761 of the Public Health Service Act.

(b) AMOUNT OF TAX.—(1) The amount of the tax imposed by subsection (a) shall be $100 for each month that the small employer fails to comply with the requirements applicable to such employer under this section.

(b) CONFORMING AMENDMENT.—The table of sections for such chapter 43 is amended by adding the following new section:

‘‘Sec. 4980F. Failure of insurer to comply with certain standards for health insurance coverage.’’.

SEC. 414. DEHEDITION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) FULL DEDUCTION IN 2002.—The table contained in section 162(f)(1)(B) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended—

(1) by striking ‘‘2001’’ and inserting ‘‘2002’’;

(2) by striking ‘‘2002’’ and all that follows; and

(3) by adding at the end the following:

‘‘2002 and there- after .................................. 100.’’.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

Title XXVIII—Cobras

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) LOWER COST COVERAGE OPTIONS.—Subparagraph (A) of section 4980B(f)(2) of the Internal Revenue Code of 1986 (relating to continuation coverage requirements of group health plans) is amended to read as follows:

‘‘(A) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided—

(i) is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred,

(ii) is so identical, except such coverage is offered with an annual $1,000 deductible, and

(iii) except such coverage is offered with an annual $3,000 deductible.

If coverage under the plan is modified for any of group similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this subsection in connection with such group.’’.

(2) TERMINATION OF COBRA COVERAGE AFTER ELIGIBLE FOR EMPLOYER-BASED COVERAGE FOR 90 DAYS.—Clause (ii) of section 4980B(c)(2)(B) of the Internal Revenue Code of 1986 (relating to period of coverage) is amended—

(A) by striking ‘‘or’’ at the end of subclause (1);

(B) by redesigning subclause (2) as subclause (III); and

(C) by inserting after subclause (I) the following:

‘‘(III) ELIGIBLE for such employer-based coverage for more than 90 days, or’’.

(3) REDUCTION OF PERIOD OF COVERAGE.—Clause (i) of section 4980B(c)(2)(B) of the Internal Revenue Code of 1986 (relating to period of coverage) is amended by striking ‘‘18 months’’ each place it appears and inserting ‘‘24 months’’.

(4) CONTINUATION COVERAGE FOR DEPENDENT CHILD.—Clause (i) of section 4980B(c)(2)(B) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

‘‘(VI) SPECIAL RULE FOR DEPENDENT CHILD.—In the case of a qualifying event described in paragraph (3)(E), the date that is 36 months after the date on which the dependence of the covered individual to be a dependent child under the plan.’’.

(b) AMENDMENTS TO EMPLOYER RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) LOWER COST COVERAGE OPTIONS.—Subparagraph (A) of section 408A(b)(1)(B) of the Internal Revenue Code of 1986 (relating to coverage requirements of group health plans) is amended to read as follows:

‘‘(A) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided—

(i) is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred,
(B) is so identical, except such coverage is offered with an annual $1,000 deductible, and

(C) is so identical, except such coverage is offered with an annual $3,000 deductible.

If coverage under the plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this subsection in connection with such group.

(2) TERMINATION OF COBRA COVERAGE AFTER ELIGIBILITY FOR EMPLOYER-BASED COVERAGE FOR 90 DAYS.—Subparagraph (D) of section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(D)) (relating to period of coverage) is amended by striking “18 months” each place it appears and inserting “24 months”.

(4) CONTINUATION COVERAGE FOR DEPENDENT CHILD.—Subparagraph (A) of section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) (relating to period of coverage) is amended by adding at the end the following:

“(v) SPECIAL RULE FOR DEPENDENT CHILD.—In the case of a qualifying event described in section 2203(5), the date that is 36 months after the date on which the dependent child of the covered employee ceases to be a dependent child under the plan.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring after the date of enactment of this Act.

TITLE V—PRIMARY AND PREVENTIVE CARE SERVICES

SEC. 501. IMPROVEMENT OF MEDICARE PREVENTIVE CARE SERVICES.

(a) WAIVER OF COINSURANCE FOR SCREENING AND DIAGNOSTIC MAMMOGRAPHY.—(1) IN GENERAL.—Section 1395l(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)), as amended by section 223(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106-554), is amended—

(A) by striking “(U)” and inserting “(U’);” and

(B) by striking the semicolon at the end and inserting the following: “;” and (V) with respect to screening mammography (as defined in section 1861(j)) and diagnostic mammography, 100 percent of the payment basis determined under section 1868;

(2) WAIVER OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—The third sentence of section 1869(a)(2)(A) of the Social Security Act (42 U.S.C. 1395l(a)(2)(A)) is amended by adding the following after the semicolon:

“(D) with respect to screening mammography (as defined in section 1861(j)) and diagnostic mammography.”;

(b) COVERAGE OF INSULIN PUMPS.—(1) INCLUSION AS ITEM OF DURABLE MEDICAL EQUIPMENT.—Section 1861(n) of the Social Security Act (42 U.S.C. 1395l(n)) (relating to Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106-554), is amended—

(A) by striking “(V)” and inserting “(V’);” and

(B) by striking the semicolon at the end and inserting the following: “;” and (W) with respect to services described in section 1861(nn)(2), 100 percent of the payment basis determined under section 1868;

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the first day of the first calendar quarter beginning on or after the date that is 6 months after the date of enactment of this Act.

SEC. 502. AUTHORIZATION OF APPROPRIATIONS FOR HEALTHY START PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—To enable the Secretary of Health and Human Services to carry out the Healthy Start program established under the authority of section 301 of the Public Health Service Act (42 U.S.C. 241), there are authorized to be appropriated $150,000,000 for fiscal year 2002, $150,000,000 for fiscal year 2003, $250,000,000 for fiscal year 2004, and $300,000,000 for each of the fiscal years 2005 through 2007.

(b) MODEL PROJECTS.

(1) IN GENERAL.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services shall reserve $50,000,000 for such fiscal year to be distributed to model projects determined to be eligible under paragraph (2).

(2) ELIGIBILITY.—To be eligible to receive funds under paragraph (1), a model project shall—

(A) have been one of the original 15 Healthy Start projects; and

(B) have been determined by the Secretary of Health and Human Services to have been successful in serving needy areas and reducing infant mortality.

(3) USE OF PROJECTS.—A model project that receives funding under paragraph (1) shall be utilized as a resource center to assist in the training of those individuals to be involved in the establishment and operation of similar projects. It shall be the goal of such projects to become self-sustaining within the project area.

(4) PROVISION OF MATCHING FUNDS.—In providing assistance under a model project, the Secretary of Health and Human Services shall ensure that—
(A) with respect to fiscal year 2002, the project shall make non-Federal contributions (in cash or in-kind) towards the costs of such project in an amount equal to not less than 50 percent of such costs; and

(B) with respect to fiscal year 2003, the project shall make non-Federal contributions (in cash or in-kind) towards the costs of such project in an amount equal to not less than 40 percent of such costs; and

(C) with respect to fiscal year 2004, the project shall make non-Federal contributions (in cash or in-kind) towards the costs of such project in an amount equal to not less than 30 percent of such costs.

(D) with respect to each of the fiscal years 2001 and 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2005.

(g) ICES BLOCK GRANT.—Section 1711 of the Children's Health Act (42 U.S.C. 247b(j)(1)), as amended by section 106 of the Children’s Health Insurance program Reauthorization Act of 2000 (Public Law 106-310), is amended by striking “$158,400,000” and inserting “$205,000,000.”

(h) PREVENTIVE HEALTH AND HEALTH SERVICES.—The word “and” is inserted after “children; and” in (A) of section 300z(a) of the Social Security Act (42 U.S.C. 300a) as amended by section 300z-1(a) and (b) of the Social Security Act (42 U.S.C. 701(a)).

(i) TUBERCULOSIS PREVENTION GRANTS.—Section 137(j)(1) of the Public Health Service Act (42 U.S.C. 248a(j)(1)), as amended by section 1711 of the Children’s Health Act of 2000 (Public Law 106-310), is amended by striking “$300,000” and inserting “$350,000.”

(j) MENTAL AND EMOTIONAL HEALTH.—Section 300n–1(c)(1) of the Public Health Service Act (42 U.S.C. 300n–1(c)(1)), as amended by section 106 of the Children’s Health Insurance program Reauthorization Act of 2000 (Public Law 106-310), is amended by striking “and $158,400,000” and inserting “$205,000,000.”

3. To disseminate information on the benefits to health education of utilizing a comprehensive health curriculum in schools.

4. AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 and 2004 to carry out this section.

SEC. 505. COMPREHENSIVE EARLY CHILDHOOD HEALTH EDUCATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to establish a comprehensive early childhood health education program.

(b) PROGRAM.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall conduct a program of awarding grants to agencies conducting Head Start training to enable such agencies to provide training and technical assistance to Head Start teachers and other child care providers. Such program shall—

(1) establish a training system through the Head Start agencies and organizations conducting Head Start training for the purpose of enhancing teacher skills and providing comprehensive early childhood health education curriculum;

(2) enable such agencies and organizations to provide training to day care providers in order to strengthen the early childhood workforce in providing health education;

(3) provide technical support for health education programs and curricula;

(4) provide cooperation with other early childhood providers to ensure coordination of such programs and the transition of students into the public school system;

(5) TRAINING FUND.—(A) Grant funds under this section may be used to provide training and technical assistance in the areas of—

(1) personal health and fitness;

(2) prevention of chronic diseases;

(3) prevention and control of communicable diseases;

(4) dental health;

(5) nutrition;

(6) substance use and abuse;

(7) accident prevention and safety;

(8) community and public health;

(9) mental and emotional health; and

(10) strengthening the role of parent involvement.

(c) RESERVATIONS FOR INNOVATIVE PROGRAMS.—The Secretary shall reserve 5 percent of the funds appropriated pursuant to the authority of subsection (e) in each fiscal year for the development of innovative model health education programs or curricula.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $40,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 and 2004 to carry out this section.

SEC. 506. ADOLESCENT FAMILY LIFE AND ABSTINENCE.

(a) DEFINITIONS.—Section 2002(a) of the Public Health Service Act (42 U.S.C. 300j–1(a)), is amended by inserting “and abstinence” after “adoption”.

(b) GEOGRAPHIC DIVERSITY.—Section 2005 of the Public Health Service Act (42 U.S.C. 300j–4) is amended—

(1) by redesigning subsections (b) and (c) as subsections (c) and (d), respectively; and

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

“(c) In applying for applications for grants for demonstration projects for services under...
this title, the Secretary shall, to the max-
imum extent practicable, ensure adequate repre-
sentation of both urban and rural areas.
(c) SIMPLIFIED APPLICATION PROCESS.—Sec-
tion 2006 of the Public Health Service Act (42
U.S.C. 300z-5) is amended by adding at the end following:
"(g) The Secretary shall develop and imple-
ment a simplified and expedited application
process for applicants seeking less than $15,000 of funds available under this title for a
demonstration project."
(d) AUTHORIZATION OF APPROPRIATIONS.—
Section 201(a) of the Public Health Service
Act (42 U.S.C. 300z-9) is amended to read as
follows:
"(a) For the purpose of carrying out this title,
there shall be appropriated $75,000,000 for each of the fiscal years 2002 through 2006.
TITLE VI—PATIENTS’ RIGHT TO DECLINE MEDICAL TREATMENT
SEC. 601. PATIENTS’ RIGHT TO DECLINE MEDICAL TREATMENT.
(a) Right To Decline Medical Treatment.—
(1) Rights of competent adults.—
(A) IN GENERAL.—Except as provided in
paragraph (B), a State may not restrict the right of an adult to consent to, or to decline, medical treatment.
(B) LIMITATIONS.—
(1) AUTHORIZED PARTIES.—A State may
impose limitations on the right of a com-
petent adult to decline treatment if such
limitations protect third parties (including
minor children) from harm or otherwise
promote the health or welfare of the adult;
(2) TREATMENT WHICH IS NOT MEDICALLY INDICATED.—Nothing in this subsection shall be
construed to require that any individual
be offered, or to state that any individual
may demand, medical treatment which the health
care provider does not have available, or
which is, under prevailing medical stand-
ards, futile or otherwise not medically indicated.
(2) Rights of incapacitated adults.—
(A) IN GENERAL.—Except as provided in
subparagraph (B) of paragraph (1), States
may not restrict the right of an incapacita-
ted adult to consent to, or to decline, medical
practice as exercised through the doc-
cuments described in section 6403 of title 42,
through similar documents or other written
methods of directive which evidence the adult’s treatment choices.
(B) ADVANCE DIRECTIVES AND POWERS OF AT-
norney.—
(i) IN GENERAL.—In order to facilitate the communication,
due to incapacity, of an adult’s wishes to the health care providers, the Secretary of Health and Human Services (referred to in
this section as the “Secretary”), in consulta-
tion with the Attorney General, shall de-
velop a national advance directive form that—
(1) shall not limit or otherwise restrict, ex-
cept as provided in subparagraph (B) of paragraph (1), States’ right to consent to, or to decline, medical treatment; and
(2) shall, at minimum,—
(aa) provide the means for an adult to
clarify his or her own treatment choices in the event of a terminal condition;
(bb) provide the means for an adult to
clarify, at such adult’s option, treatment
choices in the event of other conditions
which are medically incurable, and from
which such adult likely will not recover; and
(cc) provide the means by which an adult may,
by such adult’s option, declare such
adult’s wishes with respect to all forms of
medical treatment, including forms of med-
ical treatment such as the provision of nutri-
tion and artificial hydration by artificial means which
may be, in some circumstances, relatively
nonburdensome.
(ii) NATIONAL DURABLE POWER OF ATTORNEY FORM.—The Secretary, in consultation with
the Attorney General, shall develop a na-
tional durable power of attorney form for health care. The form shall
provide a means for any adult to designate
another adult or adults to exercise the same
decisionmaking powers which would other-
wise be exercised by the patient if the pa-
tient were competent.
(iii) HONORED BY ALL HEALTH CARE PROVIDERS.—The national advance directive and
durable power of attorney forms developed
by the Secretary shall be honored by all
health care providers.
(iv) LIMITATIONS.—No individual shall be
required to sign an advance directive. This
section makes no presumption con-
cerning the intention of an individual who has not executed an advance directive. An
advance directive shall be sufficient, but not
necessary, proof of an adult’s treatment
choices with respect to the circumstances
addressed in the advance directive.
(C) DEFINITION.—For purposes of this sub-
paragraph, the term “incapacity” means the in-
ability to understand or to communicate
with the ability to understand or to commu-
nicate, the term
incapaci-
ty
ment
without
with
with

on and after January 1, 2002.

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TITLE VII—PRIMARY AND PREVENTIVE CARE PROVIDERS
SEC. 701. INCREASED MEDICARE REIMBURSEMENT FOR PHYSICIAN ASSISTANTS, NURSE PRACTITIONERS, AND CLINICAL NURSE SPECIALISTS.
(a) FeR SCHEDULE AmOUNT.—Section 1861(a)(1)(O) of the Social Security Act (42
U.S.C. 1395l(a)(1)(O)) is amended by striking
“85 percent” and inserting “90 percent” each
place it appears.
(b) Technical Amendment.—Section 1861(a)(1)(O) of the Social Security Act (42
U.S.C. 1395l(a)(1)(O)) is amended by striking “clinical” and inserting “clinical”.
(c) Effective Date.—The amendments made by this section shall take effect on
services furnished and supplies provided on
and after January 1, 2002.
SEC. 702. REQUIRING COVERAGE OF CERTAIN NONPHYSICIAN PROVIDERS UNDER THE MEDICAID PROGRAM.

(a) In section 1905(a)(6) of the Social Security Act (42 U.S.C. 1396d(a)), as amended by section 301(c)(1), is amended—

(1) in paragraph (27), by striking “and” at the end; (b) by redesignating paragraph (28) as paragraph (29); and (c) by inserting after paragraph (27) the following:

``''(28) services furnished by a physician assistant, nurse practitioner, clinical nurse specialist (as defined in section 1861(aa)(5)), or certified registered nurse anesthetist (as defined in section 1861(bb)(2())); and''''

(b) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 301(c)(3), is amended by striking “and” (27)'' and inserting ``(27) and'' (c) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance furnished under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) beginning with the first fiscal year that begins after the date of enactment of this Act.

SEC. 703. MEDICAL STUDENT TUTORIAL PROGRAM GRANTS.

Part C of title VII of the Public Health Service Act (42 U.S.C. 293 et seq.) is amended by adding at the end thereof the following:

``''SEC. 749. MEDICAL STUDENT TUTORIAL PROGRAM GRANTS. (a) ESTABLISHMENT.—The Secretary shall establish a program to award grants to eligible schools of medicine or osteopathic medicine to enable such schools to provide medical students for tutorial programs or as participants in seminars designed to interest high school and college students in careers in general medical practice. (b) APPLICATION.—To be eligible to receive a grant under this section, a school of medicine or osteopathic medicine shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including assurances that the school will use amounts received under the grant in accordance with subsection (c). (c) USE OF FUNDS.—Amounts received under a grant awarded under this section shall be used to fund programs under which effective strategies are developed and implemented to recruit medical students interested in the practice of general medicine and placing such students into general practice positions upon graduation. (d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $25,000,000 for each of fiscal years 2002 through 2004, and such sums as may be necessary for fiscal years thereafter.''

TITLE VIII—SAFE AND COST-EFFECTIVE MEDICAL TREATMENT

SEC. 801. ENHANCED TRUST FUND FOR MEDICAL TREATMENT OUTCOMES RESEARCH.

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following:

``''SEC. 9811. TRUST FUND FOR MEDICAL TREATMENT OUTCOMES RESEARCH. (a) CREATION OF TRUST FUND.—There is established to the credit of the United States a trust fund to be known as the ‘Trust Fund for Medical Treatment Outcomes Research’ (referred to in this section as the ‘Trust Fund’), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9822(b). (b) TRANSFERS TO TRUST FUND.—There is hereby appropriated to the Trust Fund an amount equivalent to the taxes received in the Treasury under section 4491 (relating to health insurance policies). (c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—On an annual basis and without further appropriation to the Secretary, the Secretary shall distribute the amounts in the Trust Fund to the Secretary of Health and Human Services for use by the Agency for Healthcare Research and Quality. Such amounts shall be available to pay for research activities related to medical treatment outcomes and shall be in addition to any other amounts appropriated for such purposes. (2) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end thereof the following: ‘‘Sec. 9811. Trust Fund for Medical Treatment Outcomes Research.’’ (b) IMPOSITION OF TAX ON HEALTH INSURANCE POLICIES.—''''

(1) IN GENERAL.—Chapter 36 of the Internal Revenue Code of 1986 (relating to certain other excise taxes) is amended by adding at the end thereof the following:

``''Subchapter F—On Health Insurance Policies

Sec. 4991. Imposition of tax. Sec. 4992. Liability for tax. Sec. 4993. Imposition of tax. Sec. 4994. General Rule.—There is hereby imposed a tax equal to .001 cent on each dollar, or fractional part thereof, of the premium paid on a policy of health insurance. (2) CONFORMING AMENDMENT.—The table of subchapters for chapter 36 of such Code is amended by adding at the end thereof the following: ‘‘Subchapter F—Health insurance policies.’’ (3) EFFECTIVE DATE.—The amendments made by this section shall apply to policies issued after December 31, 2001. SEC. 802. MEDICAL ERRORS REDUCTION.

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(a) ESTABLISHMENT.—There is hereby established a program to reduce medical errors and, for purposes of this section, the term ‘medical errors’ means a preventable adverse event related to a health care intervention or a failure to intervene preventable adverse event related to the administration of a medication. (b) SAFETY.—The term ‘safety’ with respect to an individual means that such individual has a right to be free from preventable serious injury. (c) SENTINEL EVENT.—The term ‘sentinel event’ means an event or occurrence involving an individual that results in death or serious physical injury that is unrelated to the natural course of the individual’s illness underlying condition.

SEC. 922. ESTABLISHMENT OF STATE-BASED MEDICAL ERROR REPORTING SYSTEMS.

(a) IN GENERAL.—The Secretary shall make grants available to States to enable..."
such States to establish reporting systems designed to reduce medical errors and improve health care quality.

(b) REQUIREMENT.

(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), the State involved shall provide assurances to the Secretary that amounts received under the grant shall be used to establish and implement a medical error reporting system using guidelines (including guidelines relating to the confidentiality of the reporting system) developed by the Agency for Healthcare Research and Quality with input from interested, non-governmental parties including patient, consumer and health care provider groups.

(2) GUIDELINES.—Not later than 90 days after the date of enactment of this part, the Agency for Healthcare Research and Quality shall develop and publish the guidelines described in paragraph (1).

(c) DATA.—

(1) AVAILABILITY.—A State that receives a grant under subsection (a) shall make the data provided to the medical error reporting system available only to the Agency for Healthcare Research and Quality and may not otherwise disclose such information.

(2) CONFIDENTIALITY.—Nothing in this part shall be construed to supersede any State law that is inconsistent with this part.

(d) APPLICATION.—To be eligible for a grant under this section, a State shall prepare a plan for the Secretary and may not otherwise disclose such information.

SEC. 921. DEMONSTRATION PROJECTS TO REDUCE MEDICAL ERRORS, IMPROVE PATIENT SAFETY, AND EVALUATE REPORTING.

(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality in conjunction with the Administrator of the Health Care Financing Administration, may establish a program under which funding shall be provided for not less than 15 demonstration projects, to be competitively awarded, in health care facilities and organizations in geographically diverse locations, including rural and urban areas (as determined by the Secretary), to determine the causes of medical errors and to—

(1) use technology, staff training, and other best practices to reduce medical errors;

(2) develop replicable models that minimize the frequency and severity of medical errors;

(3) develop mechanisms that encourage reporting, prompt review, and corrective action with respect to medical errors; and

(4) develop methods to minimize any additional paperwork burden on health care professionals.

(b) ACTIVITIES.—

(1) IN GENERAL.—A health care provider participating in a demonstration project under subsection (a) shall—

(A) utilize all available and appropriate technologies to reduce the probability of future medical errors; and

(B) carry out other activities consistent with subsection (a).

(2) REPORTING TO PATIENTS.—In carrying out this section, the Secretary shall ensure that—

(A) 5 of the demonstration projects permit the voluntary reporting by participating health care providers of any adverse events, sentinel events, health care-related errors, or medication-related errors to the Secretary;

(B) 2 of the demonstration projects require participating health care providers to report any adverse events, sentinel events, health care-related errors, or medication-related errors to the Secretary; and

(C) 5 of the demonstration projects require participating health care providers to report any adverse events, sentinel events, health care-related errors, or medication-related errors to the Secretary and to the patient involved and a family member or guardian of the patient involved.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—The Secretary and the participating grantee organization shall ensure that the data reported under this section remains confidential.

(B) USE.—The Secretary may use the information reported under this section only for the purpose of reducing medical errors or medication-related errors to the Secretary and to the patient involved and a family member or guardian of the patient involved.

(C) DISCLOSURE.—The Secretary may not disclose the information reported under this section.

(D) NONDISMISSIBILITY.—Information reported under this section shall be privileged, confidential, shall not be admissible as evidence or discoverable in any civil or criminal action or proceeding or subject to disclosure, and shall not be subject to the Freedom of Information Act (5 U.S.C. App.). This paragraph shall apply to all information maintained by the reporting entity and the entities who receive information concerning the results of such demonstration projects.

(4) USE OF TECHNOLOGIES.—The Secretary shall encourage, as part of the demonstration projects conducted under subsection (a), the use of appropriate technologies to reduce medical errors, such as hand-held electronic prescription pads, training simulators for medical education, and bar-coding of prescription drugs and patient bracelets.

(5) DATABASE.—The Secretary shall provide, for demonstration projects conducted under subsection (a), the use of appropriate technologies to reduce medical errors, such as hand-held electronic prescription pads, training simulators for medical education, and bar-coding of prescription drugs and patient bracelets.

(6) EVALUATION.—The Secretary shall evaluate the progress of each demonstration project established under this section in reducing the incidence of medical errors and submit the results of such evaluations as part of the reports under section 926(b).

(7) REPORTING.—Prior to October 1 of the third fiscal year for which funds are made available under this section, the Secretary shall prepare and submit to the appropriate committees of Congress an interim report concerning the results of such demonstration projects.

(8) PATIENT SAFETY IMPROVEMENT.

(A) IN GENERAL.—The Secretary shall provide information to educate patients and family members about their role in reducing medical errors. Such information shall be provided to all individuals who participate in Federal health care programs.

(B) DISCLOSURE.—The Secretary shall develop programs that encourage patients to take a more active role in their medical treatment, including encouraging patients to provide information to health care providers concerning pre-existing conditions and medications.

(9) PRIVATE, NONPROFIT EFFORTS TO REDUCE MEDICAL ERROR.

(A) IN GENERAL.—The Secretary shall make grants to health professional associations and other organizations to provide training programs for health care professionals to identify medical errors, including curriculum development, technology training, and continuing medical education.

(B) APPLICATION.—To be eligible for a grant under this section, an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary shall require.

SEC. 926. REPORT TO CONGRESS.

(a) INITIAL REPORT.—Not later than 180 days after the date of enactment of this part, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the costs associated with implementing a program that identifies factors that contribute to errors and which includes upgrading the health care computer systems and other technologies in the United States in order to reduce those factors, including computerizing hospital systems for the coordination of prescription drugs and handling of laboratory specimens, and contains recommendations on ways in which to reduce those factors.

(b) OTHER REPORTS.—Not later than 180 days after the completion of all demonstration projects under section 921, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning—

(1) how successful each demonstration project was in reducing medical errors;

(2) the data submitted by States under section 922(c);

(3) the best methods for reducing medical errors;

(4) the costs associated with applying such best methods on a nationwide basis; and

(5) the manner in which other Federal agencies can share information on best practices in order to reduce medical errors in all Federal health care programs.

SEC. 927. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this part.

TITLE IX—TAX INCENTIVES FOR PURCHASE OF QUALIFIED LONG-TERM CARE INSURANCE

SEC. 901. CREDIT FOR QUALIFIED LONG-TERM CARE PREMIUMS.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 35A and by inserting after section 35 a new section 35 as follows:

SEC. 35. LONG-TERM CARE INSURANCE CREDIT.

(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit during the taxable year an amount equal to the applicable percentage of the premiums for a qualified long-term care insurance contract (as defined in section 36) paid during such taxable year for such individual or the spouse of such individual.

(b) APPLICABLE PERCENTAGE.—

(1) IN GENERAL.—For purposes of this section, the term ‘‘applicable percentage’’ means 28 percent reduced (but not below zero) by 1 percentage point for each $1,000 (or fraction thereof) by which the taxpayer’s adjusted gross income for the taxable year exceeds the base amount.

(2) BASE AMOUNT.—For purposes of paragraph (1), the term ‘‘base amount’’—

(A) except as otherwise provided in this paragraph, $25,000,

(B) $40,000 in the case of a joint return, and

(C) zero in the case of a taxpayer who—

(i) is married at the close of the taxable year (within the meaning of section 7701(b)) but does not file a joint return for such taxable year, and

(ii) does not live apart from the taxpayer’s spouse at all times during the taxable year.

(D) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—Any amount allowed as a credit
under this section shall not be taken into account under section 213.
(b) CONFORMING AMENDMENT.—The table of sections for such subparagraph C is amended by striking the item relating to section 339 and inserting the following:

"Sec. 339. Long-term care insurance credit.

Sec. 36. Overpayments of tax.
(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 902. INCLUSION OF QUALIFIED LONG-TERM CARE INSURANCE IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS

(a) CAFETERIA PLANS.—The last sentence of section 125(f) of the Internal Revenue Code of 1986 (defining qualified benefits) is amended by striking "shall not" and inserting "shall"
(b) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106(c) of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by inserting the following:

"(A) in paragraph (1), by striking "including and inserting "including;"
and

(b) in the heading, by striking "INCLUSION" and inserting "EXCLUSION".
(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 903. EXCLUSION FROM GROSS INCOME FOR AMOUNTS RECEIVED ON CANCELLATION OF CAFETERIA PLANS AND USED FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS

(a) IN GENERAL.—
(1) EXCLUSION FROM GROSS INCOME.—(A) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and by inserting after section 138 the following new section:

"SEC. 139. AMOUNTS RECEIVED ON CANCELLATION, ETC. OF LIFE INSURANCE CONTRACTS AND USED TO PAY PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE.

"(a) No amounts shall be includible in the gross income of an individual who has attained age 59 1/2 on or before the date of the transaction, and in the case of jointly held occupancy rights, which occurred after the date of such transaction if—

"(1) such individual has attained age 59 1/2 on or before the date of the transaction, and

"(2) there are any life insurance contracts purchased with respect to the individual and issued after the date of such transaction.

"(b) No amounts shall be includible in the gross income of an individual who has attained age 59 1/2 on or before the date of the transaction, and in the case of jointly held occupancy rights, which occurred after the date of such transaction if—

"(1) such individual has attained age 59 1/2 on or before the date of the transaction, and

"(2) there are any life insurance contracts purchased with respect to the individual and issued after the date of such transaction.

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

"(d) AMOUNTS.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

"(e) TRANSFERS TO FUND.—The amounts received in respect of the plan for such year shall be included in the gross income of the individual who received such amounts for inclusion in the gross income of such individual in the taxable year beginning after December 31, 2001.

"(f) AMOUNTS RECEIVED ON CANCELLATION AND USED TO PAY PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—The last sentence of section 125(f) of the Internal Revenue Code of 1986 (defining qualified benefits) is amended by striking "shall not" and inserting "shall"

"(g) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106(c) of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by inserting the following:

"(A) in paragraph (1), by striking "including and inserting "including;"
and

(b) in the heading, by striking "INCLUSION" and inserting "EXCLUSION".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 904. USE OF GAIN FROM SALE OF PRINCIPAL RESIDENCE FOR PURCHASE OF QUALIFIED LONG-TERM HEALTH CARE INSURANCE

(a) IN GENERAL.—Section 121 of the Internal Revenue Code of 1986 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following:

"(9) ELIGIBILITY OF HOME EQUITY CONVERSION SALE-LEASEBACK TRANSACTION FOR EXCLUSION.—

(A) IN GENERAL.—For purposes of this section, the term ‘sale or exchange’ includes a home equity conversion sale-leaseback transaction.

(B) HOME EQUITY CONVERSION SALE-LEASEBACK TRANSACTION.—For purposes of subparagraph (A), the term ‘home equity conversion sale-leaseback’ means a transaction in which—

"(i) the seller-lessee—

"(I) sells property during the 5-year period ending on the date of the transaction, and

"(II) uses a portion of the proceeds from such sale to purchase a qualified long-term care insurance contract (as defined in section 7702(b), which contract may not be surrendered for cash;

"(iii) obtains occupancy rights in such property pursuant to a written lease requiring a fair rental, and

"(IV) receives an option to repurchase the property at a price less than the fair market price of the property unencumbered by any leaseback at the time such option is exercised, and

"(ii) the purchaser-lessee—

"(I) is a person,

"(II) is contractually responsible for the risks and obligations applicable in the taxable year in which the individual receives the benefits of ownership (other than the seller-lessee’s occupancy rights) after the date of such transaction, and

"(III) pays an amount for the property that is not less than the fair market price of such property encumbered by a leaseback, and taking into account the terms of the leaseback, is at least 100 percent of the fair market price of such property after the date of such transaction.

(C) ADDITIONAL DEFINITIONS.—For purposes of subparagraph (B)—

(i) OCCUPANCY RIGHTS.—The term ‘occupancy rights’ means the right to occupy the property for any period of time, including a period of time measured by the life of the seller-lessee on the date of the sale-leaseback and the surviving seller-lessee, in the case of jointly held occupancy rights), or a periodic term subject to a continuing right of renewal by the seller-lessee (or by the surviving seller-lessee, in the case of jointly held occupancy rights).

(ii) FAIR RENTAL.—The term ‘fair rental’ means a rental for any subsequent year which equals or exceeds the rent for the 1st year of a sale-leaseback transaction.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales after December 31, 2001, in taxable years beginning after such date.

TITLE X—NATIONAL FUND FOR HEALTH RESEARCH

SEC. 1001. ESTABLISHMENT OF FUND

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ‘National Fund for Health Research’ (in this section referred to as the ‘Fund’), consisting of such amounts as are transferred to the Fund under subsection (b) and any amounts paid to the Secretary of Health and Human Services for the National Institutes of Health, the National Library of Medicine, the Office of Behavioral and Social Sciences Research, and the Office of AIDS Research.

(b) TRANSFERS TO FUND.—The Secretary of Health and Human Services shall transfer to the Fund amounts equivalent to amounts designated under paragraph (2) and received in the Treasury.

(2) AMOUNTS.—

(A) HEALTH PLAN SET ASIDE.—With respect to each calendar year beginning with the first full calendar year after the date on which this Act takes effect, each health plan shall set aside and transfer to the Secretary of Health and Human Services the amounts equal to—

(i) for the first full calendar year, 0.25 percent of all health premiums received with respect to the plan for such year;

(ii) for the second full calendar year, 0.5 percent of all health premiums received with respect to the plan for such year;

(iii) for the third full calendar year, 0.75 percent of all health premiums received with respect to the plan for such year;

(iv) for the fourth and each succeeding full calendar year, 1 percent of all health premiums received with respect to the plan for such year.

(3) TRANSFERS BASED ON ESTIMATES.—The amounts transferred by paragraph (1) shall annually be transferred to the Fund within 30 days after the Appropriations Act for the Departments of Labor, Health and Human Services, and Education, and related agencies, or by the end of the first quarter of the fiscal year. Proper adju stment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amount required to be transferred.

(4) DEFINITION.—As used in this subsection, the term ‘health plan’ means a group health plan (as defined in section 2791(a) of the Public Health Service Act) and any individual health insurance (as defined in section 2791(b)(2) of such Act) operated by a health insurance issuer.
in the same proportion to the total amount received under this section, as the amount of annual appropriations under appropriations Acts for each member institute and Centers for the National Institutes of Health, as the case may be, pursuant to allocation plans developed by the various advisory councils to such directors, in accordance with such directives.

(2) PLANS OF ALLOCATION.—The amounts transferred under paragraph (1)(D) shall be allocated by the Director of the National Institutes of Health, after consultation with such directors, for the various advisory councils to such directors, the institutes and centers, as the case may be, in accordance with such directives.

(3) GRANTS AND CONTRACTS FULLY FUNDED IN FIRST YEAR.—With respect to any grant or contract funded by amounts transferred under paragraph (1), the full amount of the total obligation of such grant or contract shall be funded in the first year of such grant or contract, and shall remain available until expended.

(4) TRIGGER AND RELEASE OF MONIES AND PHASE-IN.—

(A) TRIGGER AND RELEASE.—No expenditure shall be made under paragraph (1) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the previous fiscal year.

(B) PHASE-IN.—The Secretary of Health and Human Services shall phase-in the distribution required under paragraph (1) so that—

(i) 25 percent of the amount in the Fund is distributed in the first fiscal year for which funds are available;

(ii) 50 percent of the amount in the Fund is distributed in the second fiscal year for which funds are available;

(iii) 75 percent of the amount in the Fund is distributed in the third fiscal year for which funds are available; and

(iv) 100 percent of the amount in the Fund is distributed in the fourth and each succeeding fiscal year for which funds are available.

(d) BUDGET TREATMENT OF AMOUNTS IN FUND.—The amounts in the Fund shall be excluded from, and shall not be taken into account, for purposes of any budget enforcement procedure under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985.

HEALTH CARE ASSURANCE ACT OF 2001

SUMMARY

Title I: Expanded Medicaid Coverage for Low-Income Individuals

Current law only guarantees coverage for pregnant women and infants who earn up to 133% of the Federal poverty level ($11,105 for a single/$22,676 for a family of four). Beyond that population, the Federal mandate varies across age, income, and disability status; for instance, different federal mandates date for preschool age children than for school-age children and for disabled individuals. Further, current law does not allow any Federal support for coverage of children—up to 133% of the Federal poverty line, regardless of age or other status. States would then have the option, as they have under the State Child Health Insurance Programs (SCHIP), to cover individuals all the way up to 200% of the Federal poverty level ($36,700 for a single/$34,100 for a family of four). SCHIP, however, does not cover total counties which earn up to 133% of the Federal poverty line.

Title II: Expanded State Child Health Insurance Program

This title expands upon the State Child Health Insurance Program (SCHIP), the new program established in the Balanced Budget Act of 1997 which allocates $24 billion/five years to increase health insurance coverage for children. The SCHIP program gives States the option to use federally funded money to provide medical families to purchase health insurance for their children, or to expand Medicaid coverage for those uninsured children not covered under one of the Health Insurance Program for seniors. SCHIP would increase eligibility to families with incomes at or below 133% of the Federal poverty level ($10,585 annually for a family of four).

Title III: Expanded Health Services for Disabled Individuals

Expansion of Community-Based Attendant Care Services and Supports: Medicaid currently covers the costs associated with institutional care for disabled individuals. In an effort to improve the delivery of care and the comfort of those with long-term disabilities, this section would allow for reimbursement for community-based attendant care services and supports, instead of institutionalization, for eligible individuals who require such services. These services would be based, in part, on the individual’s age or the nature of the disability.

Title IV: General Health Insurance Coverage for Low-Income Individuals

Tax Equity for the Self-Employed: Under current law, self-employed persons may deduct 60% of their health insurance costs through 2002, and those costs would be fully deductible in 2003 and each succeeding fiscal year. Self-employed individuals may already deduct 100% of such costs. Title III would speed up the phase-in: health insurance costs currently 70% deductible in 2001 and fully deductible in 2002, thereby providing the currently 3.1 million self-employed Americans who are uninsured a better incentive to purchase coverage.

Small Employer and Individual Purchasing Groups: Establishes voluntary small employer and individual purchasing groups designed to provide affordable, comprehensive health care options for such employers, their employees, and other uninsured and underinsured individuals and families. Health plans offering coverage through such groups will: (1) provide a standard, actuarially equivalent benefits package; (2) adjust community rated premiums by age and family size to spread risk and provide price equity to all; and (3) meet certain other guidelines involving marketing practices.

Standard Benefits Package: The standard package of benefits would include a variation of benefits permitted among actuarially equivalent plans developed through the National Association of Insurance Commissioners (NAIC). The standard plan will consist of the following services when medically necessary or appropriate: (1) medical and surgical services; (2) medical equipment; (3) preventive services; and (4) emergency transportation in frontier areas.

COBRA for Low-Income Individuals: For those persons who are uninsured between jobs and for insured persons who fear losing coverage should they lose their jobs, Title III reforms the existing procedures under Title I by extending to 24 months the minimum time period in which COBRA may cover individuals through their former employer. It also extends to 36 months the time period in which a child who is no longer a dependent under a parent’s health insurance policy may receive coverage. It would extend COBRA to include plans with a lower premium and a $1,000 deductible—saving a typical family of four, $2,000 a year in premiums; and cover yearly pap smears, pelvic exams, and screening and diagnostic mammography for women, with no more than two mammograms per woman in any calendar year.

Title V: Primary and Preventive Care Services

New Medicare preventive Care Services: The health care community continues to recognize the importance of preventive care in improving health status and reducing health care costs. This provision institutes new preventive benefits within the Medicare program to reduce risk factors and prevent diseases. Under this provision, Medicare would cover yearly pap smears, pelvic exams, and screening and diagnostic mammography for women, with no more than two mammograms per woman in any calendar year. It would also cover insulin pumps for certain Type I Diabetics.

Primary Health and Education Assistance Programs: The Department of Health and Human Services administers many programs designed to increase access to primary and preventive care. This provision provides increased authorization for several existing preventive health programs such as breast and cervical cancer prevention, Healthy Start project grants aimed at reducing infant mortality and low birth weights and to improve the health and well-being of moth-
projects in rural and urban areas throughout the country. Of the 15 facilities participating in the demonstrations: 5 will be required to inform HHS of any medical errors, 5 will not be required to inform HHS of technical errors, and 5 will be required to inform HHS as well as the patient and/or his family of any medical errors.

The Secretary of HHS would be required to report to the Congress on the results of the demonstration projects, focusing on best practices and costs/benefits of applying these practices. These projects would employ new and proven technologies and enhance staff training to determine ways to reduce errors. The provision also requires the Secretary of HHS to provide patient education programs to all individuals covered by Federal health plans.

Title IX: Tax Incentives for Purchase of Qualified Long-Term Care Insurance

Increases access to long-term care by: (1) establishing a tax credit for amounts paid toward long-term care services of family members; (2) excluding life insurance savings used to pay for long-term care from income tax; (3) allowing employees to select long-term care insurance as part of a cafeteria plan and allowing employers to deduct this expense; (4) establishing standards that require long-term care to eliminate the current bias that favors institutional care over community-based alternatives.

Title X: National Fund for Health Research

Authorizes the establishment of a National Fund for Health Research to supplement biomedical research through the contributions of 1% of premiums collected by health insurers. Funds will be distributed to the National Institutes of Health’s member institutes and centers in the same proportion as the amount of appropriations they receive for the fiscal year.

31 HEALTH CARE BILLS INTRODUCED BY SENATOR ARLEN SPECTER

97TH CONGRESS 1/3/85 THROUGH 12/29
(2) S. 2051: The Health Care Cost Containment Act of 1983 (11/31/83)

98TH CONGRESS 1/3/85 THROUGH 12/27
(4) S. 1873: The Community Based Disease Prevention and Health Promotion Projects Act of 1985 (11/21/85)

100TH CONGRESS 1/7/97 THROUGH 10/21/98
(5) S. 281: The Aid to Families and Employment Transition Act (1/24/97)
(6) S. 1871: The Pediatric Acquired Immunodeficiency Syndrome (AIDS) Resource Centers Act (11/17/97)

102ND CONGRESS 1/3/91 THROUGH 1/20
(8) S. 896: The Pediatric AIDS Resource Centers Act (5/2/91)
(9) S. 1607: Authorization of the Office of Minority Health (9/12/90)
(10) S. 1067: The Change in Designation of Lancaster County, PA, for Purposes of Medicare Services (6/18/91)
(11) S. 3124: The Children’s Hospital of Philadelphia Medical Research Facility Act (10/23/91)

103RD CONGRESS 1/3/93 THROUGH 1/3/95
(12) S. 1122: The Long-Term Care Incentives Act of 1991 (11/21/91)
(13) S. 1214: The Long-Term Care Incentives Act of 1991 (11/21/91)
(14) S. 2026: The Women’s Health Equity Act of 1991 (11/22/91)

104TH CONGRESS 1/3/95 THROUGH 11/22/95
(15) S. 2292: Self-Funding of Veteran’s Ad- ministrative Health Care Act (11/22/91)
(16) S. 2188: Rural Veterans Health Care Facilities Act (2/5/92)
(17) S. 3176: The Health Care Affordability and Quality Improvement Act of 1992 (8/12/92)
(18) S. 3533: The Deferred Acquisition Cost Act (10/6/92)

105TH CONGRESS 1/3/97 THROUGH 12/31/97
(19) S. 18: The Comprehensive Health Care Act of 1993 (1/21/93)
(20) S. 631: The Comprehensive Access and Affordability Health Care Act (3/23/93)

106TH CONGRESS 1/3/99 THROUGH 10/31/99
(21) S. 18: The Health Care Affordability Act of 1995 (1/4/95)
(22) S. 1716: The Adolescent Family Life and Abstinence Education Act of 1996 (4/29/96)

107TH CONGRESS 1/3/97 THROUGH 10/31/99
(23) S. 24: The Health Care Affordability Act of 1997 (1/1/97)
(26) S. 999: Authorizing the Department of Veteran’s Affairs to Specify the Frequency of Screening Women (10/9/97)

108TH CONGRESS 1/3/99 THROUGH 12/13/01
(27) S. 24: The Health Care Affordability Act of 1999 (1/19/99)
(29) S. 1402: The Veterans Benefits and Health Care Improvement Act of 2000 (7/20/99)
(30) S. 1595: The Stem Cell Research Act of 2000 (1/31/00)
(31) S. 2038: The Medical Error Reduction Act of 2000 (2/3/00)

By Mrs. FEINSTEIN (for herself, Mr. SCHUMER, and Mrs. BOXER):

S. 25. A bill to provide for the implementation of a system of licensing for purchasers of certain firearms and for a record of sale system for those firearms, and for other purposes; to the Committee on the Judiciary.

FIREARM LICENSING AND RECORD OF SALE ACT OF 2001

Mrs. FEINSTEIN. Mr. President, last year on Mother’s Day, supporters of the Million Mom March, the largest rally in history by the hundreds of thousands to participate in the Million Mom March and say to Congress: “ Enough is Enough.” Those women, men and children all shared a common purpose: The passage of sensible gun laws—laws that will hopefully save lives.

The primary stated goal of the Million Mom March was to push for legislation to license gun owners and keep track of guns. We know it will be a long process, convincing the Congress and the public on this issue. But we will not give in until we succeed. So today I rise, along with Senators SCHUMER and BOXER, to reintroduce the “Firearm Licensing and Record of Sale Act,” which I believe represents a common-sense approach to guns and gun violence in America.

Mr. President, in this country, when you want to hunt, you get a hunting license; when you want to fish, you get a fishing license. But when you want to buy a gun, no license is necessary. That makes no sense.

We register cars and license drivers. We register pesticides and license ex- terminators. We register animal carriers and researchers. We register gambling devices. And we register a whole host of other goods and activities— even “international expositions” must be registered with the Bureau of International Expositions!

When it comes to guns and gun owners—no license and no registration, despite the loss of more than 32,000 lives a year from gun violence.

To this end, my staff and I worked for months with law enforcement officials and other experts in drafting the bill we introduced last year. And since that time, we have refined the bill, corrected some vague sections, and made it even more clear what the bill would do, and what it would not do.

Upon enactment of this legislation, anyone purchasing a handgun or semi-automatic weapon that takes detachable ammunition magazines will be required to have a license. Shotguns and a large number of common hunting guns are not covered by the requirements of this bill.

Current owners of these weapons will have up to 10 years to obtain a license, on a rolling basis, much like many states now handle drivers licenses.

The bill sets up a federal system, but allows states to opt out if they adopt a system at least as effective as the federal program.

Under this bill, anyone wishing to obtain a firearm license will need to go to a state-licensed firearms dealer. There are currently more than 100,000 such dealers across the country—to put that in some perspective, there are four times more gun dealers in America than there are McDonald’s restaurants in the entire world. Operating the federal licensing system through these licensed dealers will minimize the burden on those wishing to obtain a license.

If a state opts-out of the federal program, individual will go to a state-designated entity, like a local sheriff, local police department, or even Department of Motor Vehicles. It will all depend on where the state feels is best. Either way, the purchaser will then need to:

Provide information as to date and place of birth and name and address;
Submit a thumb print;
Submit a current photograph;
Sign, under penalty of perjury, that all of the submitted information is true; and that the applicant is qualified under Federal law to possess a firearm;
Pass a written firearms safety test, requiring knowledge of the safe storage and handling of firearms, the legal responsibilities of firearm ownership, and other factors as determined by the state or federal authority;
Sign a pledge to keep any firearm safely stored and out of the hands of juveniles (this pledge will be backed up by criminal penalties of up to three years in jail for anyone failing to do so);
Undergo state and federal background checks.
Licenses will be renewable every five years, and can be revoked at any time if the licensee becomes disqualified under federal law from owning or possessing a gun.

And Mr. President, the fee for a license cannot exceed $25.

Once the bill takes effect, all future sales and transfers of firearms falling within the scope of the bill will have to be recorded through a federally licensed, with an accompanying NICS background check. That way, law enforcement agencies will have easier access to information leading to the arrest of persons who use guns in crime.

The bill covers both handguns and other guns that are semi-automatic and can accept detachable magazines.

The legislation covers handguns because statistically, these guns are used in more crimes than any other. In fact, approximately 85 percent of all firearm homicides involve a handgun.

And the legislation also covers semi-automatic firearms that can accept detachable magazines, because these are the kinds of weapons that have the potential to destroy the largest number of lives in the shortest period of time.

A gun that can take a detachable magazine can also take a large capacity magazine. Combine that with semi-automatic, rapid fire, and you have a deadly combination—as we have seen time and again in recent years.

Put simply, this legislation will cover those firearms that represent the greatest threat to the safety of innocent men, women and children in this nation.

Common hunting rifles, shotguns and other firearms that cannot accept detachable magazines will remain exempt.

Penalties will vary depending on the severity of the violation. But in no case will gun owners face jail time simply because they forgot to get a license:

Those who fail to get a license will face fines of between $500 (for a first offense) and $5,000 for subsequent offenses.

Failing to report a change of address or the loss of a firearm will also result in penalties between $500 and $5,000, because this system works best for law enforcement when the perpetrators of gun crime can be quickly traced and arrested.

Dealers who fail to maintain adequate records will face up to 2 years in prison—dealers know their responsibilities, and this will give law enforcement the tools necessary to root out bad dealers and prevent the straw purchase of other violations of law that allow criminals easy access to a continuing flow of guns;

And adults who recklessly or knowingly allow a child access to a firearm face up to three years in prison if the child uses the gun to kill or seriously injure another person. In this way, the bill truly puts a new sense of responsibility onto gun owners in America.

Mr. President, law enforcement in California tells me that a licensing and record of sale system like the one I am introducing today will help law enforcement, upon recovery of a firearm used in crime, to track the gun down to the person who sold it, and then to the person who bought it.

And this legislation also sets in place a method through which we can better attempt to ensure that gun owners are responsible and trained in the use and care of their dangerous possessions.

We have tried to minimize the burden of this bill at every turn:

The licensing process will take place through federally licensed firearms dealers—as I mentioned earlier, there are currently more than 100,000 in this country;

The fee for a license will be only $25;

Current gun owners will have as many as ten years to get a license, on a rolling basis, and guns now in homes will not have to be registered;

Future gun transfers will simply be recorded by licensed dealers—as they are today, a system will be put in place to allow the quick tracing of guns used in crime. Gun owners themselves will not have to register their old guns or send any paperwork to the government;

This nation is awash in guns—there are more than 200 million of them in the United States. The problem of gun violence is not going away, and accidental deaths from firearms rob us of countless innocents each year.

Too many lives are lost every year simply because gun owners do not know how to use or store their firearms—particularly around children. In fact, according to a study released in 1999, in 1986 alone there were more than 1,100 unintentional shooting deaths and more than 18,000 firearm suicides; many of which might have been prevented if the person intent on suicide did not have easy access to a gun owned by somebody else. It is my hope that the provisions of this bill, particularly with regard to child access prevention, will begin the process of making it harder for children and others to gain easy access to firearms.

As I said, I know that this bill will not pass overnight. We have a long process of education ahead of us. But the American people are with us. The facts are with us. And common sense is with us.

I thank the Senate for its consideration of this measure, and I look forward to working with each of my colleagues to move this bill forward in the coming months.

I ask unanimous consent that the text 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. 25

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 “Firearm Licensing and Record of Sale Act of 2001.”

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—LICENSING

Sec. 101. Licensing requirement.
Sec. 102. Application requirements.
Sec. 103. Issuance of license.
Sec. 104. Renewal of license.
Sec. 105. Revocation of license.

TITLE II—RECORD OF SALE OR TRANSFER

Sec. 201. Sale and transfer requirements for qualifying firearms.

TITLE III—ADDITIONAL PROHIBITIONS

Sec. 301. Universal background check requirement.
Sec. 302. Failure to maintain or permit inspection of records.
Sec. 303. Failure to report loss or theft of firearm.
Sec. 304. Failure to provide notice of change of address.
Sec. 305. Child access prevention.

TITLE IV—ENFORCEMENT

Sec. 401. Criminal penalties.
Sec. 402. Regulations.
Sec. 403. Inspections.
Sec. 404. Orders.
Sec. 405. Injunctive enforcement.

TITLE V—FIREARM INJURY INFORMATION AND RESEARCH

Sec. 501. Duties of the Secretary.

TITLE VI—EFFECT ON STATE LAW

Sec. 601. Effect on State law.
Sec. 602. Certification of State firearm licensing and record of sale systems.

TITLE VII—RELATIONSHIP TO OTHER LAW

Sec. 701. Subordination to Arms Export Control Act.

TITLE VIII—INAPPLICABILITY

Sec. 801. Inapplicability to governmental authorities.

TITLE IX—EFFECTIVE DATE

Sec. 901. Effective date of amendments.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the manufacture, distribution, and importation of firearms is inherently commercial in nature;

(2) firearms regularly move in interstate commerce;

(3) firearms trafficking is so prevalent and widespread in and among the States that it is usually impossible to distinguish between intrastate trafficking and interstate trafficking;

(4) to the extent that firearms trafficking is intrastate in nature, it arises out of and is substantially connected with a commercial transaction, which, when viewed in the aggregate, substantially affects interstate commerce;

(5) because the intrastate and interstate trafficking of firearms are so commingled, full regulation of interstate commerce requires the incidental regulation of intrastate commerce; and

(6) it is in the national interest and within the role of the Federal Government to ensure that the regulation of firearms is uniform among the States, that law enforcement can quickly and effectively trace firearms used in crime, and that firearms owners know how to use and safely store their firearms.
purposes.—The purposes of this Act and the amendments made by this Act are—
(1) to protect the public against the unreasonable risk of injury and death associated with the possession, sale or transfer of qualifying firearms to criminals and youth;
(2) to ensure that owners of qualifying firearms are knowledgeable in the safe use, handling and storage of those firearms;
(3) to restrict the availability of qualifying firearms to criminals, youth, and other persons prohibited by Federal law from receiving firearms; and
(4) to facilitate the tracing of qualifying firearms used in crime by Federal and State law enforcement agencies.

SEC. 3. DEFINITIONS.
(a) IN GENERAL.—In this Act:
(1) F IREARM; LICENSED DEALER; LICENSED MANUFACTURER.—The terms ‘‘firearm’’, ‘‘licensed dealer’’, and ‘‘licensed manufacturer’’ have the meanings given those terms in section 921(a) of title 18, United States Code.
(2) QUALIFYING FIREARM.—The term ‘‘qualifying firearm’’ has the meaning given the term in section 921(a) of title 18, United States Code, as amended by subsection (b) of this section.
(b) SEC RETARY.—The term ‘‘Secretary’’ means the Secretary of the Treasury.

SEC. 4. STATE.—The term ‘‘State’’ means each of the several States of the United States and the District of Columbia.
(b) AMENDMENT TO TITLE 18, UNITED STATES CODE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

‘‘(a) IN GENERAL.—In this Act:
(1) F IREARM LICENSING REQUIREMENT. Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

‘‘(z) RECORD OF SALE OR TRANSFER.—Section 922 of title 18, United States Code, is amended by inserting after subsection (m) the following:

‘‘(1) REGULATIONS GOVERNING SUBMISSION.—The Secretary shall promulgate regulations specifying procedures for the submission of applications to the Secretary under this section, which regulations shall—
(1) provide for submission of the application through a licensed dealer or an office or agency of the Federal Government designated by the Secretary;
(2) require the applicant to provide a valid identification document as defined in section 103(c)(2) of title 18, United States Code (as added by section 2 of the Firearm Licensing and Record of Sale Act of 2001), which licensed individual;
(c) ESTABLISHMENT OF FEES.—An application submitted under paragraph (1) shall include—
(1) a current, passport-sized photograph of the applicant that provides a clear, accurate likeness of the applicant;
(2) the name, address, and date and place of birth of the applicant;
(3) any other name that the applicant has ever used or by which the applicant has ever been known;
(4) a clear thumb print of the applicant, which shall be made when, and in the presence of the entity to whom the application is submitted;
(5) with respect to each category of person prohibited by Federal law, or by the law of the State of residence of the applicant, from obtaining a firearm, a statement that the individual is not a person prohibited from obtaining a firearm; and
(6) a certification by the applicant that the applicant will keep any firearm owned by the applicant safely stored and out of the possession of persons who have not attained 18 years of age;
(7) a statement certifying to the completion at the time of application of a written firearms examination, which shall test the knowledge and ability of the applicant regarding—
(A) the safe storage of firearms, particularly in the vicinity of persons who have not attained 18 years of age;
(B) the safe handling of firearms;
(C) the use of firearms in the home and the risks associated with such use;
(D) the responsibilities of firearms owners, including Federal, State, and local laws relating to requirements for the possession and storage of firearms, and relating to reporting requirements with respect to firearms; and
(E) any other subjects, as the Secretary determines to be appropriate;
(8) the date on which the application was submitted; and
(9) the signature of the applicant.
(d) REQUIREMENTS OF APPLICATION.—The Secretary shall promulgate regulations specifying procedures for the submission of applications to the Secretary under this section, which regulations shall—
(1) provide for submission of the application through a licensed dealer or an office or agency of the Federal Government designated by the Secretary;
(2) require the applicant to provide a valid identification document as defined in section 103(c)(2) of title 18, United States Code (as added by section 2 of the Firearm Licensing and Record of Sale Act of 2001); and
(3) require that a completed application be forwarded to the Secretary not later than 48 hours after the application is submitted to the licensed dealer or office or agency of the Federal Government, as applicable.

(c) FEES.
(1) IN GENERAL.—The Secretary shall charge and collect from each applicant for a firearm license a fee of $25 for the first year after the date of enactment of the Firearm Licensing and Record of Sale Act of 2001, which license has not been validated or revoked under State law.
(2) APPLICABLE DATE.—In this subsection, the term ‘‘applicable date’’ means—
(A) with respect to a qualifying firearm that is acquired by the person on or after the date of enactment of the Firearm Licensing and Record of Sale Act of 2001, 10 years after such date of enactment; and
(B) with respect to a qualifying firearm that is acquired by the person on or after the date of enactment of the Firearm Licensing and Record of Sale Act of 2001, 1 year after such date of enactment.

SEC. 102. APPLICATION REQUIREMENTS.
(a) IN GENERAL.—In order to issue a firearm license under this title, an individual shall submit to the Secretary (in accordance with the regulations promulgated under subsection (b)) an application, which shall include—
(1) a current, passport-sized photograph of the applicant that provides a clear, accurate likeness of the applicant;
Title IV—Enforcement

Sec. 401. Criminal Penalties

(a) Failure to Possess Firearm License; Failure To Comply With Qualifying Firearm Sales or Transfer Requirements; Failure To Maintain or Permit Inspection of Records.—Section 922(a)(5) of title 18, United States Code, is amended by adding at the end the following:

'"(s) or (t)"'.

(b) Failure To Comply With Universal Background Checks; Failure To Timely Report Loss or Theft of a Qualifying Firearm; Failure To Provide Notice of Change of Address.—Section 922(a)(5) of title 18, United States Code, is amended by adding at the end the following:

'"(u)"'.

(c) Child Access Prevention.—Section 922(a)(5) of title 18, United States Code, is amended by adding at the end the following:

'"(v)"'.

Sec. 402. Regulations

(a) In General.—The Secretary shall issue regulations governing the licensing of possessors of qualifying firearms and the recorded sale of qualifying firearms, consistent with this Act and the amendments made by this Act, as the Secretary determines to be reasonably necessary to reduce or prevent deaths or injuries resulting from qualifying firearms, and to assist law enforcement in the prevention of the misappropriation of qualifying firearms used in criminal activity.

(b) Maximum Interval Between Issuance of Proposed and Final Regulation.—Not later than 120 days after the date on which the Secretary issues a proposed regulation under subsection (a) with respect to a matter, the Secretary shall issue a final regulation with respect to the matter.
TITLE VIII—INAPPLICABILITY OF ADJUSTMENTS AMENDED BY THIS ACT TO GOVERNMENTAL AUTHORITIES.

This Act and the amendments made by this Act do not apply to any department, agency of the United States, of a State, or of a political subdivision of a State, or to any official conduct of any officer or employee of such a department, agency, or political subdivision.

TITLE IX—EFFECTIVE DATE

SEC. 901. EFFECTIVE DATE OF AMENDMENTS.

The amendments made by this Act shall take effect 1 year after the date of enactment of this Act.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 26. A bill to amend the Department of Energy Authorization Act to authorize the Secretary of Energy to impose interim limitations on the cost of electric energy to protect consumers from unjust and unreasonable prices in the electric energy market; to the Committee on Energy and Natural Resources.

AMENDING THE DEPARTMENT OF ENERGY AUTHORIZATION ACT

Mrs. FEINSTEIN. Mr. President, I am pleased to introduce this bill today to address problems with the California energy market and the unwillingness of the Federal Regulatory Commission to take the necessary action.

Last week, the lights went off in California and the governor declared a state of emergency. More than 1 million homeowners throughout the state lost power. Computers shut off, ATMs stopped dispensing cash, traffic lights went dark, and heating went cold, jeopardizing public safety, the economy, and people’s lives.

The situation continues to worsen, and the prognosis for the future is dire. Unfortunately, the problem is not just limited to California. PG&E and Southern California Edison, our two largest blue chip utilities are on the brink of bankruptcy and have lost billions. California’s economy has also lost billions from work stoppages that seem to occur every single workday.

As goes California, so goes the rest of the country, I believe, California is the 6th largest economy in the world, already financial institutions and banks that have underwritten the debts of our utilities are being saddled with their own problems due to the uncertainty over whether they will be paid. Those who wonder that California deserts its present plight because of the state’s deregulation bill are near-sighted. California passed a very flawed de-regulation bill in 1996. It was flawed because it relied almost entirely on a free market and assumed that there will always be adequate energy supply. What has resulted is an uncompetitive market and an absence of adequate supply. I believe California shares a major responsibility here and I am encouraging the state legislature is beginning to take action. However, the federal government also has a major responsibility because the Federal Energy Regulatory Commission under the Federal Power Act holds the only authority over energy generators and marketers. The state cannot address this.

Unfortunately, the FERC, even after concluding that rates in California are ‘unjust and unreasonable,’ has failed to take the necessary action to solve the crisis. I am thus proposing legislation today to empower the Secretary of Energy to take the same action available to the FERC in instances when FERC has failed to take decisive action. Individual states would be able to opt out of any order from the Secretary as this bill is aimed at helping those states that need and want help.

I urge the Senate to take up and pass this bill as soon as possible.

By Mr. MCCAIN (for himself, Mr. FEINGOLD, Mr. COCHRAN, Mr. LEVIN, Mr. THOMPSON, Mr. LIEBERMAN, Ms. COLLINS, Mr. SCHUMER, Ms. SNOWE, Mr. WELLSTONE, Mr. JEFFORDS, Mr. REED, Mr. DURBIN, Mr. WYDEN, Mr. KOHL, Mrs. BOXER, Mr. HARKIN, Ms. STABENOW, and Mr. CANTWELL):

S. 27. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; to the Committee on Rules and Administration.

CAMPAIGN REFORM LEGISLATION

Mr. MCCAIN. Mr. President, today we confront yet again a very serious challenge to our political system, as dangerous in its debasing effect on our democracy as war and depression have been in the past. And it will take the best efforts of every public-spirited American to defeat it. We must overcome the cynicism that is growing rampant in our society. We must pass campaign reform legislation.

That is why first I want to thank our cosponsors for being here today. They are proof that momentum is on our side and that the will we will pass campaign reform legislation and finally follow the American people’s will on this issue is long overdue and I am hopeful that this year will present us with our best opportunity yet to achieve passage of meaningful campaign reform. Our legislation is simple, bi-partisan, and achieves three primary objectives that will go far to reform our electoral system.

The bill: Bans soft money for usage in federal elections; Requires increased disclosure of electioneering communications by so-called independent organizations in a constitutional and clear manner (the Snowe-Jeffords language); and Codifies the Supreme Court’s Buckley decision, a court decision that was ignored by the previous Clinton Administration and now, under this Act, a decision which would be strictly enforced.

After one of the closest elections in our nation’s history, there’s one thing the American people know they want—-they want their government back. We can to that by ridding politics of large, unregulated contributions of energy; reducing money’s role in our democracy; and increasing participation in the civic process by all who have a stake in the political system.
that give special interests a seat at the table while average Americans are stuck in the back of the room. The Senate needs to act early on campaign finance reform so we can achieve meaningful reform and restore the public's confidence in the system. This is not a perfect bill. It does not attempt to solve all the evils that plague our campaign system. But we will not let perfect be the enemy of progress. We expect amendments to be offered, discussed and debated, and we hope that many of those amendments will be constructive and add to our efforts. We look forward to that kind of positive debate.

Second, whatever bill passes, it must treat our corporate and union constituencies alike. We must resist any measures that skew this bill in favor of any one group. The soft money ban in this bill affects both corporations and unions.

And for my Republican friends, I want to emphasize again, if this bill passes, the $100,000-plus union soft money checks to the Democratic Party will no longer exist. According to the Washington Post, the biggest donor of soft money checks to the Democratic Party for the election cycle was $6.3 million. Passage of this bill will end this practice once and for all.

The key to our success now lies with a fair and open debate on this subject. In the past, we have been denied any constructive debate on this matter. I am hopeful that Senators LOTT and DASCHLE and the co-sponsors of the bill can construct a fair and comprehensive bill that will allow the Senate to take up and consider numerous amendments, work its will, and craft legislation that can and will be signed into law by the President. That is now our singular goal. And I am confident it can be achieved.

Mr. President, I hope we can soon take up and pass this crucial legislation.

Mr. FEINGOLD. Mr. President, I am very pleased to once again introduce a campaign reform bill with my friend and colleague, the Senator from Arizona. This year we have an important new cosponsor, the senior Senator from Mississippi, Senator Thad Cochran, so this bill will be known as the McCain-Feingold-Cochran campaign reform bill.

This is the fourth Congress in which Senator McCaIN and I have introduced a bill. We have made progress each year, moving closer to finishing the job for the American people. The time for campaign finance reform to pass the Congress and become law has now come, Mr. President. And Senator McCain and I are going to dedicate ourselves to this issue like never before to make it happen.

The bill we are introducing today is broader than S. 1593, the bill we took to the floor in October 1999, but narrower than S. 26, the McCain-Feingold bill that was introduced in the beginning of the last Congress. Our bill this year consists of a soft money ban, the Snowe-Jeffords language on issue ads, the new law on Internet and radio and TV ads, and a few other provisions that will provide credibility to this reform bill as it's passed into law. Very significant in my mind is a clear prohibition on political fundraising in federal office buildings. This is a reform, but we are ready and willing to entertain the suggestions and proposals of all 98 other Senators. Each of us in this body is an expert on this issue, and I know that many of my colleagues have innovative ideas on how to improve our election laws. Any amendment that adds to this bill in a positive way and doesn't undercut its basic principles will be given every consideration.

On provision on which we will not compromise is the ban on soft money. The bill here is as tough and comprehensive as possible, leaving no room for the soft money abuses we have seen in the last decade. Obviously, loopholes will develop over time, but I am satisfied that this bill closes all soft money loopholes and system down and anticipates at least some of the clever schemes that might be developed to avoid the ban. In the last election cycle, we saw over $500 million in soft money raised by the political parties. This system is a scandal that we must eliminate now.

The bill includes the Snowe-Jeffords language on issue ads. This provision will have a major impact on labor union ads, but it is fair and balanced between unions and corporations. It will have minimal impact on established advocacy groups like National Right to Life and the Sierra Club because they have a significant small donor base, but it will prevent corporations and advocacy groups from laundering money through such groups. It allows groups to continue to run these ads as long as they use only individual money and disclose the large donors to the effort. The provision covers only phony issue ads on radio and TV, not direct mail, phone banks, or newspapers, or the Internet, but we are open to working with all sides to work out a fair and balanced way to broaden its coverage if that is what the Senate wants to do.

Similarly, we are open to proposals that will require additional disclosure of election related spending by unions, corporations, and advocacy groups. But they must treat all players in this system evenly and fairly.

That brings me to the issue that has received a lot of attention in recent weeks, so called “paycheck protection.” In the past, this has been a poison pill to reform, but with the changes in the Senate, we clearly have the votes to defeat the extreme and one-sided “paycheck protection” proposals that have been offered in the past. We will hold the President and those working with him to the standard that he himself has enunciated any proposal has to be fair and balanced. Our bill is currently fair and balanced. It treats unions and corporations equally. The paycheck protection proposals we have seen in the past are not fair and balanced. There is only one player in the election system labor unions.

Mr. President, I look forward to a real debate early this year, not only on our bill but on amendments that my colleagues want to offer. I am happy to meet with any Senator who wants to discuss a reform proposal. If we all work together, this process can yield a campaign reform bill that we will be proud of, and we can start out this new Congress by cleaning up our elections and ridding our system of the corrupting of soft money.

Mr. McCaIN. Mr. President, Senator Feingold and I and others—a bipartisan group of Senators and friends from the House, Congressman Shays and Congressman Meehan—just had a press conference announcing our intentions. I don't intend to make a statement, except to express my deep and sincere appreciation for my partner, Senator Feingold, who someday will be written about in another book called profiles in courage for his willingness to stand up to the special interests at a time when his own candidacy was at risk if he did not do so. Thank Senator Feingold, and I look forward to continuing to work together on this issue. I believe we see a light at the end of the tunnel, which is an old phrase from the Vietnam war, uttered by one of our civilian leaders during that war. I remind Senator Feingold that when told of that, a soldier in the field said, “Yes, the light at the end of the tunnel is a train.” We hope that is not the case in this particular scenario.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized. Mr. McCaIN. Mr. President, I thank the Senator from Arizona for his kind remarks. I am happy to be back with him on this effort. As John McCain has said many times, we know that every Member of the Senate is an expert on this issue. Every Member has ideas about how we should reform the campaign finance system. What we want out of this is an opportunity for an open amending process so the Senate as a whole can fashion a bill to send to the President. Congressman Shays and Congressman Meehan and the President.

Mr. McCaIN. I ask unanimous consent that the bill be left open for further cosponsors throughout the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin has the floor.

Mr. Feingold. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. CoCHRAIN. Mr. President, I am pleased to join my friends from Arizona and from Wisconsin in introducing the McCain-Feingold-Cochran bill today. They have worked very hard and very
effectively bring the attention of not only the Senate but the American people to bear on this issue and this important need for reform. I am convinced that we are well advised to take this legislation up at an early date in this Congress.

The impressions of the last election are fresh on everybody’s mind. One that sticks with me very strongly is that candidates were overwhelmed in this process by the expenditures of soft money by groups buying ads, some attacking, some supporting, without the American public knowing who these groups were, what their goals and intentions were, where the money was coming from, or how it was being spent. That has to be corrected, and it ought to be corrected.

The purpose of the campaign finance laws was to let the American people know from where the money was coming, how it was being used, how much money was being raised by the candidates, how they were spending it, without the American public knowing who these groups were, what their goals and intentions were, where the money was coming from, or how it was being spent. That has to be corrected, and it ought to be corrected.

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Mr. GRAMM. Mr. President, along with Senator KAY BAILEY HUTCHISON, I am introducing legislation today which will ensure that active duty military personnel and their dependents will never lose their right to vote in Federal, State, and local elections. The Military Voting Rights Act of 2001 will guarantee that those men and women who protect our freedom are not denied one of the basic rights upon which that freedom is based.

I initially introduced this legislation in response to an outrageous case in my home state of Texas in which a federal district court, in a suit brought under federal law and supported by federal tax dollars, threw out 800 absentee ballots cast by military personnel in two closely-contested local elections in Val Verde County. While a state court ultimately restored the military votes, the case clearly demonstrated that military personnel who are away from their legal residence on official orders are at risk of losing their right to vote. In fact, based upon current statistics compiled by the Congressional Research Service and the Department of Defense, nearly 500,000 active duty personnel on official orders are residents of states that have no specific legislative provisions protecting their fundamental right to vote in state and local elections.

As the Val Verde County case demonstrates, absent specific legislative protection, valid absentee votes cast by military personnel will be ripe targets for attack by those seeking to overturn the results of close elections. I find it unconscionable that American military personnel who stand ready to fight and die for our nation, risk losing their right to vote as a consequence of their military service. To protect our military personnel from any such injustice, I again introduce this legislation in the Senate and ask my colleagues to support its immediate passage. Those Americans who volunteer to protect our freedom by serving in our Armed Forces should not be denied the right to vote in any election.

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. 28  
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 "Military Voting Rights Act of 2001".  

SEC. 2. GUARANTEE OF RESIDENCY.  
Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. 700 et seq.) is amended by adding at the end the following:  
"SEC. 701. (a) For purposes of voting for an office of the United States, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—  
"(1) be deemed to have lost a residence or domicile in that State;  
"(2) be deemed to have acquired a residence or domicile in any other State; or  
"(3) be deemed to have become resident in or a resident of any other State.  

(b) In this section, the term 'State' includes a territory or possession of the United States, the political subdivision of a State, territory, or possession, and the District of Columbia."

SEC. 3. STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.  
(a) REGISTRATION AND BALLOTING.—Section 102 of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 19731-f) is amended—  
  (1) by inserting "(a) ELECTIONS FOR FEDERAL OFFICES."—before "Each State shall—"; and  
  (2) by adding at the end the following:  
"(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall—  
"(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for State and local offices; and  
"(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State official not less than 30 days before the election."  

(b) CONFORMING AMENDMENT.—The heading for title I of such Act is amended by striking out "FOR FEDERAL OFFICE".

By Mr. BOND (for himself, Mr. DURBIN, Mr. BAUCUS, Ms. SNOWE, Mr. KERRY, Mr. JEFFORDS, Mr. RUSSELL, Mr. DORGAN, Mr. HARKIN, Mrs. LINCOLN, Mr. LEAHY, Mr. JOHNSON, Mr. FITZGERALD, Mr. WELLSTONE, and Mr. BINGAMAN):  
S. 28  
A bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals; to the Committee on Finance.
the kind of health insurance coverage they should have.

This measure also corrects another inequity in the law affecting self-employed who try to provide health insurance for themselves, their families, and their employees. It deals with an issue I raised in the last Congress.

Under the current law, the self-employed lose all the health insurance deduction if they are eligible to participate in another plan, whether or not they actually participate. This provision affects self-employed individuals such as Steve Hagan in my hometown of Mexico, MO. Steve is a financial planner who runs his own small business. Although he has a group medical plan for his employees, Steve cannot deduct the medical cost of covering himself or his family simply because his wife is eligible for health insurance through her employer.

The inequity is clear. Why should he be able to deduct the cost of health insurance for his employees but not for himself and his family? What if the insurance available through his wife’s employer does not meet the needs of their family?

Besides being patently unfair, this is also an enormous trap for the unwary. Imagine the small business owner who learns that she can now deduct 60 percent of her health insurance costs this year, and with the extra deduction, she can finally afford a group medical plan for her employees.

Then later in the year, her husband gets a new job that offers health insurance. Suddenly, her self-employed health insurance deduction is gone. Sadly, she is left with two choices. She can bear the entire burden of her family’s coverage, or she can terminate the insurance coverage for all her employees, which will likely increase due to coverage of fewer employees under the plan. The Tax Code should not force small businesses into this “no win” situation when they try to provide insurance coverage for their employees and themselves.

This bill eliminates this problem by clarifying that the self-employed health insurance deduction is limited only if the self-employed person actually participates in a subsidized health insurance plan offered by a spouse’s employer or through a second job. It is simply a matter of fairness. It makes common sense. We ought to take this step right now.

It is a commonsense measure that answers the urgent plea of small businesses for fairness in the Tax Code. It has been on the “must do” list of the national small business groups for too long. And when I host the National Women’s Small Business Summit this past summer, in Kansas City, it was at the top of the list among the recommendations we received.

We have a tremendous opportunity to work together let’s take this opportunity and finish the job.

I had initially offered a list of 21 original cosponsors. I ask unanimous consent that, in addition to those cosponsors, the following Senators be added: The Senator from Wyoming, Mr. ENZI; the Senator from Indiana, Mr. LUGAR; the Senator from Kansas, Mr. ROBERTS; the Senator from Maine, Ms. COLLINS; the Senator from Pennsylvania, Mr. SPECTER; the Senator from Wisconsin, Mr. KOHL.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent the bill and a description of its provisions be printed in the RECORD.

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

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 “Self-Employed Health Insurance Fairness Act of 2001”.

SEC. 2. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(1)(A) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer’s spouse, and dependents.

(b) CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.—The first sentence of section 162(1)(B) of the Internal Revenue Code of 1986 is amended to read as follows: “Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4) of the Internal Revenue Code of 1986) for employees of such employer.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

S. 29—SELF-EMPLOYED HEALTH INSURANCE FAIRNESS ACT OF 2001—DESCRIPTION OF PROVISIONS

The bill amends section 162(1)(A) of the Internal Revenue Code to increase the deduction for health-insurance costs for self-employed individuals to 100% beginning on January 1, 2001. Currently, the self-employed can only deduct 65 percent of their health-insurance costs and is not scheduled to reach 100% until 2003, under the provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998, which was signed into law in October 1998. The bill is designed to place self-employed on an equal footing with large businesses, which can currently deduct 100% of the health-insurance costs for all of their employees.

The bill also corrects a disparity under current law that bars a self-employed individual from deducting any of his or her health-insurance costs if the individual is eligible to participate in another health-insurance plan. This provision affects self-employed individuals who are eligible for, but do not participate in, a health-insurance plan offered through a second job or through a spouse’s employer. That insurance plan may not be adequate for the self-employed and the provision prevents the self-employed from deducting the costs of insurance policies that do meet the specific needs of their families. In addition, this provision provides a significant disincentive for self-employed employers to provide group health insurance for their employees. The bill ends this disparity by clarifying that a self-employed person loses the deduction only if he or she actually participates in another health-insurance plan.

Mr. DURBIN. Mr. President, I rise today with my colleague from Missouri, to introduce “The Self-Employed Health Insurance Fairness Act of 2001”, as our first order of business for the 107th Congress. We have been working on this issue for many years now and are hopeful that we can finally get the bill fully enacted this year. In past years, we have each introduced very similar bills and this year we are combining our efforts by introducing this bipartisan bill, which we intend to pursue vigorously throughout this Congress.

This bill would allow the self-employed to take a full tax deduction for their health insurance premiums as of December 31, 2000. Corporations already can take a full deduction for these expenses and this bill would level the playing field by allowing the self-employed to take the same full deduction. This bill would mean that the farmer and the agribusiness would be treated the same.

Under current law, the self-employed may only deduct 60 percent of their health insurance premiums this year. The self-employed have had an increase to 70 percent in 2002 and 100 percent in 2003. I am committed to seeing the self-employed receive equal treatment sooner rather than later.

The self-employed pay over 30 percent more for their health insurance than those insured by group health plans. This makes it much harder for them to afford health insurance. More than 22 percent of the self-employed were without health insurance in 1999, compared to 17.5 percent of workers. That means that 4.8 million self-employed Americans went without health insurance in 1999.

In Illinois, 17 percent of the self-employed were without health insurance in 1999. That number dropped from 14 percent in 1996. The vast majority of these individuals are members of low-income working families. Fifty-three percent of the self-employed living on less than $20,000 in Illinois are without health insurance. This compares with 34 percent of other Illinois working families with the same low income level. Almost 50 percent of those self-employed individuals who were without health insurance at some
time during 1965, went without health insurance for the entire year. In comparison, 62 percent of government workers saw their lack of coverage end within 4 months or less.

Overall, the self-employed pay more for health care and are therefore more likely to be uninsured, and they remain uninsured longer than other workers. This is exacerbated by their unequal treatment by the tax code. Congress should move expeditiously to level the playing field and help more hard-working, self-employed individuals and their families afford the health insurance that they need and deserve.

Mr. BAUCUS. Mr. President, I rise today, as an original cosponsor of S. 29, the Self-Employed Health Insurance Fairness Act of 2001, to speak about the importance of making health insurance a more affordable option for self-employed Americans. The legislation moves forward by two years—the effective date for making health insurance fully deductible for self-employed taxpayers. In the early 1990s, I authored bills to ensure that the deduction for health insurance that encourages Americans to purchase health insurance is one of the things they would most like to be able to afford. It is the right thing to do.

My small business and self-employed constituents constantly tell me that purchasing health insurance is one of the things they would most like to be able to afford and that the right to choose whether their financial information belongs to the individual. To help alleviate the concerns of American consumers, I am introducing legislation that would give customers the right to choose whether their financial institutions should be allowed to transfer data for unintended uses.

This bill seeks to protect a fundamental right of privacy for every American who entrusts his or her highly sensitive and confidential financial information to a financial institution. Every American should have the opportunity to say “no” if he or she does not want that nonpublic information disclosed. Every American should have the right to have especially sensitive information held by his or her financial institution kept confidential unless consent is given. Every American should be able to make certain that the information is accurate and, if it is not, have it corrected. And, put quite simply, these rights should be enforced.

The Financial Information Privacy Protection Act of 2001 would accomplish these objectives.

Today’s technology makes it easier, faster, and less costly than ever for institutions to have immediate access to large amounts of customer information; to analyze that data; and to sell or transfer that information to nonfinancial institutions. With the passage of financial services modernization legislation in 1999, banks, securities firms and insurance firms are now allowed to affiliate and offer their multiple products to each other’s customers. As a result, many financial institutions are warehousing large amounts of sensitive information and sharing it throughout the affiliate structure without the customer’s fully informed consent. That financial information being disclosed or the purposes for which it will be used. While cross-marketing can bring new and beneficial products to receptive consumers, it can also result in unwanted invasions of personal privacy.

Surveys have consistently shown that the public is widely concerned about its privacy. For example, a recent AARP survey found that 96 percent of respondents were unwilling to let a company freely share their financial information with other financial companies. The survey also asked, “(w)ho owns financial information provided in a business transaction?” and 93 percent of respondents answered that the information belongs to the “customer” while 8 percent answered that it belongs to the “business” and 3 percent said they did not know.

Congress has already protected citizens’ privacy on prior occasions. In response to public concerns, Congress passed privacy laws restricting companies’ disclosure of customer information without customer consent, such as in the Cable Communications Policy Act and the Video Privacy Protection Act. Yet while video rentals and cable television selections are prohibited by law from being disclosed, millions of Americans cannot object to disclosure of their financial transactions to their financial institutions’ affiliates and certain other financial companies for purposes inconsistent with those for which they gave their data.

Other important privacy concerns, such as the privacy of bankruptcy court records, fall outside of this bill. Last week, the Clinton administration published a study “Financial Privacy in Bankruptcy” with important recommendations that I believe are worthwhile. I commend the Administration for its many efforts to protect individuals’ right to privacy.

Along with medical records, financial records rank among the kinds of personal data Americans most expect will be highly confidential. However, the privacy of even highly sensitive financial information has been increasingly put at risk with the move to an economy in which the selling or sharing of consumers’ personal information is highly profitable—and legal.

The Financial Information Privacy Protection Act of 2001 contains key financial privacy protections that are consistent with the expectations of Americans and good business practices. The Act would provide consumers with:

- An “opt out” for affiliate sharing, allowing customers to object to financial institutions sharing their financial data with all affiliated firms.
An 'opt in' for sharing some types of sensitive financial or medical information. A financial institution would need to have a consumer's affirmative consent before releasing his or her medical information or personal spending habits (e.g., credit card charges, check payees) to either an affiliate or an unaffiliated third party.

Rights of access and correction. A consumer would be able to see the information to be released and correct material errors. To preclude abuse of this protection, the bill allows the institution to charge for access to this information.

The Gramm-Leach-Bliley Act, enacted in November 1999, contains some limited Federal financial privacy protections for consumers. While an important beginning, these protections fail to meet the expectations of Americans. It does not contain the important protections that I have just referred to. Many groups have criticized the current law as inadequate. I agree.

A number of consumer groups, including Consumers Union, Consumer Federation of America, Consumer Action, Privacy Times, United Auto Workers and U.S. Public Interest Research Group, have stated their support of this bill. Mr. President, I would ask that their letter of endorsement be included at the end of my remarks. Professor Peter Swire, Professor of Law at Ohio State University and formerly the Clinton Administration's Chief Counselor for Privacy, has said: "The bill is carefully crafted to provide the protections for the most sensitive financial information. At the same time, the bill helps create an efficient financial system by allowing the use of information in situations where the risk to privacy is minimal."

The issue of Federal financial privacy cuts across philosophical lines.

For example, Mrs. Phyllis Schlafly and the Eagle Forum have spoken out for financial privacy protections even stronger than those contained in this bill. She has written, "Some banks shamelessly admit they profile their customers so the bank can advise tele-marketers which products a customer might like. But why should banks be able to make secret profits off of customers' personal information such as deposits, checks, phone numbers or credit card numbers? Many of us don't want to be solicited by any tele-marketers."

Columnist William Safire has written frequently about the need for stronger privacy protections. For instance, in an editorial in the New York times of October 30, 2000, Mr. Safire pointed out that many people are concerned about financial records, and other records, "being passed around by conglomer-
Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) is amended—

(a) requiring that each financial institution 
shall disclose to a consumer any information assembled by the financial institution, in a particular matter, that is materially incomplete or inaccurate.

(b) preventing a financial institution from disclosing to a consumer any information that is materially incomplete or inaccurate.

(c) requiring that each financial institution, in a particular matter, shall disclose to a consumer any information that is materially incomplete or inaccurate.

(d) requiring that each financial institution, in a particular matter, shall disclose to a consumer any information that is materially incomplete or inaccurate.

(e) requiring that each financial institution, in a particular matter, shall disclose to a consumer any information that is materially incomplete or inaccurate.

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(z) requiring that each financial institution shall disclose to the consumer any information assembled by the financial institution, in a particular matter, that is materially complete or inaccurate.
(A) bring an action on behalf of the residents of the State to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction; and

(B) bring an action on behalf of the residents of the State to enforce compliance with this subtitle, to obtain damages, restitution, or other compensation on behalf of the residents of such State, or to obtain such further and other relief as the court may deem appropriate.

(2) NOTICES BY FEDERAL AGENCIES.—The State shall serve prior written notice of any action commenced under paragraph (1) upon the Attorney General and the Federal Trade Commission, and shall provide the Attorney General and the Commission with a copy of the complaint; provided that, if such prior notice is not feasible, the State shall serve such notice immediately upon instituting such action. The Attorney General and the Federal Trade Commission shall have the right—

(A) to move to stay the action, pending the final disposition of a pending Federal matter as described in paragraph (4);

(B) to intervene in an action under paragraph (1);

(C) upon so intervening, to be heard on all matters arising thereunder; and

(D) to remove the action to the appropriate United States district court; and

(E) to file petitions for appeal.

(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the attorney general or such of the banking agencies authorized by such State to bring such actions, from exercising the powers conferred on the attorney general or such officers of the laws of such State to conduct investigations, make reports under paragraph (1) of subsection (a), or to compel the attendance of witnesses or the production of documentary and other evidence.

(4) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Attorney General has instituted a criminal proceeding or the Federal Trade Commission has instituted a civil action for a violation of this subtitle, no State may, during the pendency of such proceeding or action, bring an action under this section against any defendant named in such criminal proceeding or civil action for any violation of this subtitle that is alleged in that proceeding or action."

SEC. 8. ENHANCED DISCLOSURE OF PRIVACY NUMBERS.

Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) is amended in subsection (e) (as so redesignated by section 5 of this Act) to add—

SEC. 9. LIMIT ON DISCLOSURE OF ACCOUNT NUMBERS.

Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) is amended in subsection (e) (as so redesignated by section 5 of this Act) to add—

SEC. 10. GENERAL EXCEPTIONS.

Section 502(f) of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) (as so redesignated by section 5 of this Act) is amended—

SEC. 11. DEFINITIONS.

In this Act—

DEFINITIONS.—Sec.

SEC. 12. ISSUANCE OF IMPLEMENTING REGULATIONS.

(a) IN GENERAL.—The Federal agencies specified in section 509(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6809(a)) shall prescribe regulations implementing the amendments to subtitle A of title V of the Gramm-Leach-Bliley Act made by this Act, and shall include such requirements determined to be appropriate to prevent their circumvention or evasion.

(2) COORDINATION, CONSISTENCY, AND COMPARABILITY.—The regulations issued under subsection (a) shall be issued in accordance with the requirements of section 509(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6809(a)), except that the deadline in section 509(a)(3) shall not apply.

SEC. 13. FTC RULEMAKING AUTHORITY UNDER THE FAIR CREDIT REPORTING ACT.

Section 621(e) of the Fair Credit Reporting Act (15 U.S.C. 1681(e)) is amended by adding at the end the following new paragraph:

DEAR SENATOR SARBANES: We are writing in support of the intrusions of the Financial Information Privacy Act of 2001. If passed this legislation will correct many of the shortcomings of the Gramm-Leach-Bliley Act. The Financial Privacy Act of 2001 has significant improvement for consumers by requiring financial institutions to obtain a consumer’s consent before sensitive financial and medical data is shared. Exposing privacy protections to the sharing of information among affiliated companies, and allowing consumers to have access to the information about them that is held by financial institutions.

The GLB’s privacy provisions are grossly inadequate. Mere notice that data is being collected with a limited ability of consumers to prevent the sharing of personal data—one that is riddled with loopholes—fail to provide the privacy protections that American consumers want and deserve. Instead of protecting personal privacy, GLB protects the ability of the financial services industry to collect and use personal information about their customers with virtually no restrictions.

As personal privacy continues to erode, it is vital that consumers be given strong privacy protection. The current trend of favoring financial institutions over their customers with virtually no restrictions leads to the conclusion that is riddled with loopholes is inadequate. Mere notice that data is being collected with a limited ability of consumers to prevent the sharing of personal data—one that is riddled with loopholes—fail to provide the privacy protections that American consumers want and deserve. Instead of protecting personal privacy, GLB protects the ability of the financial services industry to collect and use personal information about their customers with virtually no restrictions.


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Privacy is one of our most vulnerable rights in the information age. Digitalization of information offers tremendous benefits but also new threats. Some in Congress are content to punt the privacy issue down the field for another day or for another generation. People know that the longer we dawdle, the harder it will be to halt the erosion of privacy. A year is an eternity in the digital age.

The right of privacy is a personal and fundamental right protected by the Constitution of the United States. But today, the American people are growing more and more concerned over encroachments on their personal privacy. To return personal financial privacy to those of us who could require, this legislation would create the following rights in Federal law.

New Right To Opt-out of Information Sharing By Affiliates. The new financial modernization law permits consumers to say no to information sharing, selling or publishing among third parties in many cases, but not among affiliated firms. The Financial Information Privacy Protection Act of 2001 would require financial firms to get the affirmative consent (opt-out) of consumers before a firm could gain access to medical information within a financial conglomerate or share detailed information about a consumer’s previous habits.

New Right For Consumers To Opt-In For Sharing of Medical Information and Personal Spending Habits. The Financial Information Privacy Protection Act of 2001 would require financial firms to provide consumers with notice and opt-in notices before sharing their financial information with third parties and affiliates.

New Right To Access and Correct Financial Information. The Financial Information Privacy Protection Act of 2001 would give consumers the right to review and obtain their financial records, just like consumers today may review and correct their credit reports.

New Right To Privacy Policy Up Front. The Financial Information Privacy Protection Act of 2001 would require financial firms to provide their privacy policies to consumers before committing to a customer relationship, not after. In addition, the bill’s new rights would be enforced by federal banking regulators, the Federal Trade Commission and state attorney generals.

Unfortunately, if you have a checking account, you may have a financial privacy problem. Your bank may sell your personal information about who you are writing checks to, when, and for how much. And even if you tell your bank to stop it, they may ignore you under current law. This legislation returns to consumers the power to stop the selling or sharing of personal financial information.

Americans ought to be able to enjoy the exciting innovations of this burgeoning information era without losing control over the use of their financial information. The Financial Information Privacy Protection Act of 2001 updates United States privacy laws to provide these fundamental protections of personal financial information in the evolving financial industry. I urge my colleagues to support it.

By Mr. CAMPBELL:

S. 31. A bill to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period; to the Committee on Finance.

ESTATE AND GIFT TAX RATE REDUCTION ACT OF 2001

Mr. CAMPBELL. Mr. President, today I reintroduce a bill that I feel is of vital importance to farmers and family business owners, the Estate and Gift Tax Rate Reduction Act of 2001.

This bill is based on legislation I introduced in the 106th Congress and the 107th Congress. In the 105th Congress adjourned before we could debate and pass this bill and President Clinton vetoed similar legislation during the 106th Congress. Since then, I have heard from numerous Coloradans and National organizations and am fully aware that the problems the bill would correct still exist. In fact, I have heard from hundreds of Coloradans and constituents from other states regarding this burdensome and overreaching tax. I believe that eliminating this tax is a fundamental issue of fairness. Death should not be an event government prosper from.

Estate and gift taxes remain a burden on American families, particularly those who pursue the American dream of owning their own business. That is because family-owned businesses and farms are hit with the highest tax rate when they are handed down to descendants—often immediately following the death of a loved one. Families ought to be encouraged, not discouraged, from building successful farms, ranches and businesses and keeping the ownership of those enterprises within the families that worked to make them successful.

These taxes, and the financial burdens and difficulties they create come at the worst possible time. Making a terrible situation worse is the fact that the rate of this estate tax is crushing, reaching as high as 55 percent for the highest bracket. That’s higher than the highest income tax rate bracket of 39 percent. Furthermore, the tax is due as soon as the business is turned over to the heir, allowing no time for financial planning or the setting aside of money to pay the tax bills. Estate and gift taxes right now are one of the leading reasons why the number of family-owned farms and businesses are declining; the burden of this tax is just too much to bear.

This tax sends the troubling message that families should either sell the business while they are still alive, in order to spare their descendants this huge tax after their passing, or run down the value of the business, so that...
it won’t make it into the higher tax brackets. This is not how America was built. Private investment and initiative have historically been a strong part of our American heritage and we should encourage those values, not tax successful family businesses into submission.

That is why I again introduce this bill and will fight for its passage during the 107th Congress. It will gradually eliminate this tax by phasing it out—reducing the amount of the tax 5% each year, beginning with the highest rate bracket of 55%, until the tax rate reaches zero. Several states have already adopted similar plans, and I believe we ought to follow their example.

We need to change the message we are sending to farmers and family business owners. Leading organizations agree, and have continuously endorsed this legislation. In fact, over 100 organizations, like the National Federation of Independent Business and the Farm Bureau, have joined together to form the Family Business Estate Tax Coalition, which strongly endorsed this bill during the 106th Congress.

Mr. President, this tax should be eliminated across the board, and I ask my colleagues to help in working to achieve that goal.

I ask unanimous consent that this bill be printed in the Record.

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

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

SEC. 1. SHORT TITLE.
This Act may be cited as the “Estate and Gift Tax Rate Reduction Act of 2001”.

SEC. 2. FINDINGS.
The Congress finds and declares that—
(1) estate and gift tax rates, which reach as high as 55% in the case of a decedent’s taxable estate, are in most cases substantially in excess of the tax rates imposed on the same amount of regular income and capital gains income; and
(2) a reduction in estate and gift tax rates to a level more comparable with the rates of tax imposed on regular income and capital gains income will make the estate and gift tax less confiscatory and mitigate its negative impacts on American families and businesses.

SEC. 3. PHASEOUT OF ESTATE AND GIFT TAXES.
(a) REPEAL OF ESTATE AND GIFT TAXES.—Subtitle B of the Internal Revenue Code of 1986 (relating to estate and gift taxes) is repealed in respect to estates of decedents dying, and gifts made, after December 31, 2011.

(b) PHASEOUT OF TAX.—Subsection (c) of section 2001 of such Code (relating to imposition and rate of tax) is amended by adding at the end the following new paragraph:

“(3) PHASEOUT OF TAX.—In the case of estates of decedents dying, and gifts made, during any calendar year after 2001 and before 2012—

(A) IN GENERAL.—The tentative tax under this subchapter shall be determined by using a table prescribed by the Secretary (in lieu of using the table contained in paragraph (1)) which is the same as such table; except that—

(i) each of the rates of tax shall be reduced (but not below zero) by the number of percentage points determined under subparagraph (B), and

(ii) the amounts setting forth the tax shall be adjusted to the extent necessary to reflect the adjustments under clause (1);

(B) PERCENTAGE POINTS OF REDUCTION.—

The number of percentage points determined under subparagraph (B), and—

The number of percentage points is:

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<tr>
<th>Year</th>
<th>Points</th>
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<tr>
<td>2002</td>
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<td>2003</td>
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<td>2004</td>
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<td>2010</td>
<td>13%</td>
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<td>2011</td>
<td>14%</td>
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(c) EFFECTIVE DATE:—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2001.

By Mr. THURMOND:
S. 32. A bill to amend title 26, United States Code, to clarify the remedial jurisdiction of inferior Federal courts; to the Committee on the Judiciary.

JUDICIAL TAXATION PROHIBITION ACT

Mr. THURMOND. Mr. President, I rise today to introduce legislation to prohibit Federal judges from imposing a tax increase as a judicial remedy. It has always been my firm belief that Federal judges exceed the boundaries of their limited jurisdiction under the Constitution when they order new taxes or order increases in existing tax rates.

The Founding Fathers clearly understood that taxation was a role for the legislative branch and not the judicial branch. Article I of the Constitution lists the legislative powers, one of which is that “the Congress shall have the power to lay and collect taxes.” Article III establishes the judicial powers, and the power to tax is nowhere contained in Article III.

The Federalist Papers are also clear in this regard. In Federalist No. 48, James Madison explained that “the legislative branch alone has access to the pockets of the people.” In Federalist No. 78, Alexander Hamilton stated, “The judiciary . . . has no influence over . . . the purse, no direction either of the strength or of the wealth of the society, and can take no active resolution whatever.”

In 1990, in the case of Missouri v. Jenkins, five members of the Supreme Court stated in dicta that although a Federal judge could not directly raise taxes, he could order the local government to raise taxes. There is no difference between a judge raising taxes and a judge ordering a legislative official to raise taxes. I am hopeful that, if the issue were directly before the Court today, he could order the local government to raise taxes. There is no difference between a judge raising taxes and a judge ordering a legislative official to raise taxes. I am introducing the Judicial Taxation Prohibition Act, which would prohibit judges from raising taxes. I have introduced it in every Congress since the Supreme Court’s misguided decision was issued, and I intend to do so until it is corrected. This legislation is essential to affirm the separation of powers.

There is a simple reason why this distinction between the branches of government is so important and must remain clear. The legislative branch is responsible to the people through the democratic process. However, the judicial branch is composed of individuals who are not elected and have life tenure. By design, the members of the judicial branch do not depend on the popular vote for the people to hold them accountable to the people. They simply have no business setting the rate of taxes the people must pay. For a judge to order that taxes be increased amounts to taxation without representation. It is entirely contrary to the understanding of the Founding Fathers.

The phrase “taxation without representation” recalls an important time in American history that is worth remembering. In some parts of the Constitu- tion can best be understood by referencing the era in which it was adopted.

Not since Great Britain’s ministry of George Grenville in 1765 have the Americans faced the assault of taxation without representation as now authorized in the Jenkins decision. As part of his imperial reforms to tighten British control in the colonies, Grenville pushed the Stamp Act through the Parliament in 1765. This Act required excise duties to be paid by the colonists in the form of revenue stamps affixed to a variety of legal documents. This action came at a time when the colonies were in an uproar over the Sugar Act of 1764 which levied duties on certain imports such as sugar, indigo, coffee, and linens.

The ensuing firestorm of debate in America centered on the power of Britain to tax the colonies. James Otis, a young Boston attorney, echoed the opinion of most colonists stating that the parliament did not have power to tax the colonies because Americans had no representation in that body. Mr.
Otis had been attributed with the statement in 1761 that “taxation without representation is tyranny.”

In October 1765, delegates from nine states were sent to New York as part of the Stamp Act Congress to protest the new law. It is during this time that John Adams wrote to one of the representatives that “we have always understood it to be a grand and fundamental principle * * * that no free man shall be subject to any tax to which he has not given his own consent, in person or by proxy.” A number of resolutions were adopted by the Stamp Act Congress protesting the acts of Parliament. One resolution stated, “It is inseparably essential to the freedom of a people * * * that no taxes be imposed on them, but with their own consent, given personally or by their representatives.” The resolutions concluded that the Stamp Act had a “manifest tendency to subvert the rights and liberties of the colonists.”

Opposition to the Stamp Act was vehement throughout the colonies. While Grenville’s successor was determined to repeal the law, the social, economic, and political climate in the colonies brought on the American Revolution. The principle expressed during the early crisis against taxation without representation became firmly imbedded in our Federal Constitution of 1787.

I recognize that some say this legislation is unconstitutional. They argue that the Congress does not have the authority under Article III to limit and regulate the jurisdiction of the inferior Federal courts. This argument has no basis in the Constitution or common sense.

Article III, Section 1, of the Constitution provides jurisdiction to the lower Federal courts as the “Congress may from time to time ordain and establish.” There is no mandate in the Constitution to confer equity jurisdiction to the inferior Federal courts. Congress has the flexibility under Article III to “ordain and establish” the lower Federal courts as it deems appropriate. This basic premise has been upheld by the Supreme Court in a number of cases including Lawcourt v. Phillips, Lauf v. E.G. Skinner and Co., Kline v. Burke Construction Co., and Sheldon v. Sill.

In other words, the Congress was expressly granted the authority to establish lower Federal courts, which it did. What the Congress has been given is the power to do, it can certainly decide to stop doing. By passing this bill, the Congress would simply be limiting the jurisdiction of the lower Federal courts in a small area.

It is also important to note that this legislation would not restrict the power of the Federal courts to remedy Constitutional wrongs. Clearly, the Court has the power to order a remedy for a Constitutional violation that may include expenditures of money by Federal, State, or local governments. This bill simply requires that if the Court orders that money be spent, it is for the legislative body to decide how to comply with that order. The legislative body may choose to raise taxes, but it also may choose to cut spending or sell assets. That choice of how to come up with the money should always be for the legislative body, in person or by proxy.” A number of resolutions were adopted by the Stamp Act Congress protesting the acts of Parliament. One resolution stated, “It is inseparably essential to the freedom of a people * * * that no taxes be imposed on them, but with their own consent, given personally or by their representatives.” The resolutions concluded that the Stamp Act had a “manifest tendency to subvert the rights and liberties of the colonists.”

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ADA applies to every state prison and local jail in this country. To no avail, the Attorneys General of most states, as well as numerous state and local organizations, had joined with Pennsylvania in court filings to oppose the ADA applying to prisoners.

Prior to the Supreme Court ruling, the circuit courts were split on the issue. The Fourth Circuit Court of Appeals, my home circuit, had forcefully concluded that the ADA, as well as its predecessor Rehabilitation Act, did not apply to state prisoners. The decision focused on federalism concerns and the fact that the Congress did not make clear that it intended to involve itself to this degree in an activity traditionally reserved to the states.

However, the Supreme Court did not agree, holding that the language of the Act is broad enough to clearly cover state prisons. It is not an issue on the Federal level because the Federal Bureau of Prisons voluntarily complies with the Act. The Supreme Court did not say whether applying the ADA to state prisons exceeded the Congress’s powers under the Commerce Clause or the Fourteenth Amendment, but we should consider the Supreme Court’s reasons to consider this argument before acting. Although it was rational for the Supreme Court to read the broad language of the ADA the way it did, it is far from clear that we in the Congress considered the implications of this sweeping new social legislation in the prison environment.

The Seventh Circuit has recognized that the “failure to exclude prisoners may well have been an oversight.” The findings and purpose of the law seem to support this. The introductory language of the ADA states, “The Nation’s proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independence, and self-determination for people with disabilities.” The ADA presents a perfect opportunity, full participation, independence, and self-determination for people with disabilities.

Mr. President, we should continuously remind ourselves that the Constitution created a Federal government of limited, enumerated powers. Those powers that the Federal government were reserved to the states or the people. As James Madison wrote in Federalist No. 45, “the powers delegated to the Federal government are few and definite. . . . [The powers] which a State has a stronger interest, or which a State has more often spoken than respected. Although the entire ADA raises federalism concerns, the problem is especially acute in the prison context. There are few powers more traditionally reserved to the states than crime. The criminal laws have always been the province of the states, and the vast majority of prisoners have always been housed in state prisons. The First Congress enacted a law asking the states to house criminals in their jails for fifty cents per month. The first Federal prison was not built until over 100 years later, and only three existed before 1925.

Even today, as the size and scope of the Federal government has grown immensely, only about 6% of prisoners are housed in Federal institutions. Managing that other 94% is a core state function. As the Supreme Court has stated, “Maintenance of penal institutions is one of the primary functions—the preservation of societal order through enforcement of the criminal law. It is difficult to imagine an activity in which a State has a stronger interest, or one that is more intricately bound up with state laws, regulations, and procedures.”

The primary function of prisons is to house criminals. Safety and security are the overriding concerns of prison administration. The rules and regulations governing the living and working arrangements—all revolve around protecting prison employees, inmates, and the public. But the goal of the ADA essentially is to take away any barrier to anyone with any disability. Accommodating inmates in the manner required by the ADA will interfere with the ability of prison administrators to keep safety and security their overriding concern.

Prisoners who are innocent, as well as the million legally convicted prisoners, have the right to receive fair treatment. The ADA will have broad adverse implications for the management of penal institutions. Prisoners will file an endless number of lawsuits demanding special privileges, which will involve Federal judicial judges in the intricate details of running our state and local prisons.

The State and Local Prison Relief Act was not intended to exempt prisons from the requirements of the ADA and the Rehabilitation Act for prisoners. More specifically, it exempts any services, accommodations, programs, activities or treatment of any kind regarding prisoners that may otherwise be required by the Acts. Through this language, I wish to make entirely clear that the bill is not intended to exempt prisoners from having to accommodate disabled legal counsel, visitors, or others who are not inmates. Also, the fact that the ADA does not apply to non-inmate employees. The bill is intended only to apply to prisoners.

I firmly believe that if we do not act, the ADA will have broad adverse implications for the management of penal institutions. Prisoners will file an endless number of lawsuits demanding special privileges, which will involve Federal judicial judges in the intricate details of running our state and local prisons.

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The primary function of prisons is to house criminals. Safety and security are the overriding concerns of prison administration. The rules and regulations governing the living and working arrangements—all revolve around protecting prison employees, inmates, and the public. But
ADA class action lawsuit in California, the state has paid the prisoners' attorneys over $2 million, with hourly fees as high as $300.

Applying the ADA to prisons is the latest unfunded Federal mandate that we are asked to consider.

 Adequate funding is hard for prisons to achieve, especially in state and local communities where all government funds are scarce. The public is angry about how much money must be spent to house prisoners. Even with prison populations rising, the people do not want more of their money spent on prisoners. Often, there is simply not enough money to make the changes in challenged programs to accommodate the disabled. If prison administrators do not have the money to change a program, they will probably have to eliminate it. Thus, accommodation could mean the elimination of worthwhile educational, recreational, and rehabilitative programs, making all inmates worse off.

Apart from money, accommodation may mean modifying the program in such a way as to take away its beneficial purpose. A good example is the Supreme Court's Yeskey case itself. Yeskey was declared medically ineligible to participate in a boot camp program because he had high blood pressure. So, he sued under the ADA. The boot camp required rigorous physical activity, such as work projects. If the program were modified to accommodate his physical abilities, it may not meet its basic goals, and the authorities may eliminate it. Thus, the result could be that everyone loses the benefit of an otherwise effective correctional tool.

Another impact of the ADA may be to make an already volatile prison environment even more difficult to control. Many inmates are very sensitive to the privileges and benefits that others have, and this sensitivity is relatively few. Some have irrational suspicions and phobias. An inmate who believes a disabled prisoner is getting preferential treatment (including accommodations) relating to the prison, he may be angry if he believes the disabled prisoner is getting necessary to accommodate his obese condition. Thus, he demanded a larger cell, a cell closer to support facilities, handrails to assist him in using the toilet, wider entrances to his cell and the showers, non-skid flooring in the lobby area, and alternative outdoor recreational activities to accommodate his inability to stand or walk for long periods." It is not workable for judges to resolve all of these questions.

It is worthwhile that a primary purpose of the Prison Litigation Reform Act was to stop judges from micromanaging prisons and to reduce the burdens of prison litigation. As the Chief Justice of the Supreme Court recognized in PLRA, judges are not in the best position to decide whether they have the success. However, this most recent Supreme Court decision will hammer that progress.

Moreover, the ADA delegated to Federal agencies the authority to create regulations to implement the law. In response, the Federal bureaucracy has created extremely specific and detailed mandates. Regarding facilities, they dictate everything from the number of water fountains to the flash rates of visual alarms. State and local corrections officials must follow these regulations. In yet another way, we have the Justice Department exercising regulatory oversight over our state and local communities.

Prisons are fundamentally different from other places in society. Prisoners are not entitled to all of the rights and privileges of law-abiding citizens, but they often get them. They have cable television. They have access to better gyms and libraries than most Americans. The list goes on.

The public is tired of special privileges. The ADA requires judges to micromanage prisons. Judges are not qualified to second-guess correctional officials and make these complex, difficult decisions. Prisons cannot be run by judicial decree.

Mr. President, clearly there is no constitutional mandate for the current requirement under the Federal Rules of Criminal Procedure to allow juries to convict criminals on a 10-2 jury vote rather than a unanimous vote.

It is my belief that this change to the Federal Rules of Criminal Procedure will bring about increased efficiency and finality in our Nation's Federal court system while maintaining the integrity of the pursuit of justice.

This legislation is consistent with the Supreme Court ruling concerning unanimity in jury verdicts, specifically in Apodaca v. Oregon [406 U.S. 404 (1972)]. In that case, the Supreme Court ruled that the Sixth Amendment guarantee of a jury trial does not require that the jury's vote be unanimous. The Supreme Court affirmed an Oregon law that permitted what I am proposing—a 10-2 conviction in criminal prosecutions.

Mr. President, clearly there is no constitutional mandate for the current requirement under the Federal Rules of Criminal Procedure to allow a unanimous verdict when the origins of the unanimity rule are not easy to trace, although it may date back to the latter half of the 14th century. One theory proffered is that defendants had few other rules to ensure a fair trial and a unanimous jury vote
for conviction compensated for other inadequacies at trial. Of course, today the entire trial process is heavily tilted towards the accused with many, many safeguards in place to ensure that the defendant receives a fair trial.

It is interesting that a unanimity requirement was considered by our Founding Fathers as part of the Sixth Amendment to the Constitution, but it was rejected. The proposed language in the House of Representatives, provided for trial by jury as well as a “requisite of unanimity for conviction.” The language eventually adopted by the Congress and the States in the Sixth Amendment provides “the right to a speedy and public trial, by an impartial jury,” but does not specify any requirement on conviction. This was a wise decision.

It is clear that “trial by jury in criminal cases is fundamental to the American scheme of justice, and the States in the Sixth Amendment provide[s] the defendant with a requirement of unanimity that the right to a jury trial is a safeguard in place to ensure that the defendant receives a fair trial. This is a wise decision.

One juror should not have the power to allow a criminal to go free in the face of another juror. One juror should not have the power to retry a defendant. This is true of someone on trial. Currently, if there are ten jurors hold out against conviction, a new trial is very costly and time-consuming. Most importantly, a new trial does not work to prevent one such juror from having the power to prevent justice from being served.

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It is important to note that this new rule could also work to the advantage of someone on trial. Currently, if there is a hung jury, a prosecutor has the power to retry the defendant. This would be even if only one juror believed the defendant was guilty. Under this new rule, if at least ten jurors concluded that the defendant was not guilty, he would be acquitted and could not be forced to endure a new trial. This rule has the potential to benefit either side as it brings finality to a criminal case.

In other words, there are cases where a requirement of unanimity produced a hung jury where, had there been a non-unanimous allowance, the jury would have voted to convict or acquit. Yet, in either instance, the defendant is accorded his constitutional right of a judgment by his peers. It is my firm belief that this legislation will not undermine the pillars of justice or result in the conviction of innocent persons.

Moreover, I believe the American people will strongly support this reform to allow a 10-2 decision. This is one way the Congress can help fight crime and promote criminal justice. Mr. President, I hope the Congress will support this important proposal. I ask unanimous consent that the bill be printed in its entirety in the RECORD.

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

S. 34
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF RULE 31 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE.

(a) IN GENERAL. The Federal Rules of Criminal Procedure are amended by striking “unnanimous” and inserting “by five-sixths of the jury” after subsection (a) shall apply to cases pending or commenced on or after the date of enactment of this Act.

By Mr. GRAMM (for himself and Mr. MILLER):
S. 35. A bill to provide relief to America’s working families and to promote continued economic growth by returning a portion of the tax surplus to those who created it; to the Committee on Finance.

TAX CUT WITH A PURPOSE ACT OF 2001

Sen. GRAMM. Mr. President, I am introducing legislation today with my colleague, Senator MILLER of Georgia, to provide tax relief for America’s families by returning a portion of the tax surplus to the working men and women who are responsible for creating it.

Our proposal consists of the core elements of the plan that President Bush outlined during his campaign for Presidency. There are three principle components: Lower income tax rates for all Americans, relief from the marriage tax penalty, and repeal of the death tax. The bill replaces the current tax rate structure with rates of 10, 15, 25, and 33 percent. Lower income Americans get a larger percentage cut in rates, higher income Americans get a smaller reduction, but obviously this is a tax cut for taxpayers.

The next provision of the bill begins the effort to repeal the marriage penalty. There is no reason in America that people who meet and fall in love should have to pay $1,400 a year in additional taxes as the price of getting married. Senator MILLER and I are for love and marriage, and we don’t think they ought to be taxed.

The final major provision of the bill is repeal of the death tax. A death tax is double taxation in which people work their whole lives, build up a business or a family farm, and pay taxes on every penny they earn. Yet when they die, their children have to sell the business or the family farm in order to give the government up to 55 cents out of every dollar of its value. This is fundamentally unfair.

Finally, since our President was elected three things have happened, and every one of them argues for this package of tax cuts. No. 1, the economy is weaker and investment is falling off. Secondly, our Budget surplus have gone up, not down. And lastly, that surplus is being spent at an unprecedented rate.

We believe that Congress should enact the Bush tax plan, continue to pay down the debt, and resist the urge to spend the tax surplus so that we can return a portion of it to the working men and women who produced it.

Mr. MILLER. Mr. President, I am very pleased to join with Senator GRAMM as a sponsor of this important piece of legislation, first because it is an opportunity to reach across party lines and really practice bipartisanship, not just talk about it. But I’m even more pleased to be a cosponsor because of the far-reaching consequences of this bill.

Right now, our taxes have never been higher. Right now, our surplus has never been greater. To me, it’s just common sense you deal with the first before the second.

Remember that old Elvis Presley song, “Return to Sender.” Well, that’s what we want to do with this overpayment of taxes.

Some of you know, I’ve been in politics for a long time, and I thought I had seen it all. But when I came to Washington last year I was not prepared for the shock of just how matter of factly Congress ate into the surplus, gobbled it up indiscriminately and without hesitation on both sides of the aisle.

I couldn’t believe it and it became clear to me that if we don’t send this overpayment of taxes back to those who paid it, much of it will be frittered away, and I think most Americans have enjoyed as much of that as they can stand.

Some of my colleagues talk of “targeted” tax cuts, and I respect their opinion, I respect them. But here’s how I think about that: who are we to pick and choose and cull and select and single out among our taxpayers.

Who are we to play “eeny, meany, miney, mo,” with them. All of them combined have paid more than it takes to run this government. All of them combined should get a break from this oppressive tax structure of ours.

This plan would make our tax code more progressive by cutting federal income taxes for people all across the income spectrum, and the largest percentage cuts would go to those Americans who earn the least. Under this proposal, six million families will no longer pay any federal income taxes at all. That’s one out of five families with children.

Any time I look at a tax cut, I always apply it to the family I grew up in: a single parent with two children. Under
the current rate, that single parent begins paying taxes when she earns $21,300. Under this plan, she would not become a taxpayer until her earnings reach $31,300.

Lower taxes gives Americans a better chance at a high standard of living. It can mean the difference between renting or buying a home. Today, it can be the difference between being able, or not being able, to pay your heating bill.

No one in America should have to work more than four months out of a year to pay the IRS, and in peacetime, the federal government should never take more than 33% out of anyone's pay check.

I also believe this tax cut could help provide some needed insurance against a long-lasting economic slow down. But most importantly, and why I'm here, is that I agree with President Bush that the taxpayers are much better judges of how to spend their own money than we are.

When I was governor of Georgia, I was proud that in my state we cut taxes by more than a billion dollars. As a U.S. Senator, I'm looking forward to cutting taxes in this nation by more than a trillion dollars.

Mr. THURMOND:

S. 36. A bill to amend title 1, United States Code, to clarify the effect and application of legislation, to the Committee on the Judiciary.

AN ACT TO CLARIFY THE APPLICATION AND EFFECT OF LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce a bill to clarify the application and effect of legislation which the Congress enacts.

My act is simple and straightforward. It provides that unless future legislation expressly states otherwise, new enactments shall be applied prospectively and shall not create private rights of action. This will significantly reduce unnecessary litigation and court costs, and will benefit both the public and our judicial system.

The purpose of this legislation is to tackle a persistent problem that is easy to prevent. When Congress enacts a bill, the legislation often does not indicate whether it is to be applied retroactively or whether it creates private rights of action. The failure of the Congress to address these issues in each piece of legislation results in unnecessary confusion and uncertainty. This uncertainty leads to lawsuits, thereby contributing to the high cost of litigation and the congestion of our courts.

In the absence of clear action by the Congress on its intent regarding these critical threshold questions, the outcome is left up to the courts. Whether a law applies to conduct that occurred before the effective date of the Act and whether a private person has been granted a right to sue on their own behalf in civil court under an Act can be critical or even dispositive of a case. Even if the issue is only one aspect of a case and it is raised early in a lawsuit, a decision that the lawsuit can proceed generally cannot be appealed until the end of the case. If the appellate court eventually rules that one of these issues should have prevented the trial, the litigants have been put to substantial burden and unnecessary expense which could have been avoided.

Currently, courts attempt to determine the intent of the Congress in deciding the effect and application of legislation in this regard. Thus, courts look first and foremost to the statutory language. If a statute expressly provides that it is retroactive or creates a private cause of action, that dictate is followed. Further, courts apply a presumption that legislation is not retroactive. This is an entirely appropriate, longstanding rule because, absent mistake or an emergency, fundamental fairness generally dictates that conduct should be assessed under the rules that existed at the time the conduct took place. There is a similar presumption that does not intend to create rights beyond those that it expressly includes in its legislation.

If the intent of Congress is not clear from the statute, courts generally look to legislative history, statutory structure, and possibly other sources of Congressional intent. This is where the unnecessary complexity and confusion is created. Sources other than statutory language are to varying degrees less reliable in predicting Congressional intent. There are much more difficult to interpret and may even be contradictory. The more sources for the course to analyze and the more vague the standard for review, the more likely courts will reach different results.

Under current practice, trial courts around the country reach conflicting and inconsistent results on these issues, as do appellate courts when the issues are appealed.

The problem of whether legislation is retroactive was dramatically illustrated after the passage of the Civil Rights Act of 1991. District courts and courts of appeal all over the country were required to resolve whether the 1991 Act should be applied retroactively, and the issue ultimately was considered by the Supreme Court. However, by the time the Court resolved the issue in 1994, well over 100 lower courts had ruled on this question and, although most had not found retroactivity, the decisions were inconsistent. Countless litigants across the country expended substantial resources debating this threshold procedural issue.

All this litigation arose from a statute that contained no language providing that it be retroactive. To conclude that the provision of the statute in issue in the case was not to be applied retroactively, the majority opinion of the Court took 39 pages in the United States Reporter to explain why. It undertook a detailed analysis that demonstrates the unnecessary complexity of the current standard. It is no wonder that some Supreme Court justices argued in this case that a court should look only to whether the language of the statute expressly provides for retroactivity. That is what I propose. If my law had been in effect, the litigation would have been averted, while the outcome would have been exactly the same as the Supreme Court decided.

Under my bill, newly enacted laws are not to be applied retroactively and do not create a private right of action, unless the legislation expressly provides otherwise. It is important to note that my bill does not in any way restrict the Congress on these important issues. The Congress may override this presumption by simply stating when it wishes legislation to be retroactive or create new private rights of action.

It is clear that this legislation would save litigants and our judicial system millions and millions of dollars by avoiding a great deal of uncertainty and litigation. The Administrative Office of the Courts has expressed support for this important clarification to the law.

Mr. President, if we are truly concerned about relieving the backlog of cases in our courts and reducing the costs of litigation, we should help our judicial system to use its limited time and resources on resolving the merits of disputes, rather than deciding these preliminary matters. We hear numerous complaints about overworked judges and crowded dockets. This is a simple and straightforward way to do something about it. The Congress can help reduce the Federal caseload and help simplify the law. We should act on this important reform promptly.

Mr. President, I ask unanimous consent that the bill be printed in the Record in its entirety.

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

S. 36

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

SECTION 1. CLARIFICATION OF THE EFFECT AND APPLICATION OF LEGISLATION.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code is amended by adding at the end the following:


"Any Act of Congress enacted after the effective date of this section—

"(1) shall be prospective in application or

"(2) shall not create a private claim or cause of action; and

"(3) shall be presumed not to preempt the laws of the State, unless a provision of the Act expressly specifies otherwise.");

(b) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 1, United States Code, is amended by adding at the end the following:


(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect 180 days after the date of enactment of this Act.
Mr. LUGAR. Mr. President, I rise today with Senators LEAHY, FITZGERALD, HARKIN, ROBERTS, DODD, DEWINE, REID, SANTORUM, Mr. BAYH, and Mr. JOHNSON:

S. 37. A bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory to the Committee on Finance.

The Good Samaritan Hunger Relief Tax Incentive Act

Mr. LUGAR. Mr. President, I rise today with Senators LEAHY, FITZGERALD, HARKIN, ROBERTS, DODD, DEWINE, REID, SANTORUM, and BAYH to introduce the Good Samaritan Hunger Relief Tax Incentive Act, bipartisan legislation aimed at increasing food donations to our nation’s food banks.

Next week, Congressman TONY HALL, legislation aimed at increasing food donations to food banks. Next week, Congressman TONY HALL, living on the edge of hunger. One segment of our population—families with incomes between 50 and 130 percent of the poverty level—has experienced an increase in the number of households that are food insecure since 1995. This study confirms what food bank managers and workers have been telling me—while many families are moving from welfare to work, these families are still vulnerable to hunger and are using food banks to supplement their nutritional needs.

Unfortunately, many food banks cannot meet this increased demand for food. A 1996 study by the U.S. Conference of Mayors found that requests for emergency food assistance increased by an average of 18 percent in American cities over the previous year and that 21 percent of emergency food requests could not be met.

These figures are troubling because of the enormous amount of food that goes unused annually. The United States Department of Agriculture estimates that more than 40 billion pounds of food goes to waste each year in the United States. If a small percentage of this wasted food could be redirected to food banks, we could make important strides in our fight against hunger.

In current law, this hindrance to food donations. The tax code provides corporations with a special deduction for donations to food banks, but it excludes farmers, ranchers, and restaurant owners from the same tax incentive. For many of these businesses, it is more cost effective to throw away food than to donate it to charity.

The Good Samaritan Hunger Relief Tax Incentive Act would address this inequity by extending the special deduction to all business taxpayers and by increasing it to the fair market value of the donation. The hunger relief community appreciates that these changes will markedly increase food donations. One Hoosier food bank, Second Helpings of Indianapolis, estimates that this legislation will cause an additional 400,000 pounds of food to be donated to its coffers.

This bipartisan legislation, which enjoys the support of Republicans and Democrats alike, has been endorsed by a diverse set of organizations, including America’s Second Harvest Food Banks, the Salvation Army, the American Farm Bureau Federation, the National Farmers Union, the National Restaurant Association, the Grocery Manufacturers of America, At-Sea Processors Association, California Emergency Foodlink, Council of Chain Restaurants, California Restaurant’s Beef Association, National Fisheries Association, and the National Milk Producers Federation.

Last year, this legislation unanimously passed the Senate as part of an agricultural appropriations bill supported by Senator GRASSLEY to H.R. 8, the Death Tax Elimination Act. Although the measure was ultimately stripped from the underlying legislation, the vote indicated strong support for this legislation in the Senate.

I am hopeful that Congress will thoughtfully address the hunger problem in the U.S. by passing this bill into law.

By Mr. INOUYE:

S. 38. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

Mr. LUGAR. Mr. President today I am reintroducing a bill which is of great importance to a group of patriotic Americans. This legislation is designed to extend space-available travel privileges on military aircraft to those who have been totally disabled in the service of our country.

Currently, retired members of the Armed Forces are entitled to travel on the armed forces, on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command. The Secretary of Defense shall permit such travel on a space-available basis. The Secretary of Defense shall permit such travel on a space-available basis.

Current legislation, which is of great importance to a group of patriotic Americans, is designed to extend space-available travel privileges on military aircraft to those who have been totally disabled in the service of our country.

Currently, retired members of the Armed Forces are entitled to travel on the armed forces, on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command. The Secretary of Defense shall permit such travel on a space-available basis.

As a former member of the Armed Forces, I understand the importance attached to this issue by our public servants.

I am honored to introduce the Public Safety Medal of Valor Act.

PUBLIC SAFETY MEDAL OF VALOR ACT

Mr. STEVENS. Mr. President, today I am honored to introduce the Public Safety Medal of Valor Act.

It is a bill intended to enhance recognition of an important segment of our public servants.

These are the men and women who engage in the law enforcement and public safety duties that benefit our communities every day. I introduced this bill early in the 106th Congress, and the Senate passed it unanimously in May 1999.

The Senate Judiciary Committee deliberated on a similar piece of legislation H.R. 46, and reported a version with amendments. Unfortunately, after the Senate passed H.R. 46 in the last days of the 106th Congress, there was not time for the House to act.

S. 38

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. TRAVEL ON MILITARY AIRCRAFT OF CERTAIN DISABLED FORMER MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding after section 1060a the following new section:

“1060b. Travel on military aircraft: certain disabled former members of the armed forces

“The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans Affairs for a service-connected disability rated as total to travel in the same manner and to the same extent as retired members of the armed forces, on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command. The Secretary of Defense shall permit such travel on a space-available basis.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1060a the following new item:

“1060b. Travel on military aircraft: certain disabled former members of the armed forces.”.

By Mr. STEVENS:

S. 39. A bill to provide a national medal for public safety officers who act with extraordinary valor above and beyond the call of duty, and for other purposes; to the Committee on the Judiciary.

PUBLIC SAFETY MEDAL OF VALOR ACT

Mr. STEVENS. Mr. President, today I am honored to introduce the Public Safety Medal of Valor Act.

It is a bill intended to enhance recognition of an important segment of our public servants.

These are the men and women who engage in the law enforcement and public safety duties that benefit our communities every day. I introduced this bill early in the 106th Congress, and the Senate passed it unanimously in May 1999.

The Senate Judiciary Committee deliberated on a similar piece of legislation H.R. 46, and reported a version with amendments. Unfortunately, after the Senate passed H.R. 46 in the last days of the 106th Congress, there was not time for the House to act.
Today I submit the bill as introduced in the 106th Congress, and hope my colleagues will join me again in seeking its passage.

By Mrs. HUTCHISON (for herself, Mr. FRIST, and Mr. CRAPO):


CAREERS TO CLASSROOMS ACT OF 2001

Mrs. HUTCHISON. Mr. President, I have another bill to introduce. This is cosponsored by Senators FRIST and CRAPO. It is the Careers to Classrooms Act of 2001. Once again, this is a bill that has already been passed by Congress, but it has never made it into law. I am very hopeful that this President will sign a comprehensive reauthorization of the Elementary and Secondary Education Act, and included in that I hope will be Careers to Classrooms.

There is no question that many, if not most, of our States are facing huge teacher shortages. This is one of the most critical needs in our public schools today. It is most pressing in our inner-city and rural communities. I urge every enemy by having a sufficient number of teachers is our booming economy. A recent college graduate with a degree in math might expect to make $25,000 to $35,000 in a starting position as a high school math teacher. If there is a 90% qualified, certified teachers in our Nation’s public schools, including over 600 in my home State of Texas.

The Troops to Teachers Program seeks out and helps place into schools members of the military with at least 10 years of military service and skills in high-need areas, such as math, science, computers, and languages. Typically, these experienced service personnel obtain their certification in less than 6 months of the many different alternative certification programs now in place in over 40 States.

My provision essentially builds upon my proposal very quickly so that they will be a resource to our young people.

We want to encourage more people to go into the teaching profession because if we do not have good teachers, we are not going to have a successful country.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. MURkowski, Mr. JEFFords, Ms. SNOWe, Mr. KYL, Mr. ROCKFELLer, Mr. BREAuX, Mr. CONRAD, Mr. GRAHAM, Mr. DAsCHle, Mr. KERRY, Mr. BINGAsMAN, Mr. T Orlando, and Mrs. LINCOLN):

S. 41. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research and experimentation tax credit.
Over the past 10 years, our nation has experienced the longest and strongest peacetime period of economic expansion in our history. Over this past decade, the standard of living for all Americans has increased markedly while millions of new jobs have been created. The current federal budget outlook has been transformed from one of large and increasing deficits into the indefinite future to one of multitrillion dollar surpluses for at least the next ten years.

Much of the cause of this economic expansion that has so blessed the United States is due to a strong surge in our productivity rate. This increase in productivity has allowed the economy to continue to grow at a rapid pace without the increase in inflation that usually accompanies such growth.

The Congressional Budget Office, Federal Reserve Chairman Alan Greenspan, and dozens of leading economists have all heralded the increase in our productivity to our economic good times—and to their continuance. A major factor of this increase in productivity, Mr. President, is spending on research and development. This is what our bill today is all about.

A study commissioned by the National Association of Manufacturers concluded that as much as two-thirds of productivity gains is due to technological advances. These advances, in turn, fuel economic growth. The record of economic growth argues that one-third of growth in private-sector output is attributable to advances in technology. In the manufacturing sector, as much as two-thirds of growth can be attributed to technological advances. Moreover, this contribution is expected to increase over the next decade.

It seems clear to me that if we want to keep our economy strong and growing, it is vital that we keep up and even increase these advances in technology. How do we do this? The answer is simple. Our nation must continue to invest in research and development, both at the public level, and especially in the private sector.

I believe the best way to ensure that private-sector investment in research and development continues at the healthy rate needed to fuel the productivity gains of the future is to permanently extend the current-law research and experimentation credit. This tax provision and a more certain incentive to increase private-sector R&D spending.

Studies have shown that the R&E tax credit significantly increases research and development expenditures. The marginal effect of one dollar of the R&E credit stimulates approximately one dollar of additional private research and development spending over the short-run and as much as two dollars of extra investment over the long-run.

Congress has recognized the vital role the R&E credit has played in spurring increased research spending by extending the credit ten times since its inception in 1981. For most of those years, Congress was never able to find the funds to pay for a permanent extension of the credit, due to budget constraints. Fortunately, Congress passed a five-year extension in 1999 that will keep the credit alive until 2004.

However, Mr. President, permanence is essential to the effectiveness of this credit. The Congressional Budget Office estimates that R&E credit projects take a number of years and may even last longer than a decade. As our business leaders plan these projects, they need to know whether or not they can count on the R&E tax credit. The continual uncertainty surrounding the credit has induced businesses to allocate significantly less to research than they otherwise would if they were assured the tax credit would be available. This uncertainty undermines the entire purpose of the credit and has stifled its full potential for inducing research spending. For the government and the American people to maximize the return on their investment in U.S.-based research spending, this credit must be made permanent.

In the high-tech community, the development of new products, technologies, medicines, and ideas can result in either success or failure. Investments carry a risk. The R&E tax credit helps ease the cost of incurring these risks. It allows companies to heavily subsidize research with public dollars. Business Week, is a significant example of one of a growing number of thriving high tech commercial regions outside of California’s Silicon Valley. Newsweek magazine included Utah among the top ten information technology centers in the world. The Utah Information Technologies Association estimates that Utah’s IT industry consists of more than 2,500 computer engineering firms. This area, which was named “Software Valley” by Business Week, is a significant example of how state economies benefit from advances in technology.

For example, Salt Lake City and Provo lies one of the world’s biggest stretches of software and computer engineering firms. This area, which was named “Software Valley” by Business Week, is a significant example of one of a growing number of thriving high tech commercial regions outside of California’s Silicon Valley. Newsweek magazine included Utah among the top ten information technology centers in the world. The Utah Information Technologies Association estimates that Utah’s IT industry consists of more than 2,500 computer engineering firms. This area, which was named “Software Valley” by Business Week, is a significant example of how state economies benefit from advances in technology.

In addition, Utah is home to about 700 biotechnology and biomedical firms that employ nearly 9,000 workers. Research and development and are the reasons these companies exist. Not only do these companies need to continue contributing a high percentage of research to the economy, but research feeds other industries and, ultimately, consumers. Just ask the patients who have benefitted from new drugs or therapies.

In all, Mr. President, there are more than 90,000 employees working in Utah’s thousands of technology based companies. Many other states have experienced similar growth in high technology businesses. Research and development is the lifeblood of these firms and industries and, ultimately, consumers. Just ask the patients who have benefitted from new drugs or therapies.

During the ten times in the past 20 years that Congress has extended the R&E credit for a short time, the optimism and investment has flourished. The excise we give to constituents is that we didn’t have the money to extend the bill permanently. Ironically, it costs at least as much in terms of lost revenue, in the long run, to enact short-term extensions as it does to extend it permanently.

With the latest projections of the on-budget surplus, for one year, for five
years, and for ten years, this excuse is gone. There is simply no valid reason that this credit should not be extended on a permanent basis.

Moreover, now is the time to extend the provision permanently. By making the permanent extension of the credit, we will send a strong signal to the business community that a new era of stronger support for research has dawned.

The timing could not be better because, as I mentioned, many research projects, especially those in pharmaceuticals and biotechnology, must be planned and budgeted for months and even years in advance. The more uncertain the long-term future of the research credit is, the smaller the potential of the credit to stimulate increased research. Simply knowing of the reliability of a permanent research credit will give a boost to the amount of research performed, even before the current extension expires.

A permanent R&E credit has wide support in both the Senate and the House. Last year, this body passed by a vote of 98–1 an amendment that would have permanently extended this credit. Unfortunately, all amendments were ultimately stripped from the underlying bill. The bill we are introducing today is identical to legislation introduced earlier this month by Representative GOREY and Senator MATHIS. The identical bill in the 106th Congress was cosponsored by 164 other members of that body. Moreover, the permanent extension of the credit is a major provision in President Bush’s tax cut plan, and was supported by both former President Clinton and by Al Gore.

In conclusion Mr. President, if we fail to make the R&E tax credit permanent, we are limiting the potential growth of our economy. How can we expect the American economy to hold its lead in the global economic race if we allow other countries to take the edge in innovation? Making the tax credit permanent will help American businesses ahead of the pack. It will speed economic growth. New technology resulting from American research and development will continue to improve the standard of living for every person in the U.S. and around the world.

Simply put, the costs of not making the R&E tax credit permanent are far greater than the costs of making it permanent. As we begin the new millennium, we cannot afford to let the American economy slow down. Now is the time to send a strong message to our companies and to the world that America intends to retain its position as the world’s foremost innovator.

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:

SEC. 1. PERMANENT EXTENSION OF RESEARCH CREDIT.
(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 45(h) of such Code is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 2. INCREASE IN RATES OF ALTERNATIVE INCREMENAL CREDIT.
(a) IN GENERAL.—Section 41(g)(1)(B) of the Internal Revenue Code of 1986 (relating to election of alternative incremental credit) is amended—
(1) by striking “2.65 percent” and inserting “3 percent”,
(2) by striking “3.2 percent” and inserting “4 percent”, and
(3) by striking “3.75 percent” and inserting “5 percent”.

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

Mr. BAUCUS. Mr. President, it is with great pleasure that I join with my colleague from Utah, Senator HATCH, and my other colleagues on the Senate Finance Committee to cosponsor this bill, which is so vitally important to American businesses competing in the global marketplace. I am particularly pleased that this bill includes as original cosponsors a majority of members of the Senate Finance Committee. This legislation is bipartisan and bicameral. A companion bill was introduced—on the very first day of this Congress—in the House of Representatives by Congresswoman NANCY JOHNSON and Congressmen ROBERT MATHIS. The bill was introduced on the very first day of this Congress—in the House of Representatives by Congresswoman NANCY JOHNSON and Congressmen ROBERT MATHIS. This legislation is bipartisan and bicameral. A companion bill was introduced on the very first day of this Congress—in the House of Representatives by Congresswoman NANCY JOHNSON and Congressmen ROBERT MATHIS. This legislation is bipartisan and bicameral. A companion bill was introduced on the very first day of this Congress—in the House of Representatives by Congresswoman NANCY JOHNSON and Congressmen ROBERT MATHIS. Our nation is the world’s undisputed leader in technological innovation, a position that would not be possible absent U.S. companies’ commitment to research and development. Investment in research is an investment in our Nation’s economy. Therefore, it is appropriate that both the public and private sector share the costs involved, as we share in the benefits. The credit provided through the tax code for research and experimentation expenses provides a modest but critical incentive for companies to conduct their research in the United States, thus creating high-skilled, high-paying jobs for American workers.

The R&D credit has played a key role in placing the United States ahead of its competition in developing and marketing new products. Every dollar that the Federal government spends on the R&D tax credit is matched by another dollar of spending on research over the short run by private companies, and two dollars of spending over the long run. Our global competitors are well aware of the importance of providing incentives for research, and many provide more generous tax treatment for research and experimentation expenses than does the United States. As a result, Japanese and German spending on non-defense R&D as a percentage of GDP has grown, while U.S. spending has remained relatively flat since 1985. The R&D credit is instrumental in keeping research dollars in the United States and we must do all we can to make sure it remains an effective incentive by eliminating the on-again, off-again treatment. The benefits of the credit, though certainly significant, have been limited over the years by the fact that the credit has been temporary. In addition to the numerous times that the credit has been allowed to lapse only to be extended retroactively, the 1986 extension left a 12-month gap in which the credit was not available. This unprecedented lapse sent a troubling signal to the U.S. companies and universities that have come to rely on the government’s longstanding commitment to the credit. Let me be clear: companies are under-investing in research because there has been continued uncertainty about the credit’s life. Much of the economic gains we enjoy now is the direct result of research, technology and innovations undertaken in prior decades. If current indicators are accurate in their warning of a slowdown in our economy, then now is appropriate time to send a strong signal to our research-intensive industries. We must demonstrate our long-term commitment to U.S.-based research by finally putting an end to all uncertainty and making the R&D credit permanent.

Much research and development takes years to mature. Companies must make their commitment to research projects often five or ten years into the future. The more uncertain the future of the credit, the fewer additional research projects will be started. If companies evaluating research projects cannot rely on a seamless continuation of the credit, then they are less likely to invest in research in this country and less likely to put money into cutting-edge technological innovation that is critical to keeping us in the forefront of global competition.

Our country is locked in a fierce battle for high-paying technological jobs in the global economy. As more nations succeed in creating educationally advanced workforces and join the U.S. as high-technology manufacturing centers, they become more attractive to companies trying to penetrate foreign markets. Multinational companies sometimes find that moving both manufacturing and basic research activities overseas is necessary if they are to remain competitive. The uncertainty of the R&D credit factors into their economic calculations, and makes keeping these jobs in the U.S. more difficult.

According to a 1998 study conducted by Coopers & Lybrand, making the R&D credit permanent will provide a substantial positive stimulus to investment, wage-growth, productivity, and economic growth in this country. Payroll increases from gains in productivity are estimated to total $64 over the period 1998 through 2010. In
the year 2010 alone, the payroll increase is estimated to total nearly $12 billion. 

Also according to the study, Gross State Product, which is the basic measure of economic activity in a state, will rise overall $58 billion between 1998 and 2010 as a result of a permanent credit. Nearly three-fifths of this increase nationally is attributable to additional value added by industries that generally do not perform R&D themselves, but benefit from the R&D done by companies in other industries.

Gains in payroll and in Gross State Product are not limited to states regarded as centers for technological innovation. Although such regions of the country certainly benefit from the credit, each and every state will profit in some measurable way from the credit since all sectors of the economy—agriculture, mining, basic manufacturing, and high-tech services—benefit from productivity improvements resulting from the additional research and development caused by the credit.

My own state of Montana is an excellent example of this economic activity. According to the 1998 study, the total increase due to the R&D credit for the years 1998-2010 is estimated to be just over $250 million. Neither of these increases place Montana in the top tier of states benefiting from the credit. However, looking beyond the impact of the R&D credit in Montana is substantial. In 1995, 12 of every 1,000 private sector workers were employed directly by high-tech firms in Montana. Almost 400 establishments provided high-tech manufacturing, and high-tech services—benefit from productivity improvements resulting from the additional research and development caused by the credit.

The American Bar Association Section of Taxation, the American Institute of Certified Public Accountants Tax Division, and the Tax Executives Institute urge making the credit permanent. In their view, uncertainty in the tax law breeds complexity. The constant need to extend the R&D credit and other Code provisions adds confusion to the law and, in many cases, undermines the policy reasons for enacting the incentives in the first place. This is so because the provisions are intended to encourage particular activities but uncertainty surrounding whether the provisions will be extended leaves taxpayers unable to plan for those activities. The on-on again, off-again nature of the provisions is often the case with retroactive enactment (which often necessitates the filing of an amended return), contributes mightily to the complexity of the law.

Senator HATCH and I are not new-comers to this issue. We have jointly introduced bills to make the R&D credit permanent in previous Congresses. Last year, we worked with Senator Wyden to extend the credit. Last year, we came close. During consideration of the bill to repeal the estate tax (H.R. 8) last July, the Senate voted 98 to 1 in favor of making the R&D tax credit permanent.

This year, we are successful. The hard work we have done to bring our budget into balance is finally beginning to pay off, and the projected budget surpluses gives us an opportunity to think carefully about how best to allocate our resources. Making the R&D credit permanent is a wise use of budget dollars because of the direct positive impact on economic growth and productivity. This is not just a corporate issue. The real winners from past research investments have been the American people—in higher wage jobs, higher standards of living, and better health and lifestyle. This is a use of tax dollars that benefits all of us who are working to expand employment and increase opportunities and keep our Nation at the cutting edge of technological development. We were gratified to see that a permanent R&D credit was included in the tax plan on which President Bush and I worked, and I sincerely hope we can work together to finally make this year the year we fulfill our commitment to long-term, U.S.-based research.

I urge my colleagues to support this important piece of legislation.

By Mr. INOUYE:

S. 43. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

MILITARY COMMISSARY AND EXCHANGE PRIVILEGES FOR FORMER PRISONERS OF WAR (a) IN GENERAL.—Chapter 54 of title 10, United States Code, is amended by inserting after the item relating to section 1064a in section 1064 the following new section:

"§ 1064a. Use of commissary and exchange stores by certain disabled former prisoners of war

(a) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, former prisoners of war described in subsection (b) may use commissary and exchange stores.

(b) COVERED INDIVIDUALS.—Subsection (a) applies to any former prisoner of war—

"(1) separated from active duty in the armed forces under honorable conditions; and

"(2) has a service-connected disability rated by the Secretary of Veterans Affairs at 30 percent or more.

(c) DEFINITIONS.—In this section:

"(1) The term 'former prisoner of war' has the meaning given that term in section 101(32) of title 38.

"(2) The term 'service-connected' has the meaning given that term in section 101(16) of title 38.

"(c) DEFINITIONS.—In this section:

"(1) The term 'former prisoner of war' has the meaning given that term in section 101(32) of title 38.

"(2) The term 'service-connected' has the meaning given that term in section 101(16) of title 38.

By Mr. INOUYE:

S. 44. A bill to amend title 10, United States Code, to increase the grade provided for the heads of the nurse corps of the Armed Forces; to the Committee on Armed Services.

U.S. MILITARY CHIEF NURSE CORPS AMENDMENT ACT OF 2001

Mr. INOUYE. Mr. President, today I introduce an amendment that would change the existing law regarding the designated position and grade for the Chief Nurses of the United States Army, the United States Navy, and the United States Air Force. Currently, the Chief Nurses of these three branches of the military are only one-star general officer grades; this law would change the current grade to Major General in the Army and Air Force, and Rear Admiral (upper half) in the Navy.

Our military Chief Nurses have a tremendous responsibility—their scope of duties include peacetime and wartime health care doctrine, and standards and policy for all nursing personnel within their respective branches. They are responsible for thousands of Army, Navy, and Air Force officer and enlisted nursing personnel in the active, reserve, and guard components of the military. This level of responsibility certainly supports the need to change the grade for the Chief Nurses, which would ensure that they have an appropriate voice in Defense Health Program executive management.

Organizations are best served when the leadership is composed of a mix of specialties—of equal rank—bring their unique talents to the policy setting and decision-making process. I believe it is time to ensure that military health care organizations utilize the expertise and unique contributions of the military Chief Nurses.
Mr. President, I ask unanimous consent that the text 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. 44

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

SECTION 1. INCREASED GRADE FOR HEADS OF NURSE CORPS.

(a) ARMY.—Section 3069(b) of title 10, United States Code, is amended by striking ‘‘brigadier general’’ in the second sentence and inserting ‘‘major general’’.

(b) NAVY.—The first sentence of section 5150(c) of such title is amended—

(1) by inserting ‘‘rear admiral (upper half)’’ in the case of an officer in the Nurse Corps or after ‘‘for promotion to the grade of’’; and

(2) by inserting ‘‘in the case of an officer in the Medical Service Corps’’ after ‘‘rear admiral (lower half)’’.

(c) AIR FORCE.—Section 8069 of such title is amended by striking ‘‘brigadier general’’ in the second sentence and inserting ‘‘major general’’.

By Mr. INOUYE:

S. 45. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detailed or interred by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

PRISONER OF WAR MEDAL

Mr. INOUYE. Mr. President, all too often we find that our nation’s civilian employees of our federal government who have been forcibly detained or interred by a hostile government do not receive the recognition they deserve.

My bill would correct this inequity and provide a prisoner of war medal for such citizens.

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. 45

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

SECTION 1. PRISONER-OF-WAR MEDAL FOR CIVILIAN EMPLOYEES OF THE FEDERAL GOVERNMENT.

(a) AUTHORITY TO ISSUE PRISONER-OF-WAR MEDAL.—(1) Subpart A of part III of title 5, United States Code, is amended by inserting after chapter 23 the following new chapter:

“CHAPTER 25—MISCELLANEOUS AWARDS


§ 2501. Prisoner-of-war medal: issue

“(a) The President shall issue a prisoner-of-war medal to any person who, while serving in any capacity as an officer or employee of the Federal Government, was forcibly detained or interred, as a result of the willful act of an enemy of such person—

“(1) by an enemy government or its agents, or a hostile force, during a period of war; or

“(2) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances that the President finds to have been comparable to the circumstances under which members of the armed forces have generally been forcibly detained or interred by enemy governments during periods of war.

“(b) The prisoner-of-war medal shall be of appropriate design, with ribbons and appurtenances.

“(c) Not more than one prisoner-of-war medal may be issued to a person under this section or section 1128 of title 10. However, for each succeeding term of service referred to in subsection (a) of this section or the Secretary concerning service referred to in section 1126(a) of title 10 may issue a suitable device to be worn as determined by the President or the Secretary, as the case may be.

“(d) For a person to be eligible for issuance of a prisoner-of-war medal, the conduct of the person must have been honorable for the period of captivity that serves as the basis for the issuance.

“(e) If a person dies before the issuance of a prisoner-of-war medal to which he is entitled, the medal may be issued to the person’s representative, as designated by the President.

“(f) Under regulations to be prescribed by the President, a prisoner-of-war medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced without charge.

“(g) In this section, the term ‘period of war’ has the meaning given that term in section 101(11) of title 3.

(2) The table of chapters at the beginning of part III of such title is amended by inserting after the item relating to chapter 23 the following new item:

“25. Miscellaneous Awards ............ 2501”.

(b) APPLICABILITY.—Section 2501 of title 5, United States Code, as added by subsection (a), applies with respect to any person who, after April 5, 1917, is forcibly detained or interred as described in subsection (a) of that section.

By Mr. INOUYE:

S. 46. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to determi

By Mr. INOUYE:

S. 46. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to detemine work-related emotional and mental ill

By Mr. INOUYE:

S. 47. A bill to amend the Internal Revenue Code of 1986 to exempt certain helicopter uses from ticket taxes on transportation by air; to the Committee on Finance.

AIRPORT AND AIRWAY TRUST FUND LEGISLATION

Mr. INOUYE. Mr. President, I rise to introduce legislation that would exempt from the Airport and Airway Trust Fund excise taxes air transportation by helicopters of individuals and cargo for the purpose of conducting removal and environmental restoration activities relating to unexploded ordnance on the island of Kahoolawe.

The Kahoolawe Island Unexploded Ordnance Clearance and Environmental Restoration Project is authorized under Title X of the Fiscal Year 1994 Department of Defense Appropriations Act. The island of Kahoolawe is uninhabited, and it served as a bombing range for the Department of Defense until 1990. The Department of Defense is currently in the process of cleaning up and restoring Kahoolawe for its eventual return to the State of Hawaii by 2003.

The Airport and Airway Trust Fund exists to help support our nation’s air traffic systems and airport infrastructures. However, there are no airports or landing zones on Kahoolawe that receive benefits from the Trust Fund. In addition, the taxes place an undue burden on the air transportation services provided to the Kahoolawe Clearance Project. Compared to a normal airline whose aircraft make fewer
trips per day over much longer distances, the services provided to the project are very frequent, with many trips over very short distances. I urge my colleagues to support this measure.

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

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

S. 47
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION OF CERTAIN HELICOPTER USES FROM TAXES ON TRANSPORTATION BY AIR.
(a) In General.—Section 4261 of the Internal Revenue Code of 1986 (relating to taxation of transportation by helicopter for the purpose of transporting individuals and cargo to and from facilities for the purpose of conducting remedial action or with respect to protection or response activities relating to unexploded ordinance) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) ADDITIONAL EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under this section or section 4271 on air transportation by helicopter for the purpose of transporting individuals and cargo to and from facilities for the purpose of conducting remedial action or with respect to protection or response activities relating to unexploded ordinance.".

(b) Amendment to Section 4041(d) of the Internal Revenue Code of 1986 is amended by striking "(f) or (g)" and inserting "(f), (g), or (i)".

(c) Effective Date.—The amendments made by this section shall apply to transportation beginning after June 30, 1997, and before August 1, 2005.

By Mr. INOUYE:
S. 48. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for the conversion of cooperative housing corporations into condominiums, to remove the penalty of double taxation resulting from a change in the form of ownership, to amend the Internal Revenue Code of 1986 (relating to distribution of earnings of a cooperative housing corporation) to provide tax relief for the conversion of cooperative housing corporations into condominiums.

TAX RELIEF FOR THE CONVERSION OF COOPERATIVE HOUSING CORPORATIONS INTO CONDOMINIUMS
Mr. INOUYE. Mr. President, today I rise to introduce legislation that would amend the Internal Revenue Code of 1986 to allow Cooperative Housing Corporations (Co-ops) to convert to condominium forms of ownership without any immediate tax consequences.

Under current law, a conversion from cooperative shareholding to condominium ownership is taxable at a corporate level as well as an individual level. The conversion is treated as a corporate liquidation, and therefore taxed accordingly. In addition, a capital gains tax is levied on any increase between the owner's basis in the co-op share pre-conversion and the market value of the condominium conversion because the owner is being taxed on a transaction that is nothing more than a change in the form of ownership. While the Internal Revenue Service concedes that there are no discernible advantages to society from the cooperative form of ownership, it does not view federal tax statutes as having the flexibility to allow co-ops to reorganize freely as condominiums.

In cooperative housing, real property ownership is vested in a corporation, with shares of stock for each apartment unit, that are sold to buyers. The corporation then issues a proprietary lease entitling the owner of the stock to the use of the unit in perpetuity. Because the investment is in the form of a share of stock, investors sometimes lose their entire investment as a result of default by the corporation in construction and development. In addition, due to the structure of a cooperative housing corporation, a prospective purchaser of shares in the corporation from an existing tenant-stockholder has difficulty obtaining a mortgage financing for the purchase. Furthermore, tenant-stockholders of cooperative housing also encounter difficulties in securing bank loans for the full value of their investment.

As a result, owners of cooperative housing are increasingly looking toward conversion to condominium ownership regimes. Condominium ownership permits each owner of a unit to directly own the unit itself, eliminating the cooperative challenges of corporate debt that supersedes the investment of cooperative housing share owners, and other financial concerns.

The legislation I introduce today will remove the penalty of double taxation of the conversion from the cooperative housing to condominium ownership, and will greatly benefit co-op owners across the nation. I urge my colleagues to consider and support this measure.

Mr. President, I ask unanimous consent that the text 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. 48
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NONRECOGNITION OF GAIN OR LOSS ON INCOME RECEIVED BY COOPERATIVE HOUSING CORPORATIONS.
(a) In General.—Section 204(e) of the Internal Revenue Code of 1986 (relating to distribution by cooperatives of income received by such cooperatives) is amended to read as follows:

"(e) DISTRIBUTIONS BY COOPERATIVE HOUSING CORPORATIONS.—
"(1) IN GENERAL.—Except as provided in regulations—
"(A) no gain or loss shall be recognized to a cooperative housing corporation on the distribution by such corporation of a dwelling unit to a stockholder in such corporation if such distribution is in exchange for the stockholder's stock in such corporation, and
"(B) no gain or loss shall be recognized to a stockholder of such corporation on the transfer of such stockholder's stock in exchange described in subparagraph (A)
"(2) Basis.—The basis of a dwelling unit acquired in a distribution to which paragraph (1) applies shall be the same as the basis of the stock in the cooperative housing corporation for which it is exchanged, decreased in the amount of any money received by the taxpayer in such exchange.

"(f) Effect.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

By Mr. STEVENS:
S. 49. A bill to amend the wetlands regulatory program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska, to protect Alaskan property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, school districts, and villages. The legislation I submit today is identical to that introduced in the 106th Congress, except for a minor addition relative to silviculture. The new language simply clarifies the existing exemption for normal silvicultural activities as applied to lands owned by Alaska Native corporations established pursuant to the Alaska Native Claims Settlement Act ("ANCSA").

Congress in enacting the ANCSA intended and expected that Native timber holdings would be subject to harvesting. In fact, most Native timber lands are former national forest lands that, at the time of the enactment of ANCSA in 1971, were part of an "established" or "conceded" silviculture program for that forest.

I hope my colleagues will support my State and its Native peoples as we pursue this legislation.

By Mr. INOUYE:
S. 51. A bill to amend title XVIII of the Social Security Act to remove the restriction that a clinical psychologist or clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under care of a physician; to the Committee on Finance.

AUTONOMOUS FUNCTIONING OF CLINICAL PSYCHIATRISTS
Mr. INOUYE. Mr. President, today, I rise to introduce legislation to authorize the autonomous functioning of clinical psychologists and clinical social workers within the Medicare comprehensive outpatient rehabilitation facility program.

In my judgment, it is unfortunate that Medicare requires clinical supervision of the services provided by certain health professionals and does not allow them to function to the full extent of their state practice licenses. Those who need the services of outpatient rehabilitation facilities should have access to a wide range of social and behavioral science expertise. Clinical psychologists and clinical social workers are recognized as independent providers of mental health care services under the Federal Employee Health Benefits Program, the Civilian Health and Medical Program of the Uniformed Services, the Medicare (D), (E), and (B) Programs, and numerous private insurance plans. This legislation will ensure that these qualified professionals achieve the same recognition...
under Medicare comprehensive outpatient rehabilitation facility program.

Mr. President, I ask unanimous consent that the text 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. 52

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

SECTION 1. IMPROVED REIMBURSEMENT FOR CLINICAL SOCIAL WORKER SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1833(a)(1)(F)(ii) of the Social Security Act (42 U.S.C. 1395f(a)(1)(F)(ii)) is amended as follows: ‘‘(ii) the amount determined by a fee schedule established by the Secretary’’.

(b) DEFINITION OF CLINICAL SOCIAL WORKER SERVICES EXPANDED.—Section 1861(bb)(2) of the Social Security Act (42 U.S.C. 1395x(bb)(2)) is amended by striking ‘‘services performed by a clinical social worker (as defined in paragraph (1))’’ and inserting ‘‘such services and such supplies furnished as an incident to such services performed by a clinical social worker (as defined in paragraph (1))’’.

(c) CLINICAL SOCIAL WORKER SERVICES NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b)(4) of the Social Security Act (42 U.S.C. 1395x(b)(4)) is amended by striking ‘‘and services’’ and inserting ‘‘clinical social worker services, and services’’.

(d) TREATMENT OF SERVICES FurnISHED IN INPATIENT SETTING.—Section 1832(a)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395f(a)(2)(B)(iii)) is amended by striking ‘‘and services’’ and inserting ‘‘clinical social worker services, and services’’.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made for clinical social worker services furnished on or after January 1, 2002.

By Mr. INOUYE:

S. 52. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the Medicare Program; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am introducing legislation to amend Title XVIII of the Social Security Act to correct discrepancies in the reimbursement of clinical social workers covered under Medicare, Part B. The three proposed changes contained in this legislation clarify the current payment process for clinical social workers and establish a reimbursement methodology for the profession that is similar to other health care professionals reimbursed through the Medicare program.

First, this legislation sets payment for clinical social worker services according to a fee schedule established by the Secretary. Second, it explicitly states that services and supplies furnished by a clinical social worker are a covered Medicare expense, just as these services are covered for other mental health professionals in Medicare. Third, the bill allows clinical social workers to be reimbursed for services provided to a client who is hospitalized.

Clinical social workers are valued members of our health care provider network. They are legally regulated in every state of the nation and are recognized as providing a critical link to essential health care throughout the health care system. I believe it is time to correct the disparate reimbursement treatment of this profession under Medicare.

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

S. 52

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

SECTION 1. MEDICAID COVERAGE OF SERVICES PROVIDED BY NURSING SCHOOL CLINICS.

Mr. INOUYE. Mr. President, I rise today to introduce the Nursing School Clinics Act of 2001. This measure builds on our concerted efforts to provide access to quality health care for all Americans by offering grants and incentives for nursing schools to establish primary care clinics in underserved areas with education of and services for nursing schools to establish primary care clinics in underserved areas where additional medical services are most needed. In addition, this measure provides the opportunity for nursing schools to enhance the scope of nursing education by providing firsthand clinical experience in primary care facilities.

Primary care clinics administered by nursing schools are university or nonprofit entity primary care centers developed in collaboration with university schools of nursing and the communities they serve. These centers are staffed by faculty and staff who are nurse practitioners and public health nurses. Students supplement patient care while receiving preceptorships provided by practicing faculty and primary care physicians, often associated with academic institutions, who serve as collaborators with nurse practitioners. To date, the comprehensive models of care provided by nursing clinics have yielded excellent results, including significantly fewer emergency room visits, fewer hospital inpatient days, and less use of specialists, as compared to conventional primary health care.

This bill reinforces the principle of combining health care delivery in underserved areas with education of advanced practice nurses. To accomplish these objectives, Title XIX of the Social Security Act would be amended to designate that the services provided in these nursing school clinics are reimbursable under Medicaid. The combination of grants and the provision of Medicaid reimbursement furnishes the incentives and operational resources to establish the clinics.

In order to meet the increasing challenges of bringing cost-effective and quality health care to all Americans, we must consider and debate various proposals, both large and small. Most importantly, we must approach the issue of health care with creativity and determination, ensuring that all reasonable avenues are pursued. Nurses have always been an integral part of our health care delivery. The Nursing School Clinics Act of 2001 recognizes the central role they can perform as care givers to the medically underserved.

Mr. President, I ask unanimous consent that the text 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. 53

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

SECTION 1. IMPROVED REIMBURSEMENT FOR CLINICAL SOCIAL WORKER SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1833(a)(1)(F)(ii) of the Social Security Act (42 U.S.C. 1395f(a)(1)(F)(ii)) is amended as follows: ‘‘(ii) the amount determined by a fee schedule established by the Secretary’’.

(b) DEFINITION OF CLINICAL SOCIAL WORKER SERVICES EXPANDED.—Section 1861(bb)(2) of the Social Security Act (42 U.S.C. 1395x(bb)(2)) is amended by striking ‘‘services performed by a clinical social worker (as defined in paragraph (1))’’ and inserting ‘‘such services and such supplies furnished as an incident to such services performed by a clinical social worker (as defined in paragraph (1))’’.

(c) CLINICAL SOCIAL WORKER SERVICES NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b)(4) of the Social Security Act (42 U.S.C. 1395x(b)(4)) is amended by striking ‘‘and services’’ and inserting ‘‘clinical social worker services, and services’’.

(d) TREATMENT OF SERVICES FurnISHED IN INPATIENT SETTING.—Section 1832(a)(2)(B)(iii) of the Social Security Act (42 U.S.C. 1395f(a)(2)(B)(iii)) is amended by striking ‘‘and services’’ and inserting ‘‘clinical social worker services, and services’’.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made for clinical social worker services furnished on or after January 1, 2002.

By Mr. INOUYE:

S. 52. A bill to amend title XVIII of the Social Security Act to provide for coverage of services provided by nursing school clinics under State Medicaid programs; to the Committee on Finance.

Mr. INOUYE. Mr. President, I rise today to introduce the Nursing School Clinics Act of 2001. This measure builds on our concerted efforts to provide access to quality health care for all Americans by offering grants and incentives for nursing schools to establish primary care clinics in underserved areas where additional medical services are most needed. In addition, this measure provides the opportunity for nursing schools to enhance the scope of nursing education by providing firsthand clinical experience in primary care facilities.

Primary care clinics administered by nursing schools are university or nonprofit entity primary care centers developed in collaboration with university schools of nursing and the communities they serve. These centers are staffed by faculty and staff who are nurse practitioners and public health nurses. Students supplement patient care while receiving preceptorships provided by practicing faculty and primary care physicians, often associated with academic institutions, who serve as collaborators with nurse practitioners. To date, the comprehensive models of care provided by nursing clinics have yielded excellent results, including significantly fewer emergency room visits, fewer hospital inpatient days, and less use of specialists, as compared to conventional primary health care.

This bill reinforces the principle of combining health care delivery in underserved areas with education of advanced practice nurses. To accomplish these objectives, Title XIX of the Social Security Act would be amended to designate that the services provided in these nursing school clinics are reimbursable under Medicaid. The combination of grants and the provision of Medicaid reimbursement furnishes the incentives and operational resources to establish the clinics.

In order to meet the increasing challenges of bringing cost-effective and quality health care to all Americans, we must consider and debate various proposals, both large and small. Most importantly, we must approach the issue of health care with creativity and determination, ensuring that all reasonable avenues are pursued. Nurses have always been an integral part of our health care delivery. The Nursing School Clinics Act of 2001 recognizes the central role they can perform as care givers to the medically underserved.

Mr. President, I ask unanimous consent that the text 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. 53

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

SECTION 1. MEDICAID COVERAGE OF SERVICES PROVIDED BY NURSING SCHOOL CLINICS.

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

(1) in paragraph (26), by striking ‘‘and’’ at the end;

(2) by redesignating paragraph (27) as paragraph (26); and

(3) by inserting after paragraph (26), the following new paragraph:

‘‘(27) nursing school clinic services (as defined in subsection (x)) furnished by or under the supervision of a nurse practitioner or a clinical nurse specialist (as defined in section 1861(aa)(5)), whether or not the nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider; and’’;

(b) NURSING SCHOOL CLINIC SERVICES DEFINED.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

‘‘(x) the term ‘nursing school clinic services’ means services provided by a health care facility operated by an accredited school of nursing which provides primary care, long-term care, mental health counseling, home health counseling, home health care, or other health care services which are within the scope of practice of a registered nurse.’’;

(c) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of the Social Security Act
(42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting “and (27)” after “(24)”.  

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to payments made under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for calendar quarters commencing with the first calendar quarter beginning after the date of enactment of this Act.

By Mr. INOUYE:  
S. 58. A bill to recognize the organization known as the National Academies of Practice; to be Committee on the Judiciary.  

NATIONAL ACADEMIES OF PRACTICE ACT OF 2001  
Mr. INOUYE. Mr. President, today I am introducing legislation that would provide a federal charter for the National Academies of Practice. This organization represents outstanding medical professionals who have made significant contributions to the practice of applied psychology, medicine, dentistry, nursing, optometry, podiatry, social work, and veterinary medicine. When fully established, each of the nine academies will possess 100 distinguished practitioners selected by their peers. This umbrella organization will be able to provide the Congress of the United States and the executive branch with considerable health policy expertise, especially from the perspective of those individuals who are in the forefront of actually providing health care.

As we continue to grapple with the many complex issues surrounding the delivery of health care services, it is clearly in our best interest to ensure that the Congress has direct and immediate access to the recommendations of an interdisciplinarian body of health care practitioners.

Mr. President, I ask unanimous consent that the text 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. 58  
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,  

SECTION 1. CHARTER.  
The National Academies of Practice organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a Federal charter.

SEC. 2. CORPORATE POWERS.  
The National Academies of Practice (referred to in this Act as the “corporation”) shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 3. PURPOSES OF CORPORATION.  
The purposes of the corporation shall be to honor practitioners who have made significant contributions to the practice of applied psychology, dentistry, medicine, nursing, optometry, osteopathy, podiatry, social work, veterinary medicine, and other health care professions, and to improve the practices in such professions by disseminating information about new techniques and procedures.

SEC. 4. ORGANIZATION.  
With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.  
Eligible membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.  
The composition and the responsibilities of the board of directors of the corporation shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF THE CORPORATION.  
The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. RESTRICTIONS.  
(a) USE OF INCOME AND ASSETS.—No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) POLITICAL ACTIVITY.—The corporation, any officer, or any director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) ISSUANCE AND PAYMENT OF DIVIDENDS.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) CLAIMS OF FEDERAL APPROVAL.—The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

SEC. 9. LIABILITY.  
The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 10. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.  
(a) BOOKS AND RECORDS OF ACCOUNT.—The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The corporation shall keep at its principal office a current list of the names and addresses of all members having the right to vote in any proceeding of the corporation.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at reasonable times.

(d) APPLICATION OF STATE LAW.—Nothing in this section shall be construed to contravene any applicable State law.

SEC. 11. ANNUAL REPORT.  
The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. The report shall not be printed as a public document.

SEC. 12. RESERVATION OF RIGHT TO AMEND OR REPEAL.  
The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 13. DEFINITION.  
In this Act, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 14. TAX-EXEMPT STATUS.  
The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 and any corresponding similar provision.

SEC. 15. TERMINATION.  
If the corporation fails to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall terminate.

By Mr. INOUYE:  
S. 59. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect, to be conducted by a clinical social worker; to be entitled “Psychiatric and Psychological Examinations Act of 2001.”  

Mr. INOUYE. Mr. President, today I introduce legislation to amend Title 18 of the United States Code to allow our nation’s clinical social workers to use their mental health expertise on behalf of the federal judiciary by conducting psychological and psychiatric exams.

I feel that the time has come to allow our nation’s judicial system to have access to a wide range of behavioral science and mental health expertise. I am confident that the enactment of this legislation would be very much in our nation’s best interest.

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

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

S. 59  
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,  

SECTION 1. EXAMINATIONS BY CLINICAL SOCIAL WORKERS.  
Section 3202(a) of title 18, United States Code, is amended, in the first sentence, by striking “psychiatrist or psychologist” and inserting “psychiatrist, psychologist, or clinical social worker”.

By Mr. INOUYE:  
S. 61. A bill to restore the traditional day of observance of Memorial Day; to be entitled “Restoration of Memorial Day to May 30.”  

Mr. INOUYE. Mr. President, in our effort to accommodate many Americans by making Memorial Day the last Monday in May, we have lost sight of the significance of this day to our nation. My bill would restore Memorial Day to May 30 and authorize our flag to fly at half mast on that day. In addition, this legislation would authorize the President to issue a proclamation designating Memorial Day and Veterans Day as days for prayer and ceremonies.

This legislation would help restore the recognition our veterans deserve for the sacrifices they have made on behalf of our nation.
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. 61

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

SECTION 1. RESTORATION OF TRADITIONAL DAY OF OBSERVANCE OF MEMORIAL DAY.

(a) DESIGNATION OF LEGAL PUBLIC HOLIDAY.—Section 6103(a) of title 5, United States Code, is amended by striking the last Monday in May and inserting May 30.

(b) OBSERVANCES AND CEREMONIES.—Sections 1–3 of title 38, United States Code, is amended—

(1) in subsection (a), by striking “The last Monday in May” and inserting “May 30”;

and

(2) in subsection (b)—

(A) by striking “and” at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph (4):

“(4) All public ceremonies held on the last Monday of May shall be known as Memorial Day for showing respect for American veterans of wars and other military conflicts.”

(c) DISPLAY OF FLAG.—Section 6(d) of title 4, United States Code, is amended by striking “the last Monday in May” and inserting “May 30”.

By Mr. INOUYE:

S. 62. A bill to amend title 38, United States Code, to revise certain provisions relating to the appointment of professional psychologists in the Veterans Health Administration, and for other purposes; to the Committee on Veterans’ Affairs.

VETERAN’S HEALTH ADMINISTRATION ACT OF 2001

Mr. INOUYE. Mr. President, I introduce legislation today to amend Chapter 74 of Title 38, United States Code, to revise certain provisions relating to the appointment of clinical and professional psychologists in the Veterans Health Administration (VHA). The VHA has a long history of maintaining a staff of the very best health care professionals to provide care to those men and women who have served our country in the Armed Forces.

Recently, a distressing situation regarding the care of our veterans has come to my attention: the recruiting and retention of psychologists in the VHA of the Department of Veterans Affairs has become a significant problem.

The Congress has recognized the important contribution of the behavioral sciences in the treatment of several conditions affecting a significant portion of our veterans. Programs related to homelessness, substance abuse, and post traumatic stress disorder (PTSD) have received funding from the Congress in recent years.

Psychologists, as behavioral science experts, are essential to the successful implementation of these programs. Consequently, the high vacancy and turnover rates for psychologists in the VHA might seriously jeopardize these programs and will negatively impact overall patient care in the VHA.

Recruitment of psychologists by the VHA is subject to a number of factors, including a pay scale that is not commensurate with private sector rates together with a low number of clinical and professional psychologists appearing on the register of the Office of Personnel Management (OPM). Most new hires have no post-doctoral experience, and are hired immediately after a VHA internship. Recruitment, when successful, takes up to six months or longer.

Retention of psychologists in the VHA system poses an even more significant problem. I have been informed that almost 40 percent of VHA psychologists have five years or less of post-doctoral experience. Psychologists leave the VHA system after five years because they have almost reached peak levels of supervision and professional advancement. Under the present system, psychologists cannot be recognized, or appropriately compensated, for excellence or for taking on additional responsibilities such as running treatment programs.

In effect, the current system for hiring psychologists in the VHA supports mediocrity, not excellence and mastery. Our veterans with behavioral and mental health disorders deserve better psychological care from more experienced professionals than they are now receiving.

Currently, psychologists are the only doctoral level health care providers in the VHA who are not included in Title 38. This is without question a significant factor in the recruitment and retention difficulties that I have mentioned. Title 38 appointment authority for psychologists would help ameliorate the recruitment and retention problems of the length of time it takes to recruit psychologists could be shortened by eliminating the requirement for applicants to be rated by the OPM. This would also encourage the recruitment of applicants who are not recent VHA interns by reducing the amount of time between identifying a desirable applicant and being able to offer that applicant a position.

It is expected that problems in retention will be greatly alleviated by the implementation of a Title 38 system that offers financial incentives for psychologists to pursue professional development. Achievements that would merit salary increases include such activities as assuming supervisory responsibilities for clinical programs, implementing innovative clinical treatments that improve the effectiveness and efficiency of patient care, making significant contributions to the science of psychology, earning the ABPP diplomate state, and becoming a Fellow of the American Psychological Association.

The addition of psychologists to Title 38, as proposed by this amendment, would provide relief for the retention and recruitment issues and enhance the quality of care for our veterans and their families.

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

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

S. 63

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

SECTION 1. RELIEF OF DONALD C. PENCE.

(a) RELIEF.—The Secretary of the Treasury shall pay, out of any moneys in the Treasury...
not otherwise appropriated, to Donald C. Pence, of Sanford, North Carolina, the sum of $31,128 in compensation for the failure of Kathryn E. Box, the now-deceased mother of Donald C. Pence, for the period beginning on July 1, 1990, and ending on March 31, 1993."

(b) LIMITATION ON FEES. — Not more than 10 percent of the payment authorized by subsection (a) may be paid to or received by agents or attorneys for services rendered in connection with obtaining such payment, any contract to the contrary notwithstanding. Any person who violates this subsection shall be fined not more than $1,000.

By Mr. INOUYE:

S. 65. A bill to amend title VII of the Public Health Service Act to ensure that social work students or social work schools are eligible for support under the certain programs to assist individuals in pursuing health careers and programs of grants for training projects in geriatrics, an to establish a social work training program; to the Committee on Health, Education, Labor, and Pensions.

AMENDMENT TO TITLE VII OF THE PUBLIC HEALTH SERVICE ACT

Mr. INOUYE. Mr. President, on behalf of the Senate’s national social workers, I am introducing legislation to amend the Public Health Service Act. This legislation would (1) establish a new social work training program; (2) ensure that social work students are eligible for support under the Health Care Professional Opportunity Programs; (3) provide social work schools with eligibility for support under the Minority Centers of Excellence programs; (4) permit schools offering degrees in social work to obtain grants for training projects in geriatrics; and (5) ensure that social work is recognized as a profession under the Public Health Maintenance Organization (HMO) Act.

Despite the impressive range of services social workers provide to people of all ages and all levels of health, social workers remain on the front line of delivering health care. This legislation would (1) provide funding for existing social work training programs or fellowships for individuals who plan to specialize in practice, or teach social work; (2) help disadvantaged students earn graduate degrees in social work with a concentration in health or mental health; (3) provide new resources and opportunities for social workers pursuing training for minorities; and (4) encourage schools of social work to expand programs in geriatrics.

Social workers have long provided quality mental health services to our citizens and continue to be at the forefront of establishing innovative programs to service our disadvantaged populations. I believe it is important to ensure that the special expertise social workers possess continue to be available to the citizens of this nation. This bill, by helping to expand the accessibility of schools of social work and social work students, acknowledges the long historic and critical importance of the services provided by social work professionals. I believe it is time to provide them with the cognition they deserve.

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

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

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

SECTION 1. SOCIAL WORK STUDENTS.

(a) HEALTH PROFESSIONS SCHOOL.—Section 736(g)(1)(A) of the Public Health Service Act (42 U.S.C. 293a(g)(1)(A)) is amended by striking “graduate program in behavioral or mental health” and inserting “graduate program in behavioral or mental health including a school offering graduate programs in clinical social work, or programs in social work”.

(b) SCHOLARSHIPS, GENERALLY.—Section 736(g)(1)(A) of the Public Health Service Act (42 U.S.C. 293a(g)(1)(A)) is amended by striking “mental health practice” and inserting “mental health practice including graduate programs in psychology, graduate programs in clinical social work, or programs in social work”.

(c) FACULTY DEVELOPMENTS.—Section 736(a)(3) of the Public Health Service Act (42 U.S.C. 293a(d)(1)(A)) is amended by inserting “mental health practice” and inserting “mental health practice including graduate programs in psychology, graduate programs in clinical social work, or programs in social work”.

SEC. 2. GERIATRICS TRAINING PROJECTS. Section 753(b)(1) of the Public Health Service Act (42 U.S.C. 293a(b)(1)) is amended by inserting “schools offering degrees in social work,” after “teaching hospitals.”

SEC. 3. SOCIAL WORK TRAINING PROGRAM. Subpart 2 of part E of title VII of the Public Health Service Act (42 U.S.C. 295 et seq.) is amended—

(1) by redesignating section 770 as section 770A;

(2) by inserting after section 769, the following:

"SEC. 770. SOCIAL WORK TRAINING PROGRAM."

"(a) TRAINING GENERALLY.—The Secretary may make grants to, or enter into contracts with, any public or private hospital, school offering programs in social work, or to or with a public or private non-profit entity (which the Secretary has determined is capable of carrying out such grant or contract)—

"(1) to plan, develop, and operate, or participate in, an approved social work training program (including an approved residency or internship program) for students, interns, residents, or practicing physicians; and

"(2) to provide assistance (in the form of traineeships and fellowships) to students, interns, residents, practicing physicians, or other individuals, who are in need thereof, who plan to work in any such program, and who plan to specialize or work in the practice of social work;"

"(b) to plan, develop, and operate a program for the training of individuals who plan to teach in social work training programs; and

"(c) to provide financial assistance (in the form of traineeships and fellowships) to individuals who are participants in any such program and who plan to teach in a social work training program.

"(b) ACADEMIC ADMINISTRATIVE UNITS.—

"(1) IN GENERAL.—The Secretary may make grants to or enter into contracts with schools offering programs in social work to meet the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, divisions, or centers) to provide clinical instruction in social work.

"(2) PREFERENCE IN MAKING AWARDS.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant for such an award that agrees to expend the award for the purpose of—

"(A) establishing an academic administrative unit for programs in social work; or

"(B) substantially expanding the programs of such a unit.

SEC. 7. DURATION OF AWARD. The period during which payments are made to an entity from an award of a grant or contract under subsection (a) may not exceed 3 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

"(A) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $10,000,000 for each of the fiscal years 2002 through 2004.

"(B) ALLOCATION.—Of the amounts appropriated for any fiscal year, the Secretary shall make available not less than 20 percent for awards of grants and contracts under subsection (b); and

"(C) IN GENERAL.—The amount appropriated under paragraph (1), the Secretary shall give first priority to an entity that agrees to--

"(A) establish an academic administrative unit for programs in social work; or

"(B) substantially expand the programs of such a unit.

SEC. 4. CLINICAL SOCIAL WORKER SERVICES.

Section 1302 of the Public Health Service Act (42 U.S.C. 300e–3) is amended—

(1) by inserting “clinical social worker,” after “psychologist,” each place it appears;

(2) in paragraph (4)(A), by striking “and psychologists” and inserting “psychologists, and clinical social workers”; and

(3) in paragraph (5), by inserting “clinical social worker,” after “psychology.”

By Mr. INOUYE:

S. 66. A bill to amend title VII of the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EDUCATION ACT OF 2001

Mr. INOUYE. Mr. President, today I rise to introduce the Physical and Occupational Therapy Education Act of 2001. This legislation will increase educational opportunities for physical therapy and occupational therapy practitioners in order to meet the growing demand for the valuable services they provide in our communities.

Several factors contribute to the increased need for federal support in this area. The rapid aging of our nation’s population, the demands of the AIDS crisis, increasing emphasis on health promotion and disease prevention, and the growth of home health care has increased the demand for physical and occupational therapists in this area. The rapid aging of our nation’s population, the demands of the AIDS crisis, increasing emphasis on health promotion and disease prevention, and the growth of home health care has increased the demand for physical and occupational therapists in this area. The rapid aging of our nation’s population, the demands of the AIDS crisis, increasing emphasis on health promotion and disease prevention, and the growth of home health care has increased the demand for physical and occupational therapists in this area. The rapid aging of our nation’s population, the demands of the AIDS crisis, increasing emphasis on health promotion and disease prevention, and the growth of home health care has increased the demand for physical and occupational therapists in this area.

Mr. President, it is time to provide our communities with the skilled physical and occupational therapists they so desperately need. This bill will provide the necessary funding to meet the increased demand for these services.

I urge my colleagues to support this legislation and work together to provide the necessary funding to meet the growing demand for physical and occupational therapists in our communities.
In addition, technological advances are allowing injured and disabled individuals to survive conditions that would have proven fatal in past years.

An inadequate number of physical therapists has led to an increased reliance on foreign-educated, non-immigrant workers (H-1B visa holders). The U.S. Commission on Immigration Reform has identified physical therapy and occupational therapy as having the highest number of H-1B visa holders in the United States, second only to nurses.

In addition to the shortage of practitioners, a shortage of faculty impedes the expansion of established education programs. The critical shortage of doctoral-prepared occupational therapists and physical therapists has resulted in a depleted pool of potential faculty. This bill would assist in the development of qualified faculty by giving preference to grant applicants seeking to develop and expand post-professional programs for the advanced training of physical and occupational therapists.

The legislation I introduce today would provide necessary assistance to physical and occupational therapy programs throughout the country. The investment we make will help reduce America’s dependence on foreign labor and create highly-skilled, high-wage employment opportunities for American citizens.

Mr. President, I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

SEC. 1. SHORT TITLE. This Act may be cited as the “Physical Therapy and Occupational Therapy Education Act of 2001”.

SEC. 2. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

Subpart 2 of part E of title VII of the Public Health Service Act (42 U.S.C. 295 et seq.) is amended by inserting after section 769, the following:

“SEC. 769A. PHYSICAL THERAPY AND OCCUPATIONAL THERAPY.

“(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, programs of physical therapy and occupational therapy practice or educational institutions for the purpose of training and implementing projects to recruit and retain faculty and students, develop curriculum, support the distribution of physical therapy and occupational therapy practitioners in underserved areas, or support the continuing development of these professions.

“(b) PREFERENCE IN MAKING GRANTS.—In making contracts under subsection (a), the Secretary shall give preference to qualified applicants that seek to educate physical therapists or occupational therapists in rural or urban medically underserved communities, or to expand post-professional programs for the advanced education of physical therapy or occupational therapy practitioners.

“(c) PEER REVIEW.—Each peer review group under section 769(c) that is reviewing proposals for grants or contracts under subsection (a) shall include not fewer than 2 physical therapists or occupational therapists.

“(d) REPORT TO CONGRESS.—

“(1) IN GENERAL.—The Secretary shall prepare a report that—

“(A) summarizes the applications submitted to the Secretary for grants or contracts under this section; and

“(B) specifies the identity of entities receiving the grants or contracts; and

“(2) DATE CERTAIN FOR SUBMISSION.—Not later than February 1, 2003, the Secretary shall submit the report prepared under paragraph (1) to the Committee on Commerce and the Committee on Appropriations of the House of Representatives, the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate.

“(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for each of the fiscal years 2002 through 2005.”

By Mr. INOUYE.

S. 67. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to amend the Head Start Act of 1965, the Comprehensive Employment and Training Act, the Elementary and Secondary Education Act of 1965, the Higher Education Act of 1965, the Public Health Service Act, the Rehabilitation Act of 1998, and the Higher Education Amendments Act of 1998; and for other purposes.

S. 67 (Introduced by Mr. Inouye) 115th Congress (2017-2019)

January 22, 2001

CONGRESSIONAL RECORD — SENATE

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Domestic violence poses a significant public health problem and is not just a problem for the criminal justice system. Violence against women results in almost 100,000 days of hospitalization, 30,000 emergency room visits and 40,000 visits to physicians each year. Rates of alcohol abuse and depression in rural areas are particularly high, as are the rates of alcohol abuse and depression in adolescents. A post-doctoral fellowship program in the psychology of the rural populations could be of special benefit in addressing these problems.

Given the demonstrated success and effectiveness of specialized training programs, it is incumbent upon us to encourage participation in post-doctoral fellowships that respond to the needs of the nation’s underserved.

Mr. President, I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 67 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

Part C of title VII of the Public Health Service Act (42 U.S.C. 295k et seq.) is amended by adding at the end the following:

“SEC. 749. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

“(a) IN GENERAL.—The Secretary shall establish a psychology post-doctoral fellowship program to make grants to and enter into contracts with eligible entities to encourage the provision of psychological training and services in underserved treatment areas.

“(b) ELIGIBLE ENTITIES.—

“(1) INDIVIDUALS.—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such individual—

“(A) has received a doctoral degree through a graduate program in psychology supported by an accredited institution at the time such grant is awarded;

“(B) will provide services in a medically underserved population during the period of such grant;

“(C) will comply with the provisions of subsection (c); and

“(D) will provide any other information or assurances as the Secretary determines appropriate.

“(2) INSTITUTIONS.—In order to receive a grant or contract under this section, an institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such institution—

“(A) is an entity, approved by the State, that provides psychological services in medically underserved areas or to medically underserved populations, including entities that care for the mentally retarded, mental health institutions, and prisons;

“(B) will use amounts provided under such section for such institution to provide financial assistance in the form of fellowships to qualified individuals who meet the requirements of subparagraphs (A) through (D) of paragraph (1); and

“(C) will not use in excess of 10 percent of amounts provided under this section to pay...
for the administrative costs of any fellowship programs established with such funds; and
"(d) shall provide any other information or assurance as the Secretary determines appropriate.

"(c) CONTINUING PROVISION OF SERVICES.—Any individual who receives a grant or fellowship under this section shall certify to the Secretary that such individual will continue to provide the type of services for which such grant or fellowship is awarded for at least 1 year after the term of the grant or fellowship has expired.

"(d) REGULATIONS.—Not later than 180 days after the enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that define the terms "medically underserved areas" or "medically underserved populations.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 2002 through 2004.

By Mr. INOUYE:
S. 68. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in professional psychology eligible to participate in various health professions loan programs; to the Committee on Health, Education, Labor, and Pensions.

U.S. PUBLIC HEALTH SERVICE ACT AMENDMENT ACT OF 2001

Mr. INOUYE. Mr. President, I rise to introduce legislation today to modify Title VII of the U.S. Public Health Service Act in order to provide students enrolled in graduate psychology programs with the opportunity to participate in various health professions loan programs.

Providing students enrolled in graduate psychology programs with eligibility for financial assistance in the form of loans, loan guarantees, and scholarships will facilitate a much-needed infusion of behavioral science expertise into our community of public health, providers. There is a growing recognition of the valuable contribution being made by psychologists toward solving some of our nation's most distressing problems.

The participation of students from all backgrounds and clinical disciplines is vital to the success of health care training. The Title VII programs play a significant role in providing financial support for the recruitment of minorities, women, and individuals from economically disadvantaged backgrounds. Minority therapists have an advantage in the provision of critical services to minority populations because often they can communicate with clients in their own language and cultural framework. Minority therapists are more likely to work in community settings where ethnic minorities and economically disadvantaged individuals are most likely to seek care. It is critical that continued support be provided for the training of individuals who provide health care services to underserved communities.

Mr. President, I ask unanimous consent that the text 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. 68
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PARTICIPATION IN VARIOUS HEALTH PROFESSIONS LOAN PROGRAMS.

(a) LOAN AGREEMENTS.—Section 721 of the Public Health Service Act (42 U.S.C. 290q) is amended—

(1) in subsection (a)(1), by inserting "or any public or nonprofit school that offers a graduate degree in professional psychology" after "after "Veterinary medicine"");

(2) in subsection (b)(4), by inserting "or to a graduate degree in professional psychology after "doctor of veterinary medicine"");

(3) in subsection (c)(1), by inserting "or schools that offer graduate programs in professional psychology after "Veterinary medicine"");

(b) LOAN PROVISIONS.—Section 722 of the Public Health Service Act (42 U.S.C. 290q) is amended—

(1) in subsection (b)(1), by inserting "or to a graduate degree in professional psychology after "doctor of veterinary medicine"");

(2) in subsection (c), in the matter preceding paragraph (1), by inserting "or at a school that offers a graduate program in professional psychology after "Veterinary medicine"");

(3) in subsection (k)(1), by striking "(A) in the matter preceding paragraph (1), by striking "clinical and inserting "professional".

SEC. 2. GENERAL PROVISIONS.

(a) HEALTH PROFESSIONS DATA.—Section 798a of the Public Health Service Act (42 U.S.C. 295m) is amended by striking "clinical" and inserting "professional".

(b) PROHIBITON AGAINST DISCRIMINATION ON BASIS OF SEX.—Section 794 of the Public Health Service Act (42 U.S.C. 265m) is amended in the matter preceding paragraph (1) by striking "clinical" and inserting "professional".

(c) DEFINITIONS.—Section 799(b)(1)(B) of the Public Health Service Act (42 U.S.C. 285(b)(1)(B)) is amended by striking "clinical" each place it appears and inserting "professional".

By Mr. INOUYE:
S. 69. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

RURAL PREVENTIVE HEALTH CARE TRAINING ACT OF 2001

Mr. INOUYE. Mr. President, I rise today to introduce the Rural Preventive Health Care Training Act of 2001, a bill that responds to the dire need of our rural communities for quality health care and disease prevention programs.

Almost one fourth of Americans live in rural areas and frequently lack access to quality physical and mental health care. As many as 21 million of the 34 million people living in underserved rural areas are without access to a primary care provider. Even in areas where providers do exist, there are numerous limits to access, such as geography, distance, lack of transportation, and lack of knowledge about available resources. Due to the diversity of rural populations, language and cultural obstacles are often a factor in the access to medical care.

Compound these problems with limited financial resources, and the result is that many Americans living in rural communities go without vital health care, especially preventive care. Children fail to receive immunizations and routine checkups. Preventable illnesses and injuries occur needlessly, and lead to expensive hospitalizations. Early symptoms of emotional problems and substance abuse go undetected, and often develop into full-blown disorders.

An Institute of Medicine (IOM) report entitled, "Reducing Risks for Mental Disorders: Frontiers for Preventive Intervention Research," highlights the benefits of preventive care for all health problems. The training of health care providers in prevention is crucial in order to meet the demand for care in underserved areas. Currently, rural health care providers lack preventive care training opportunities.

Interdisciplinary preventive training of rural health care providers must be expanded. Through such training, rural health care providers can build a strong educational foundation from the behavioral, biological, and psychological sciences. Interdisciplinary team prevention training will also facilitate operations at sites where both health and mental health clinics by facilitating routine consultation between groups. Emphasizing the mental health disciplines and their services as part of the health care team will contribute to the overall health of rural communities.

The Rural Preventive Health Care Training Act of 2001 would implement the risk-reduction model described in the IOM study. The law is based on the identification of risk factors and targets specific interventions for those risk factors.

The human suffering caused by poor health is immeasurable, and places a huge financial burden on communities, families, and individuals. By implementing preventive measures to reduce this suffering, the potential psychological and financial savings are enormous.

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

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

S. 69
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Rural Preventive Health Care Training Act of 2001".

SEC. 2. PREVENTIVE HEALTH CARE TRAINING.

D Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by inserting after section 754 the following:
SEC. 754A. PREVENTIVE HEALTH CARE TRAINING.

"(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, eligible applicants to enable such applicants to provide preventive health care training, in accordance with subsection (c), to health care practitioners practicing in rural areas. To the extent practicable, include training in health care to prevent both physical and mental disorders before the initial occurrence of such disorders. In carrying out such grants, the Secretary shall encourage, but may not require, the use of interdisciplinary traineeships and fellowships.

"(b) LIMITATION.—To be eligible to receive training using assistance provided under subsection (a), a health care practitioner shall be determined by the eligible applicant involved to be practicing, or desiring to practice, in a rural area.

"(c) USE OF ASSISTANCE.—Amounts received under a grant made or contract entered into under this section shall be used—

"(1) to provide student stipends to individuals attending rural community colleges or other institutions that service predominantly rural communities, for the purpose of enabling the individuals to receive preventive health care training;

"(2) to increase base support at rural community colleges or other institutions that service predominantly rural communities to facilitate the provision of preventive health care training;

"(3) to provide training in appropriate research and program evaluation skills in rural communities;

"(4) to create and implement innovative programs and curricula with a specific prevention component; and

"(5) for other purposes as the Secretary determines to be appropriate.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2002 through 2004."

By Mr. INOUYE:

S. 70. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research; to the Committee on Health, Education, Labor, and Pensions.

NATIONAL CENTER FOR SOCIAL WORK RESEARCH

Mr. INOUYE. Mr. President, I rise today to introduce legislation to amend the Public Health Service Act for the establishment of a National Center for Social Work Research.

Social workers provide a multitude of health care delivery services throughout America to our children, families, the elderly, and persons suffering from various forms of abuse and neglect.

The purpose of this center is to support and disseminate information about basic and clinical social work research, and training, with emphasis on services to underserved and rural populations.

While the federal government provides funding for various social work research activities through the National Institutes of Health and other federal agencies, there presently is no coordination or direction of these critical activities and no overall assessment of needs and opportunities for empirical knowledge development. The establishment of a Center for Social Work Research would result in improved behavioral and mental health care outcomes for our nation’s children, families, the elderly, and others.

In order to meet the increasing challenges of bringing cost-effective health care services to rural America, we must recognize the important contributions of social work researchers to health care delivery and the central role that the Center for Social Work can provide in facilitating those efforts.

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

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

S. 70

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 "National Center for Social Work Research Act".

SEC. 2. FINDINGS.
Congress finds that—

(1) social workers focus on the improvement of the health and functional capacities of individuals and families, and the creation of effective health and mental health prevention and treatment interventions in order for individuals to become more productive members of society;

(2) social workers provide front line prevention and treatment services in the areas of school violence, aging, teen pregnancy, child abuse, domestic violence, juvenile crime, and substance abuse, particularly in rural and underserved communities; and

(3) social workers are in a unique position to provide valuable research information on these complex social concerns, taking into account a wide range of social, medical, economic and community influences from an interdisciplinairy, family-centered and community-based approach.

SEC. 3. ESTABLISHMENT OF NATIONAL CENTER FOR SOCIAL WORK RESEARCH.

(a) In General.—(1) The Director of the Division of Epidemiology and Related Health Research (the Director) of the National Institutes of Health shall, subject to appropriations, establish a National Center for Social Work Research.

(b) Establishment.—(1) The Secretary of Health and Human Services for the Administration of the National Institutes of Health, the Secretary of Veterans’ Affairs, the Assistant Secretary of Defense for Health Affairs, the Director of the Veterans Health Administration, the Director of the National Institute of Mental Health, the Director of the Division of Epidemiology and Social Work Research, the Secretary of Health and Human Services for the Administration for Children and Families, the...
The Director of the Center shall make available to the advisory council such staff, information, and other assistance as the council may require to carry out its functions. The Director of the Center shall provide orientation and training for new members of the advisory council to provide such members with such information and training as may be appropriate for participation in the functions of the advisory council.

(18) comments and recommendations.—The advisory council may prepare, for inclusion in the biennial report under section 485j—

(1) comments with respect to the activities of the advisory council in the fiscal years for which the report is prepared.

(2) comments on the progress of the Center in meeting its objectives; and

(3) recommendations with respect to the future direction and program and policy emphasis of the center.

The advisory council may prepare such additional reports as it may determine appropriate.

SEC. 485J. BIENNIAL REPORT.

“The Director of the Center, after consultation with the advisory council for the year, shall submit to Congress a biennial report under section 403, a biennial report that shall consist of a description of the activities of the Center and program policies in the fiscal years for which the report is prepared. The Director of the Center shall provide the advisory council of the Center an opportunity for the submission of the written comments described in section 485j(g).

SEC. 485K. QUARTERLY REPORT.

The Director of the Center shall prepare and submit to Congress a quarterly report that contains a summary of findings and policy implications derived from research conducted or supported through the Center.

Mr. CRAIG. Mr. President, I rise to introduce a bill, and I send it to the desk.

Mr. President, the bill I introduce is the Hydroelectric Licensing Process Improvement Act of 2001. As its title suggests, the purpose of the bill is to improve the process by which non-federal hydroelectric projects are licensed by the Federal Energy Regulatory Commission.

I introduced an identical bill early in the 106th Congress. Several hearings were held on the bill in both the Senate and House. I introduce this bill today with the full understanding that the bill may undergo some changes as a result of collaboration with my colleague Senator BINGAMAN and others on the Senate Energy and Natural Resources Committee.

In the 107th Congress, I enthusiastically look forward to working with him to ensure that this bill will help in making the necessary attention to move smoothly and with appropriate speed through the Committee.

Mr. President, hydroelectric projects represent one of the energy produced in the United States, and approximately 85% of all renewable energy generation. This is a significant portion of our nation’s electricity, produced without air pollution or greenhouse gas emissions, and it is accomplished at relatively low cost.

The Commission for many years since its creation in 1920, controlled our nation’s water power potential with uncompromising authority. However, over the years, a number of environmental statutes, amendments to the Federal Power Act, Commission regulations, licensing and policy decisions, and several critical court decisions, has made the Commission’s licensing process extremely costly, time consuming, and, at times, arbitrary. Indeed, the current Commission licensing program is burdened with mixed mandates and redundant bureaucracy and prone to gridlock and litigation.

Current law requires that federal agencies are required to set conditions for licenses without regard to the effects those conditions have on project economics, energy benefits, impacts on greenhouse gas emissions and values protected by other federal regulations. Far too often we have agencies fighting agencies and issuing inconsistent demands.

The consequent delays in processing hydropower applications result in significant business costs and lost capacity. For example, according to a September 1997 study of the U.S. Department of Energy, since 1987, of 52 peak projects relicensed by the Commission, four projects increased capacity, and 48 decreased capacity. In simple terms, those 48 projects became less productive as a result of the relicensing process at the Commission than they were prior to relicensing.

Ninety-two percent of the peaking projects since 1987 lost capacity.

In addition, faced with the uncertainties currently plaguing the relicensing process, some existing licensees are contemplating abandonment of their projects. This is of concern to the nation’s power companies, because federal hydropower capacity is up for relicensing in the next fifteen years. This concern has been exacerbated in the last several months by the catastrophic energy supply crisis experienced by California and the rest of the West. By the year 2002, this problem will be subject to the relicensing process.

Publicly owned hydropower projects constitute nearly 50% of the total capacity that will be up for renewal. The problems resulting in lost capacity, coupled with the momentous changes occurring in the electricity industry and the increasing need for emission free sources of power, all underscore
the need for Congressional action to reform hydroelectric licensing.

Moreover, the loss of a hydropower project means more than the loss of clean, efficient, renewable electric power. Hydropower projects provide drinking water, flood control, fish and wildlife habitat, irrigation, transportation, environmental enhancement funding and recreation benefits. Also, due to its unique load-following capability, peaking capacity and voltage stability attributes, hydropower plays a critical role in maintaining our nation’s reliable electric service.

My bill will help remedy the inefficient and complex Commission licensing process by ensuring that federal agencies involved in the process act in a timely and accountable manner.

My bill does not change or modify any existing environmental laws, nor remove regulatory authority from various agencies. It does not call for the repeal of mandatory conditioning authority of appropriate federal agencies. Rather, it requires participating agencies to consider, and be accountable for, the full effects of their actions before imposing mandatory conditions on a Commission-issued license.

It is clear to me and many of my colleagues here in the Senate that hydropower is at risk. Clearly, one of the most important tasks for energy policymakers in the 21st Century is to develop an energy strategy that will ensure an adequate supply of reasonably priced electricity to all American consumers in an environmentally responsible manner. The relicensing of non-federal hydropower can and should continue to be an important and viable component of our nation’s reliable electric service.

The purpose of this Act is to achieve the objective of relicensing hydroelectric power projects to maintain high environmental standards while preserving low cost power by—

(1) requiring agencies to consider the full effects of the condition and recommended conditions on a hydroelectric power license and to document the consideration of a broad range of factors;

(2) requiring the Federal Energy Regulatory Commission to impose deadlines by which Federal agencies must submit proposed mandatory and recommended conditions to a license applicant; and

(3) making other improvements in the licensing process.

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SEC. 3. PURPOSE.

The purpose of this Act is to achieve the objective of relicensing hydroelectric power projects to maintain high environmental standards while preserving low cost power by—

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(b) requiring the Federal Energy Regulatory Commission to impose deadlines by which Federal agencies must submit proposed mandatory and recommended conditions to a license applicant; and

(c) making other improvements in the licensing process.

SEC. 4. PROCESS FOR CONSIDERATION BY FEDERAL AGENCIES OF CONDITIONS TO LICENSES.

(a) In General.—Part I of the Federal Power Act (16 U.S.C. 811 et seq.) is amended by adding at the end the following:

SEC. 32. PROCESS FOR CONSIDERATION BY FEDERAL AGENCIES OF CONDITIONS TO LICENSES.

(a) Definitions.—In this section:

(1) Condition.—The term ‘condition’ means—

(A) a condition to a license for a project on a Federal reservation determined by a consulting agency for the purpose of the first proviso of section 4(e); and

(B) a proposal to the consulting agency to be submitted to the Commission.
“(B) remand the matter to the consulting agency for further action.

“(4) Submission to the Commission.—Following administrative review under this subsection, the Commission shall—

“(A) take such action as is necessary to—

“(i) withdraw the condition;

“(ii) formulate a condition that follows the recommendation of the administrative law judge or reviewing body; or

“(iii) otherwise comply with this section; and

“(B) include with its submission to the Commission a final condition.

“(5) Documentation of any action taken following administrative review.—

“(i) Submission of Final Condition.—

“(A) In General.—After an applicant files with the Commission an application for a license, the Commission shall set a date by which a consulting agency shall submit to the Commission a proposed condition.

“(B) Timing.—The Commission may by regulation establish a condition to the license; and

“(C) Final Condition.—The Commission shall make a written determination, no later than the date set under paragraph (1).”

“(6) Limitation.—With respect to submerged lands referred to in section 32 of the Federal Power Act (16 U.S.C. 811), section 4(a) is amended by adding at the end the following:

“SEC. 33. COORDINATED ENVIRONMENTAL REVIEW PROCESS.

“Part I of the Federal Power Act (16 U.S.C. 793 et seq.) is amended by adding the following:

“(a) Lead Agency Responsibility.—The Commission, as the lead agency for environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), for projects licensed under this part, shall conduct a single consolidated environmental review—

“(1) for each such project; or

“(2) if appropriate for multiple projects located in the same area.

“(b) Consulting Agencies.—In connection with the formulation of a condition in accordance with section 32, a consulting agency shall not perform any environmental review in addition to any environmental review performed by the Commission in connection with the action to which the condition relates.

“(c) Deadlines.—In General.—The Commission shall set a deadline for the submission of comments by Federal, State, and local government agencies in connection with the preparation of an environmental impact statement or environmental assessment required for a project.

“(3) Considerations.—In setting a deadline under paragraph (1), the Commission shall take into consideration—

“(A) the need of the license applicant for a prompt and reasonable decision.

“(B) the resources of interested Federal, State, and local government agencies; and

“(C) applicable statutory requirements.”

“6. Study of Small Hydroelectric Projects

“(a) In General.—Not later than 18 months after the date of enactment of this Act, the Federal Energy Regulatory Commission shall submit the report to the Committee on Energy and Natural Resources of the Senate and the Committee on Commerce of the House of Representatives a study of the feasibility of establishing a separate licensing procedure for small hydroelectric projects.

“(b) Definition of Small Hydroelectric Project.—The Commission shall by regulation define the term ‘small hydroelectric project’ for the purpose of subsection (a), except that the term shall include at a minimum a hydroelectric project that has a generating capacity of 5 megawatts or less.

“SECTION-By-SECTION ANALYSIS OF THE HYDROELECTRIC LICENSING PROCESS IMPROVEMENT ACT OF 2001

“Section 1: Short Title. The legislation may be referred to as the Hydroelectric Licensing Process Improvement Act of 2001.

“Section 2: Findings. Hydropower is a vital renewable energy resource, providing clean, renewable electricity. Hydroelectric projects also provide recreation, irrigation, flood control, water supply and fish and wildlife benefits. The bulk of non-federal power projects are relicensed through an opportunity to obtain administrative review of the condition before an administrative law enforcement or to the FERC alone.

“Section 3: Definitions. Small hydroelectric projects are projects that have a generating capacity of 5 megawatts or less.

“Section 4: Consistency with this section. New FPA section 32(a) would define ‘condition’ and ‘consulting agency’ as used in section 4 of ‘Commission’ refers to conditions for projects on Federal reservations determined under FPA section 4(e) and FPA section 4(f).

“Section 5: Consistency with this section. New FPA section 32(b) would require consulting agencies to consider the impact of conditions on: economic and power values; electric generating capacity and system reliability; air quality, including impacts on greenhouse gas emissions; and drinking, flood control, irrigation, navigation or recreation water supply. In addition, agencies would be required to consider the compatibility of their conditions with other conditions that will be included in the license, including, if available, mandates of other states. Further, agencies would be required to consider means to ensure that conditions address only direct project environmental impacts, and do so at the lowest cost to the project. Agencies must create written documentation of their consideration of these issues, and submit the documentation to FERC along with the conditions.

“Section 6: Scientific Review. New FPA section 32(c) would require that each condition be subject to scientifically substantiated scientific review based on technical data or field-tested data and subjected to peer review.

“Section 7: Relationship to Impacts on Federal Reservation. New FPA section 32(d) would require that conditions determined under FPA section 4(e) be directly and reasonably related to the impacts of the project within the Federal reservation.

“Section 8: Administrative Review. New FPA section 32(e) would require that proposed conditions be provided to applicants at least 30 days prior to the deadline for filing a license application. Prior to submitting proposed conditions to the Commission, consulting agencies would be required to offer an opportunity to obtain administrative review of the condition before an administrative law enforcement or to the FERC alone.”
judge or other independent reviewing body. The administrative review would consider the reasonableness of the proposed condition, in light of its effects on the energy and economic condition of the project, and the agency's compliance with the requirements imposed in section 32. Administrative review must be completed within 180 days of a request for review action. If the agency does not timely respond, the matter is remanded to the agency for further action. The reviewing body may recommend curative actions. Finally, the consulting agency, following administrative review, would be required to either withdraw the condition, formulate a condition that follows the recommendations of the administrative review body, or otherwise comply with section 32. When the condition is submitted to the Commission, the consulting agency would be required to include any record on administrative review and describe any action taken after administrative review.

Submission of Final Condition: After a license application is filed, new FPA section 32(f) would require FERC to establish a deadline for the submission to the Commission of final conditions. The deadline would be no later than one year after the date on which the Commission determines that the license application is ready for environmental review (subject to a 30 day extension by FERC). If the consulting agency fails to comply with the deadline, the agency would not have authority to recommend or establish a condition. The legislative language restates FERC's current authority under its regulations to establish licensing conditions in place of the defaulting agency in such a situation.

Analysis by the Commission: New section 32(g) would require FERC to conduct an economic analysis of conditions to determine whether a condition would render the project uneconomic. In addition, in exercising its authority under section 10(j) to reject a condition that is inconsistent with the Federal Power Act, the Commission would be required to determine whether the conditions are consistent with the provisions of sections 32(b) and (c) (consideration of factors and scientific review).

Modification on Effect of Conditions: New section 32(h) would require the Commission, if requested on re-hearing by a license applicant, to make a written determination on whether a condition (1) is in the public interest (measured by the impact of the condition on the economic, environmental and resource considerations enumerated in section 32(g)); (2) relates to scientific review as required in section 32(c); (3) relates to direct project impacts within the reservation (if applicable); (4) is reasonable; (5) is supported by scientific evidence; and (6) is consistent with the Federal Power Act and other license terms and conditions.

Section 4(b): Conforming and Technical Amendments: New FPA section 4(a) makes certain technical changes in FPA sections 4(e) and 18 to reflect the new requirements of section 32.

Section 6: Study of Small Hydroelectric Projects: Within 18 months of the date of enactment, FERC must complete a study of the feasibility of establishing a separate licensing procedure for small hydroelectric projects. The study would be submitted to the Senate Energy and Natural Resources and House Commerce Committees. The term "small hydroelectric project" would be defined by FERC, and shall include projects with generating capacity of 5 megawatts or less.

Mr. BINGAMAN: S. 72. A bill to amend the National Energy Conservation Policy Act to enhance and extend energy savings through performance contracts of the Federal Government; to the Committee on Energy and Natural Resources.

EXPANDING ESPC AUTHORITY

Mr. BINGAMAN: Mr. President, I rise today to introduce important legislation, to amend the National Energy Conservation Policy Act of 1986. This legislation, the "Energy Efficient Cost Savings Improvement Act of 2001," which I previously introduced on December 14, 2000 as S. 3277 and was accepted by unanimous consent, will improve the current law by enhancing and extending the authority relating to energy savings performance contracts of the Federal Government. The benefit to the taxpayer will be not only the re-alization of greater cost savings as they pertain to older, inefficient Federal buildings but, more importantly, the reduction in the waste of monies spent trying to improve these buildings when other, more cost effective alternatives are available.

The National Energy Conservation Policy Act, as amended by the Energy Policy Act of 1992, established a mandate for energy savings in Federal buildings and is the cornerstone of the Federal Government's energy conservation goals. Energy saving performance contracts were subsequently established by Executive Order 12902, stating that, by 2005, Federal agencies must reduce their energy consumption in their buildings by 30 percent by 1994, and 3 percent per year thereafter, compared to 1985 levels. Executive Order 13123 increased this goal to 35 percent by 2010.

To help attain these objectives, the Energy Policy Act of 1992 created Energy Savings Performance Contracting (ESPC), which offered a means of achieving energy savings at no capital cost to the government, since ESPC is an alternative to the traditional method of Federal appropriations to finance these types of improvements in Federal buildings. Under the ESPC authority, Federal agencies contract with energy service companies (ESCO), which pay all the up-front costs. These costs include design, financing, acquisition, installation, and maintenance of energy efficient equipment; altered operation and maintenance improvements; and technical services. ESCO guarantees a fixed amount of energy cost savings throughout the life of the contract and is paid directly from those cost savings. Agencies retain the remainder of the cost savings for themselves and, at the end of the contract, ownership of all property, along with the additional cost savings, reverts to the Federal government. Currently, contracts may range up to 25 years. Over the entire contract period, Federal monies are neither required nor appropriated for the improvements.

But, as innovative as the ESPC alternative may be, there is one area in which it falls short—and that is, how to avoid wasting valuable funds improving energy efficient buildings that have long since passed its useful life. How do you justify energy conservation measures in buildings that are in constant need of maintenance or repair? Facilities that, no matter how much money is reinvested, will never meet existing building code requirements? You may save money by improving energy efficiency, but then turn around and re-invest even larger amounts in operating and maintaining a very old facility. Somewhere there has to be a point where we decide there must be other alternatives—and that is exactly what my legislation offers.

Mr. President, the most important element of my legislation is in the way it gives agencies the ability to fund the preservation and replacement Federal facilities. The legislation builds upon the existing Energy Savings Performance Contracting and takes it one logical step further—to include savings anticipated from operation and maintenance efficiencies of a new replacement Federal building. Perhaps the easiest way to explain the benefits of this change is by citing an example. In my home state of New Mexico, the Department of Energy Albuquerque Operations office resides in a complex of buildings constructed originally as Army barracks during the Korean War. Although these facilities have been renovated and modified throughout the years, they remain energy inefficient and require high maintenance and operation costs when compared to more contemporary buildings. What’s more, over the next seven years, the Operations office will institute additional modifications to meet compliance requirements for seismic, energy savings, and other facility infrastructure needs (vibration, environmental, safety and health, etc.) at a cost of $34.2 million. Even with these modifications, we end up with a
modernized 50-year old building that will continue to require expensive maintenance dollars. The estimate to replace the office complex with a new facility, by the way, is $35.3 million. While Congress cannot afford to appropriate the cost of building the new facility, we’re willing to spend—no, we’re forced to waste—almost as much in maintaining an old one.

As requested by the National Defense Authorization Act for FY2000, the Department of Energy conducted a feasibility study for replacing the Albuquerque Operations office using an ESPC. The results of the study are enlightening, for it demonstrated that by using anticipated energy, operations, and maintenance efficiencies of a new replacement building over the old one, the cost savings alone pay for the new facility. What’s more, the analysis forecasts that after the annual ESPC loan payment is made to the contractor, the facility will have a $1 million per year surplus. Over a 25-year contract, the savings to the taxpayer is $25 million.

Finally, Mr. President, I want to draw your attention to the broader implications of this legislation as it relates to Federal agencies and taxpayers alike. The application of authority created by this legislation in the replacement of other Federal buildings could result in billions of dollars of avoided waste. Simply by considering operation and maintenance savings, we would reap a double benefit of new facilities and much needed improvements to the Federal infrastructure at a fraction of the cost. And, since ESCOs typically use local companies to provide construction services, this type of program would have a very beneficial effect on local economies.

There is certainly enough work within the Federal government to move forward on this ESPC legislation. To this end, I urge my colleagues to support the bill. I ask for 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. 72
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE. This Act may be cited as the “Energy Efficient Cost Savings Improvement Act of 2001.”

SEC. 2. ENHANCEMENT AND EXPANSION OF AUTHORITY RELATING TO ENERGY SAVINGS PERFORMANCE CONTRACTS OF THE FEDERAL GOVERNMENT.

(a) ENERGY SAVINGS THROUGH CONSTRUCTION OF REPLACEMENT FACILITIES.—Section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287c) is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting “(A)” after “(2);” and

(C) by adding at the end the following new subparagraph:

“(B) The term also means a reduction in the cost of energy, from such a base cost, that would otherwise be utilized in a federally owned building or buildings or other federally owned facilities by reason of the construction and operation of one or more buildings or facilities that would be such federally owned building or buildings or other federally owned facilities.”; and

(2) in paragraph (3), by inserting after the first sentence the new sentence:

“The terms also mean a contract that provides for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities.”.

(b) COST SAVINGS FROM OPERATION AND MAINTENANCE EFFICIENCIES IN REPLACEMENT FACILITIES.—Section 804 of the National Energy Conservation Policy Act (42 U.S.C. 8287d) is amended by adding at the end the following new paragraph:

“(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may include savings resulting from reduced costs of operation and maintenance at similar replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced.

“(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) savings resulting from reduced costs of operation and maintenance as described in that subparagraph.”

(c) FIVE-YEAR EXTENSION OF AUTHORITY.—Section 801(c) of that Act (42 U.S.C. 8287c(c)) is amended by—

(A) striking “October 1, 2003” and inserting “October 1, 2008”,

By Mr. HELMS:

S. 73. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools; read the first time.

S. 74. A bill to prohibit the provision of Federal funds to local educational agency that denies or provides morning-after pills to schoolchildren; read the first time.

S. 75. A bill to protect the lives of unborn human beings; read the first time.

S. 76. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus; read the first time.

S. 78. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; read the first time.

S. 79. A bill to encourage drug-free and safe schools; read the first time.

LEGISLATION TO CORRECT PERMISSIVE SOCIAL POLICIES

Mr. HELMS. Mr. President, it is customary for me to introduce legislation on the first day of a new Congress that addresses what countless Americans believe are our country’s most serious social problems. These problems are not new—and the solutions are familiar—but I shall nonetheless devote a few moments to explaining the importance of these bills, and why, more than ever, it is so crucial to correct a number of permissive social policies that are creating a moral and spiritual crisis in our country.

In the past several years, Mr. President, I have been delighted that the responsible fiscal policies of the Republican Congress, coupled with strong and stable monetary policy engineered by the Federal Reserve, has resulted in unprecedented surpluses over the next several years. The resulting expansion—fueled not by government but by the limitless entrepreneurial energy of the American people—has been highly gratifying.

While the American people have been largely optimistic about the state of the economy, there is a curious dichotomy between those positive feelings and their unease about the state of American society. Because for every report of Americans read on the financial page, there seems to be utterly horrifying stories elsewhere, stories which detail a moral sickness at the heart of our culture, stories which chronicle the degradation of human life in the society we know today. I refer to the tragic 1973 Supreme Court decision, Roe v. Wade.

Two years ago, I told the story of the young New Jersey woman who in May of 1997 gave birth to an infant in a public bathroom stall during her senior prom. She promptly strangled her newborn baby boy, placed his little body in a trash can, adjusted her makeup, and returned to the dance floor.

The American people were justly shocked by such callousness, and I was even more stunned to learn that stories of a similar nature are common.

Consider the following examples reported in the media in December of the year 2000.

Portland Oregonian, December 5, 2000: “A 17-year-old woman accused of drowning her newborn baby in the bathtub at a family gathering in late July in Eagle Creek pleaded guilty on Monday to second-degree manslaughter.”

Chicago Tribune, December 9, 2000: “A 21-year-old Fox Lake man pleaded guilty Friday to first-degree murder in the death of his girlfriend’s 2-month-old daughter, who authorities said was brutally shaken and thrown during the last days of her life.

Orlando Sentinel, December 24, 2000: “A 17-month-old baby has died after his stepfather beat the infant in the head with his fists.

News Tribune (Tacoma, Washington), December 1, 2000: “A Lakewood mother and her live-in boyfriend have been charged with homicide-by-abuse in the mid-September death of the woman’s 2-month-old son.”

Salt Lake Tribune, December 5, 2000: “The mother of a newborn boy found dead after being abandoned in a shed at a St. George amusement park was bound over Monday for trial on a charge of first-degree murder.

Should we really be surprised, Mr. President, that a Nation that not only
tolerates, but actively defends the practice of partial birth abortion would produce these gruesome headlines? And should we be surprised that the extraordinary level of disrespect for human life to which America has fallen has not been limited to infant abuse on the运作行 ave, but now permeates every part of our society?

In fact, Mr. President, the abortion-on-demand zealots holding sway over the media and much of the intellectual and political establishment are becoming ever more brazen in their assertions on the unborn. Just this month, the National Abortion Rights Action League, known as NARAL, began an outrageously offensive television advertising campaign seeking to cloak the divisive practice of abortion under the guise of patriotism. Amidst images of families and children, and accompanied by stirring music, the text of the advertisement falsely treats this painful procedure as a cause for celebration; “That’s life,” the commercial asks, “without choice?”

The deliberate destruction of the most innocent, most helpless human beings imaginable has nothing whatsoever to do with “life.”

We have a moral crisis in our country. But too often, the mainstream media doesn’t seek to remedy our decaying culture; they actually celebrate it. During the past two years, the FOX network has become notorious for trivializing our closest functionaries with so-called “reality entertainment” programs like “Who Wants to Marry a Multi-Millionaire” and its most recent assault on good taste, “Temptation Island.”

On this program, which debuted just weeks ago, contestants—or perhaps I should say exhibitionists—exchange their real-life relationships for promiscuous affairs, solely to divert the viewing public. And instead of responding with outrage to the very least difference—a sizeable portion of the American public rewarded the program with high ratings.

It is increasingly apparent that American society has lost its moorings. But too many politicians blithely suggest that government and morality are not and should not be related; too many producers in Hollywood claim that the filth that passes for entertainment does not corrupt our culture; and too many educators claim the academy does not respond to the difference between right and wrong.

Mr. President, they are the ones who are wrong. We fool ourselves and we fool the public if we suggest that there is no connection between the business we do in government and the state of public morality in our society. We are the caretakers of our own culture. And we must not shrink from the responsibility of passing laws that promote what is right and prevent what is wrong in our society.

When we make good choices, such as passing comprehensive welfare reform, the American people are rewarded with declining welfare caseloads with a corresponding decrease in crime and poverty. When Congress pursues responsible fiscal policy and balances the budget, it is possible to return to the American people more of their hard-earned money in the form of a tax cut. In short, Mr. President, good laws help make good societies. And that is the reason I continue to introduce bills in each and every Congress that limit the modern tragedy of abortion and its insidious effects; that allow for voluntary steps to end the scourge of drug use among our children; and that make sure our civil rights laws treat Americans as individuals rather than faceless members of racial groups, religious groups, or of a certain gender.

Mr. President, I ask unanimous consent that these six bills be printed in the RECORD.

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

S. 73

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 “Voluntary School Prayer Protection Act.”

SEC. 2. FUNDING CONTINGENT ON RESPECT FOR CONSTITUTIONAL SCHOOL PRAYER.

(a) IN GENERAL.—Notwithstanding any other provision of law (including the specific provisions described in subsection (b), no funds made available through the Department of Education shall be provided to any State or local educational agency that has a policy of denying, or that effectively prevents participation in, constitutional prayer in public schools by individuals on a voluntary basis.

(b) LIMITATION.—No person shall be required to participate in prayer, or shall influence the form or content of any constitutional prayer, in a public school.

S. 74

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 “Schoolchildren’s Health Protection Act.”

SEC. 2. SCHOOLCHILDREN’S HEALTH PROTECTION.

(a) IN GENERAL.—Notwithstanding any other provision of law (including the specific provisions described in subsection (b), no funds made available through the Department of Education shall be provided to any State or local educational agency that distributes or provides postcoital emergency contraception, or distributes or provides a prescription for postcoital emergency contraception to pregnant minor, or to the premises or in the facilities of any elementary school or secondary school.

(b) SPECIFIC PROVISIONS.—The specific provisions referred to in subsection (a) are section 330 and title X of the Public Health Service Act (42 U.S.C. 254b, 300 et seq.) and title V and XIX of the Social Security Act (42 U.S.C. 701 et seq. and 1396 et seq.).

(c) DEFINITIONS.—In this section:

(1) ELEMENTARY SCHOOL; SECONDARY SCHOOL.—“Elementary school” and “secondary school” have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) UNEMANCIPATED MINOR.—The term “unemancipated minor” means an unmar-ried individual who is 17 years of age or younger and is a dependent, as defined in section 152(a) of the Internal Revenue Code of 1986.

S. 75

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 “Unborn Children’s Civil Rights Act.”

SEC. 2. FINDINGS.

Congress finds that—

(1) scientific evidence demonstrates that abortion takes the life of an unborn child who is a living human being;

(2) a right to abortion is not secured by the Constitution;

(3) in the cases of Roe v. Wade (410 U.S. 113 (1973)) and Doe v. Bolton (410 U.S. 179 (1973)) the Supreme Court erred in not recognizing the humanity of the unborn child and the compelling interest of the States in protecting the life of each person before birth.

SEC. 3. PROHIBITION ON USE OF FUNDS FOR ABORTION.

No funds appropriated by Congress shall be used to take the life of an unborn child, except that such funds may be used only for those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 4. PROHIBITION ON USE OF FUNDS TO ENCOURAGE OR PROMOTE ABORTION.

No funds appropriated by Congress shall be used to promote, encourage, counsel for, refer for, pay for (including travel expenses), or do research on, any procedure to take the life of an unborn child, except that such funds may be used in connection with only those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 5. PROHIBITION ON ENTERING INTO CERTAIN INSURANCE CONTRACTS.

Neither the United States, nor any agency or department thereof shall enter into any contract for insurance that provides for payment or reimbursement for any procedure to take the life of an unborn child, except that such funds may be used for those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 6. LIMITATIONS ON RECIPIENTS OF FEDERAL FUNDS.

No institution, organization, or other entity receiving Federal financial assistance shall—

(1) discriminate against any employee, applicant for employment, student, or applicant for admission as a student on the basis of race, color, national origin, sex, or any person’s opposition to procedures to take the life of an unborn child or to counseling for or assisting in such procedures;

(2) require any employee or student to participate, directly or indirectly, in health insurance program which includes procedures to take the life of an unborn child or which provides counseling or referral for such procedures;

(3) require any employee or student to participate, directly or indirectly, in any administrative arrangements for such procedures.

SEC. 7. LIMITATION ON CERTAIN ATTORNEYS’ FEES.

Notwithstanding any other provision of Federal law, attorneys’ fees shall not be allowable in any civil action in Federal court.
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 “Safe Schools Act of 2001.”

SEC. 2. SAFE SCHOOLS.

(a) AMENDMENTS TO THE GUN-FREE SCHOOLS ACT OF 1994.—Part F of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 9221 et seq.) is amended—

(1) in section 14601 (20 U.S.C. 9221)—

(A) by striking “Gun-Free” and inserting “Safe”; and

(B) by striking “1994” and inserting “2001”;

(2) in subsection (a)—

(i) by striking “Gun-Free’’ and inserting “Safe’’; and

(ii) by striking “1994” and inserting “2001”;

(B) in subsections after “determined’’ the following: “to be in possession of felonious quantities of an illegal drug, on school property under the jurisdiction of, or in a vehicle operated by an employee or agent of, a local educational agency in that State, or’’; and

(C) in subsection (b)(4)—

(i) by striking “Definitions.”—For the purposes of this section, the’’ and inserting the following: “Definitions.—For purposes of this section:

(1) WEAPON.—The’’; and

(ii) by adding at the end the following:

(2) ILLEGAL DRUG.—The term ‘illegal drug’ means a controlled substance, as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), the possession of which is unlawful under such Act (21 U.S.C. 801 et seq.) or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), but does not include a controlled substance used pursuant to a valid prescription or as authorized by law.

(3) ILLEGAL DRUG PARAPHERNALIA.—The term ‘illegal drug paraphernalia’ means drug paraphernalia, as defined in section 122(6) of the Controlled Substances Act (21 U.S.C. 862d), except that the first sentence of that section shall be applied by inserting ‘or under the Controlled Substances Import and Export Act (21 U.S.C. 861 et seq.)’ before the period;

(4) FELONIOUS QUANTITIES OF AN ILLEGAL DRUG.—The term ‘felonious quantities of an illegal drug’ means any quantity of an illegal drug;

(A) possession of which (quantity) would, under Federal, State, or local law, either constitute a felony or indicate an intent to distribute;

(B) that is possessed with an intent to distribute;

(D) by inserting at the end of such section—

(1) the following: “The possession of any illegal drug, either knowingly or purposely, or by the act of sale, gift, or other manner such that it is done in an appropriate time, place and manner such that it ‘does not materially disrupt the school day.’” [Tinker v. Des Moines School District, 393 U. S. 503.]

Under this bill, school districts could not continue—in constitutional ignorance—enforcing blanket denials of students’ rights to voluntary prayer and religious activity in the schools. For the first time, schools would be faced with real consequences for making unconstitutional decisions prohibiting all voluntary prayer. The bill creates a complete system of checks and balances to make sure that school districts do not short-change their students one way or the other.

This proposal, Mr. President, prevents public schools from prohibiting constitutionally protected voluntary student-initiated prayer. It does not mandate school prayer and suggestions to the contrary are simply in error. It does not require schools to write any particular prayer, or compel any student to participate in prayer. It does not prevent school districts from establishing appropriate time, place, and manner restrictions on voluntary prayer, in the same kind of restrictions that are placed on other forms of speech in the schools.

What this proposal will do is prevent school districts from establishing official policies or procedures with the intent of prohibiting students from exercising their constitutionally protected right to lead, or participate in, voluntary prayer in school.
introducing the Schoolchildren’s Health Protection Act. This pivotal legislation will put an end to elementary and secondary schools receiving federal funds from distributing “morning after pills to schoolchildren as young as 12 years old.”

The Congressional Research Service (CRS) has not only confirmed that Federal law permits school-based health clinics receiving federal family planning money to distribute “morning after pills” but CRS has also reported that at least 180 schools in America are in fact distributing these abortion pills to schoolchildren. Obviously, Mr. President, we are no longer just talking about condoms being handed out at school.

What’s more is that federal law currently allows schools to provide these abortion-inducing drugs to children behind the backs of parents. In a handful of cases, the federal courts have struck down parental consent laws, ruling that the family planning program trumps a state or county parental consent statute because federal law prohibits parental consent requirements.

Just as disturbing, if not more so, Mr. President, is that schools distributing “morning after pills” are placing the health of these young children in jeopardy. In fact, the manufacturer—PREVEN—warns that “Morning after pills” can cause severe health risks, such as blood clotting, elevated blood pressure; heart attacks and strokes.

It is well worth noting that the current policy in the majority of U.S. public schools prohibits the distribution of aspirin to schoolchildren unless parental consent is given. Yet, here we are legally permitting schools to secretly provide these dangerous abortion pills to minors without the knowledge of parents.

Under this bill, this unethical practice will no longer continue. Planned Parenthood and its cronies will no longer be able to use public school facilities to covertly get abortion pills into the mouths of children.

As Americans may recall, I offered a similar bill in amendment form last Congress to the Labor-HHS appropriations bill, which rightfully passed both the Senate and the House. Even though this language was not included in the final act, I dealt with last year, I am hopeful Congress will revisit this issue once more, and put a complete end to the unthinkable practice of giving children abortion pills at school.

UNBORN CHILDREN’S CIVIL RIGHTS ACT

Mr. President, the Unborn Children’s Civil Rights Act has several goals. First, it puts the Senate on record as declaring that one, every abortion destroys deliberately the life of an unborn child; two, that the U.S. Constitution sanctions no right to abortion; and three, that Roe v. Wade was incorrectly decided.

Second, this legislation will prohibit Federal funding to pay for, or promote, abortion. Further, this legislation proposes to de-fund abortion permanently, thereby relieving Congress of annual legislative battles about abortion restrictions in appropriation bills.

Third, the Unborn Children’s Civil Rights Act prohibits parental consent requirement, thereby reinforcing their statements by voting in a rolcall vote against quotas.

Mr. President, this legislation emphasizes that from here on out, employers must hire on a race neutral basis. They can reach out into the community to the disadvantaged and they can even have businesses with 80 percent minority workforces as long as the motivating factor in employment is not race.

This bill clarifies section 703(j) of title VII of the Civil Rights Act of 1964 to make it consistent with the intent of its authors. hubert Humphrey and Everett Dirksen. Let me state it for the RECORD:

It shall not be an unlawful employment practice for any entity that is an employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or group with respect to selection for, discharge from, compensation for, or the terms, conditions, or privileges of, employment or union membership, on the basis of the race, color, religion, sex, or national origin of such individual, for any person, except as provided in subsection (e) or paragraph (2).

It shall not be an unlawful employment practice for an entity described in paragraph (1) to recruit individuals of an under-represented race, color, religion, sex, or national origin, to expand the applicant pool of the individuals seeking employment or union membership with the entity.

Specifically, this bill proposes to make part (j) of Section 703 of the 1964 Civil Rights Act consistent with subsections (a) and (d) of that section. It contains language similar to that contained in those sections to make preferential treatment on the basis of race (that is, quotas) an unlawful employment practice.

Mr. President, I want to be clear that this legislation does not make outreach programs an unlawful employment practice. Under language suggested years ago by the distinguished Senator from Kansas, Bob Dole, a company can recruit and hire in the inner cities prefers people who are disadvan-
taged, create literacy programs, recruit in the schools, establish day care programs, and expand its labor pool in the poorest sections of the community. In other words, expansion of the employee pool is specifically provided for under this act.

Mr. President, this legislation is necessary because in the 37 years since the passage of the Civil Rights Act, the Federal Government and the courts have undermined the clear intent of the Civil Rights Act as enumerated by both Hubert Humphrey and Everett Dirksen.

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Mr. President, the protection of the most vulnerable among our children—is the highest responsibility of government. Government’s obligation to protect our children from harm is
In deciding what to do, I believe that we should respect the advice of those who are daily confronted with the variety of evils that result from the increasing availability of drugs in our classrooms—our students, teachers and school administrators. When surveyed, these groups have reported overwhelming support for the approach embodied in the Safe Schools Act.

Mr. President, students consistently say that the number one problem they face is the scourge of illegal drugs. Perhaps even more is the fact that students of all ages, including elementary ages, report that drugs are readily available to them.

The Center on Addiction and Substance Abuse (CASA) at Columbia University has documented the extent of this national tragedy by documenting that two-thirds (66%) of students report going to schools where students keep, use and sell drugs and that over half (51%) of high school students believe that the drug problem is getting worse.

Mr. President, I invite my colleagues to join with me and build on the progress that we made last Congress in addressing this vital issue. It is undeniable that reducing drug activity at schools will result in a better learning environment, increased discipline, and a reduction in violence. It is long past time to take action to restore schools that are secure and conducive to the education of the vast majority of students who are eager to learn. America’s students and teachers deserve nothing less.

Mr. President, I do not pretend that enacting this legislation will solve all of the pathologies of modern society. But taken as a whole, they seek to turn the tide of the increasing apathy—and in some cases, outright hostility—toward moral and spiritual principles that have marked social policy at the turn of the century.

The Founding Fathers knew what would become of a society that ignores traditional morality. I have often quoted the parting words of advice our first President, George Washington, left his beloved new Nation. He reminded his fellow citizens:

Or all the dispensations and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute to patriotism who should labor to subvert these great pillars of human happiness.

Mr. President, that distinguished world leader, Margaret Thatcher, highlighted for us the words of Washington’s successor, John Adams, who said our Constitution was designed only for a moral and religious people. It is wholly inadequate for the government of any other.”

Our Founding Fathers understood well the intricate relationship between freedom of responsibility. They knew that the burden of citizenship engendered certain obligations on the part of a free people—namely, that citizens conduct their actions in such a way that society can remain cohesive without excessive government intrusion. The American experiment would never have succeeded without the traditional moral and spiritual values of the American people—values that allow people to govern themselves, rather than be governed.

By Mr. DASCHLE (for himself, Ms. MIKULSKI, Mr. KENNEDY, Mr. HARKIN, Ms. HARRIS, Ms. LANDRIEU, Mrs. LINCOLN, Mr. AKAKA, Mr. BREAUD, Mr. CLELAND, Mr. DURBIN, Mr. INOUYE, Mr. KERRY, Mr. LEARY, Mr. REID, Mr. SARBANES, Mr. SCHUMER, and Mr. JOHNSON):

S. 77. A bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PAYCHECK FAIRNESS ACT

Mr. DASCHLE. 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. 77

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 “Paycheck Fairness Act”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Women have entered the workforce in record numbers.

(2) Even today, women earn significantly lower pay than men for work on jobs that require equal skill, effort, and responsibility and that are performed under similar working conditions. These pay disparities exist in both the private and governmental sectors. In many instances, these pay disparities can only be due to continued intentional discrimination or the lingering effects of past discrimination.

(3) The existence of such pay disparities—

(A) depresses the wages of working families who rely on the wages of all members of the family to make ends meet;

(B) prevents the optimum utilization of available labor resources;

(C) has been spread and perpetuated, through commerce and the channels and instrumentalities of commerce, among the workers of the several States;

(D) burdens commerce and the free flow of goods in commerce;

(E) constitutes an unfair method of competition in commerce;

(F) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce;

(G) interferes with the orderly and fair marketing of goods in commerce; and

(H) in many instances, may deprive workers of equal protection on the basis of sex in violation of the 5th and 14th amendments.

(4)(A) Artificial barriers to the elimination of discrimination in the payment of wages on the basis of sex continue to exist more than 3 decades after the enactment of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) and the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.).

(B) Elimination of such barriers would have positive effects, including—
(1) providing a solution to problems in the economy created by unfair pay disparities;
(2) substantially reducing the number of working women earning unfairly low wages, thereby reducing the dependence on public assistance; and
(3) promoting stable families by enabling all family members to earn a fair rate of pay; and
(iv) investigating the effects of past discrimination on the basis of sex and ensuring that in the future workers are afforded equal protection on the basis of sex; and
(v) securing equal protection pursuant to Congress’ power to enforce the 5th and 14th amendments.

With increased information about the provisions of the Equal Pay Act of 1963 and wage data, along with more effective remedies, women will be better able to recognize and enforce their rights to equal pay for work on jobs that require equal skill, effort, and responsibility and that are performed under similar working conditions.

Certain employers have already made great strides in eradicating unfair pay disparities in the workplace and their achievements should be recognized.

SEC. 3. ENHANCED ENFORCEMENT OF EQUAL PAY REQUIREMENTS.

(a) REQUIRED DEMONSTRATION FOR AFFIRMATIVE DEFENSE.—Section 6(d)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended by striking “affirmative differential and all that follows through the period and inserting the following: “(iv) a differential based on a bona fide factor other than sex, such as education, training or experience, except that this clause shall apply only if—

‘‘(I) the employer demonstrates that—

‘‘(AA) is job-related with respect to the position in question; or

‘‘(BB) furthers a legitimate business purpose, and

‘‘(II) upon the employer succeeding under subclause I, the employee fails to demonstrate by a preponderance of the evidence that the differential produced by the reliance of the employer on such factor is itself the result of discrimination on the basis of sex by the employer:

‘‘An employer shall not otherwise in compliance with this paragraph may not reduce the wages of any employee in order to achieve such compliance.

(b) PROVISIONS.—Section 6(d)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(1)) is amended by adding at the end the following: “The provisions of this subsection shall not apply to applicants for employment if such applicants, upon employment by the employer, would be subject to any provisions of this section.”

(c) ELIMINATION OF ESTABLISHMENT REQUIREMENT.—Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended—

(1) by striking “, within any establishment in which such employees are employed,”; and

(2) by striking “in such establishment” each place it appears.


(1) by striking “or has” each place it appears;

(2) by striking “any of the preceding” and inserting “any of the following”;

(3) by striking “has,” or inquired about, discussed, or otherwise disclosed the wages of the employee or another employee, or because the employee (or applicant) has made a charge, testified, assisted, or participated in any proceeding, investigation, hearing, or action under section 6(d).”

(e) ENHANCED PENALTIES.—Section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)) is amended—

(1) by inserting after the first sentence the following: “Any employer who violates section 6(d) shall additionally be liable for such compensatory or punitive damages as may be appropriate, except that the United States shall not be liable for punitive damages;

(2) in the sentence beginning “An action to” by striking “either of the preceding sentences” and inserting “any of the preceding sentences of this subsection”;

(3) in the sentence beginning “No employees shall” by striking “No employees” and inserting “Except with respect to class actions brought to enforce section 6(d), no employer”;

(4) by inserting after the sentence referred to in paragraph (3), the following: “Notwithstanding any other provision of Federal law, any action brought to enforce section 6(d) may be maintained as a class action as provided by the Federal Rules of Civil Procedure, and

(5) in the sentence beginning “The court in”—

(A) by striking “in such action” and inserting “in any action brought to recover liability prescribed in any of the preceding sentences of this subsection”; and

(B) by inserting before the period the following: “.”

(f) ACTION BY SECRETARY.—Section 16(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(c)) is amended—

(1) in the first sentence—

(A) by inserting “or, in the case of a violation of section 6(d), additional compensatory or punitive damages,” before “and the agreement”;

and

(B) by inserting before the period the following: “, or such compensatory or punitive damages, as appropriate”;

(2) in the second sentence, by inserting before the period the following: “and, in the case of a violation of section 6(d), additional compensatory or punitive damages”;

(3) in the third sentence, by striking “the first sentence” and inserting “the first or second sentence”; and

(4) in the last sentence—

(A) by striking “in the case” and inserting “commenced—”;

and

(B) by striking the period and inserting “or”.

(c) by adding at the end the following:

“(2) in the case of a class action brought to enforce section 6(d), on the date on which the individual becomes a party plaintiff to the class action.”

SEC. 4. TRAINING.

The Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs, subject to the availability of funds appropriated under section 9(b), shall provide training to Commission employees and affected individuals and entities on matters involving discrimination in the payment of wages, and

SEC. 5. RESEARCH, EDUCATION, AND OUTREACH.

The Secretary of Labor shall conduct studies and provide information to employers, labor organizations, and the general public concerning the recognition of an employer’s responsibility to eliminate pay disparities between men and women, including—

(1) conducting and promoting research to develop the means to correct expeditiously the conditions leading to the pay disparities;
(2) publishing and otherwise making available to employers, labor organizations, professional associations, educational institutions, the media, and the general public the findings resulting from studies and other materials relating to eliminating the pay disparities;
(3) sponsoring and assisting State and community informational and educational programs;
(4) providing information to employers, labor organizations, professional associations, and other interested persons on the means of eliminating the pay disparities;
(5) recognizing and promoting the achievements of employers, labor organizations, and professional associations that have worked to eliminate the pay disparities;
and
(6) convening a national summit to discuss, and consider approaches for rectifying, the pay disparities.

SEC. 6. TECHNICAL ASSISTANCE AND EMPLOYER RECOGNITION PROGRAM.

(a) GUIDELINES.—

(1) IN GENERAL.—The Secretary of Labor shall develop guidelines to enable employers to evaluate job categories based on objective criteria such as educational requirements, skill requirements, independence, working conditions, and recognizing decision-making responsibility and de facto supervisory responsibility.

(2) USE.—The guidelines developed under paragraph (1) shall be designed to enable employers voluntarily to compare wages paid for different jobs to determine if the pay scales involved adequately and fairly reflect the educational requirements, skill requirements, independence, working conditions, and responsibility for each such job with the goal of eliminating unfair pay disparities between occupations traditionally dominated by men or women.

(3) PUBLICATION.—The guidelines shall be developed under paragraph (1) and published in the Federal Register not later than 180 days after the date of enactment of this Act.

(b) EMPLOYER RECOGNITION.—

(1) PURPOSE.—It is the purpose of this subsection to establish a program by which employers may be recognized for their efforts to eliminate pay disparities.

(2) IN GENERAL.—To carry out the purpose of this subsection, the Secretary of Labor shall establish a program under which the Secretary shall provide for the recognition of employers who, pursuant to a voluntary job evaluation conducted by the employer, adequate their wage scales (such adjustments shall not include the lowering of wages paid to men) using the guidelines developed under subsection (a) to ensure that women are paid fair wages to which they are entitled.

(3) TECHNICAL ASSISTANCE.—The Secretary of Labor may provide technical assistance to assist an employer in carrying out an evaluation under paragraph (2).

(c) REGULATIONS.—The Secretary of Labor shall promulgate such rules and regulations as may be necessary to carry out this section.

SEC. 7. ESTABLISHMENT OF THE NATIONAL AWARD FOR PAY EQUITY IN THE WORKPLACE.

(a) IN GENERAL.—There is established the Alexis Herman National Award for Pay Equity in the Workplace, which shall be evidenced by a medal bearing the inscription “Alexis Herman National Award for Pay Equity in the Workplace.” The medal shall be of such design and materials, and bear such
additional inscriptions, as the Secretary of Labor may prescribe.

(b) CRITERIA FOR QUALIFICATION.—To qualify to receive an award under this section a business shall—
(1) submit a written application to the Secretary of Labor, at such time, in such manner, and containing such information as the Secretary may require, including at a minimum information that demonstrates that the business has made substantial effort to eliminate disparities between men and women, and deserves special recognition as a consequence; and
(2) meet such additional requirements and specifications prescribed by the Secretary of Labor to determine to be appropriate.

(c) MAKING AND PRESENTATION OF AWARD.—
(1) AWARD.—After receiving recommendations from the Secretary of Labor, the President or the designated representative of the President shall annually present the award described in subsection (a) to businesses that meet the qualifications described in subsection (b).

(2) PRESENTATION.—The President or the designated representative of the President shall annually present the award under this section with such ceremonies as the President or the designated representative of the President may determine to be appropriate.

(d) BUSINESS.—In this section, the term "business" includes—
(1)(A) a corporation, including a nonprofit corporation;
(B) a partnership;
(C) a professional association;
(D) a labor organization; and
(E) a business entity similar to an entity described in any of subparagraphs (A) through (D).

§ 8. COLLECTION OF PAY INFORMATION BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

Section 709 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-3) is amended by adding at the end the following:

"(f)(1) Not later than 18 months after the date of enactment of this subsection, the Commission shall—
"(A) complete a survey of the data that is currently available to the Federal Government relating to employee pay information for the purpose of enforcing Federal laws prohibiting pay discrimination and, in consultation with other relevant Federal agencies, identify additional data collections that will enhance the enforcement of such laws; and
"(B) based on the results of the survey and consultations under subparagraph (A), issue regulations to provide for the collection of pay information data from employers as described by the sex, race, and national origin of employees.

(2) In implementing paragraph (1), the Commission shall consider the most effective and efficient means for enhancing the enforcement of Federal laws prohibiting pay discrimination, including—
(A) collecting data on pay practices;
(B) requiring employers to provide detailed reports of pay practices; and
(C) through (D);
(D) a labor organization; and
(E) a business entity similar to an entity described in any of subparagraphs (A) through (D).

§ 9. AUTHORIZATION OF APPROPRIATIONS.

SEC. 709 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-3) is amended by adding at the end the following:

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By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 80. A bill to require the Federal Energy Regulatory Commission to order refunds of unjust, unreasonable, unduly discriminatory or preferential rates, to establish cost-based rates for electricity sold at wholesale in the Western Systems Coordinating Council, and for other purposes; to the Committee on Energy and Natural Resources.

CALIFORNIA ELECTRICITY CRISIS LEGISLATION

Mr. INOUYE. This measure clarifies the political relationship between Native Hawaiians and the United States. The United States has declared a special responsibility for the welfare of the native peoples of the United States, including Native Hawaiians. Congress has recognized Native Hawaiians as the aboriginal, indigenous, native peoples of Hawaii and has passed over 150 statutes addressing the conditions of Native Hawaiians. The measure that we are introducing today extends the federal policy of self-determination and self-governance to Native Hawaiians by authorizing a process of reorganization of a Native Hawaiian government for the purposes of a federally recognized government-to-government relationship with the United States. This measure establishes parity in federal policies towards American Indians, Alaska Natives and Native Hawaiians.

The political relationship between Native Hawaiians and the United States has been a topic of discussion in Hawaii for many years. A significant portion of the discussion has centered around the history of Hawaii’s indigenous peoples and the role of the United States in that history. In 1993, Congress passed Public Law 103–150, the Native Hawaiian Educational Relief Act, which extended an apology on behalf of the United States to Native Hawaiians for the United States’ role in the overthrow of the Kingdom of Hawaii. The Apology Resolution also expressed the commitment of Congress and the President to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and Native Hawaiians.

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

S. 81. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian government and the recognition by the United States of the Native Hawaiian government, and for other purposes; to the Committee on Indian Affairs.

NATIVE HAWAIIAN RECONCILIATION

Mr. AKAKA. Mr. President, I rise today to introduce a bill on behalf of myself and my friend and colleague, Senator INOUYE. This measure is of significant importance to the people of Hawaii, particularly to the indigenous peoples of Hawaii. This measure clarifies the political relationship between Native Hawaiians and the United States by extending the federal policy of self-determination and self-governance to Native Hawaiians.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 80. A bill to require the Federal Energy Regulatory Commission to order refunds of unjust, unreasonable, unduly discriminatory or preferential rates, to establish cost-based rates for electricity sold at wholesale in the Western Systems Coordinating Council, and for other purposes; to the Committee on Energy and Natural Resources.
This measure authorizes a process for the reorganization of the Native Hawaiian government for the purposes of a federally recognized government-to-government relationship. The measure authorizes Native Hawaiians to resolve many issues in developing the organic government. The measure also establishes a special issue of membership or citizenship in the reorganized government. This bill also establishes an office within the Department of the Interior to focus on Native Hawaiian issues. The office would serve as a liaison between Native Hawaiians and the United States during the reconciliation process and would provide assistance during the process of reorganization of the Native Hawaiian government. Federal programs currently administered with other federal agencies would remain with those agencies.

An identical version of the measure was introduced during the 106th Congress. The House of Representatives passed the measure with bipartisan support. The Senate Committee on Indian Affairs reported the measure favorably. Unfortunately, the Senate did not consider the measure prior to the adjournment of the last Congress.

Mr. President, I would like to clarify some misconceptions regarding this important measure. First, this measure is not being introduced to circumvent the 1999 United States Supreme Court decision in the case of Rice v. Cayetano. The Rice case was a voting rights case whereby the Supreme Court held that the State of Hawaii must allow all citizens of Hawaii to vote for the Board of Trustees of a quasi-state agency, the Office of Hawaiian Affairs. The Office of Hawaiian Affairs was established by citizens of the State of Hawaii as part of the 1978 State of Hawaii Constitutional Convention. The State constitution was amended to create the Office of Hawaiian Affairs as a means of expression to the rights of self-determination and self-governance for Hawaii’s indigenous peoples, Native Hawaiians. The Office of Hawaiian Affairs administers programs and services for Native Hawaiians. The State constitution provided for 9 trustees who were Native Hawaiian to be elected by Native Hawaiians. Following the Supreme court’s ruling in Rice v. Cayetano, the elections were not only open to all citizens in the State of Hawaii, but non-Native Hawaiians, were deemed eligible to serve on the Board of Trustees. Whereas the Rice case dealt with voting rights and the State of Hawaii, the measure we introduce today addresses the federal policy of self-determination and self-governance and does not involve the Office of Hawaiian Affairs.

This measure does not establish entitlements or special treatment for Native Hawaiians based on race. This measure focuses on the political relationships accorded to Native Hawaiians based on the United States’ recognition of Native Hawaiians as the aboriginal, indigenous peoples of Hawaii. As we all know, the United States’ history with its indigenous peoples has been dismal. In recent decades, however, the United States has engaged in a policy of self-determination and self-governance with its indigenous peoples. Government-to-government relationships provide Native Hawaiians with the opportunity to work directly with the federal government on policies affecting their lands, natural resources and many other aspects of their well-being. While federal policies towards Native Hawaiians have paralleled that of Native American Indians and Alaska Natives, the federal policy of self-determination and self-governance, has not yet been extended to Native Hawaiians. This measure extends this policy to Native Hawaiians, thus furthering the process of reconciliation between Native Hawaiians and the United States.

This measure does not impact program funding for American Indians and Alaska Natives. Federal programs for Native Hawaiians and Native Americans, their lands, natural resources and housing are already administered by the Departments of Health and Human Services, Education, and Housing and Urban Development.

In addition, this measure has strong support from Native Hawaiians throughout the United States. The National Congress of American Indians and Alaska Federation of Natives have both passed resolutions in support of a government-to-government relationship between Native Hawaiians and the United States. Similar resolutions have been passed by the Japanese American Citizens’ League and the National Education Association. The measure is also supported by the Hawaii State Legislature, which passed a resolution supporting a federally recognized government-to-government relationship.

This measure does not preclude Native Hawaiians from seeking alternatives in the international arena. In so doing, Native Hawaiians seek self-determination within the framework of federal law and seeks to establish equality in the federal policies extended towards American Indians, Alaska Natives and Native Hawaiians.

This measure is critical to the people in Hawaii because it begins a process to address many longstanding issues facing Hawaii’s indigenous peoples and the State of Hawaii. By resolving these matters, we begin a process of healing, a process of reconciliation not only between the United States but within the State of Hawaii. These issues are deeply rooted in the history of Hawaii. The time has come for us to begin to resolve these differences in order to be able to move forward together as one.

Mr. President, I cannot emphasize enough how significant this measure is for the State of Hawaii. I look forward to working with my colleagues to enact this critical measure for the State of Hawaii and indigenous peoples in the United States.

Mr. President, I request unanimous consent that the text of this measure be printed in the RECORD.

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

S. 81

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

SECTION 1. Findings.

Congress makes the following findings:

(1) The Constitution vests Congress with the authority to address the conditions of the indigenous, native people of the United States.

(2) Native Hawaiians, the native people of the Hawaiian archipelago which is now part of the United States, are indigenous, native people of the United States.

(3) The United States has a special trust relationship to promote the welfare of the native people of the United States, including Native Hawaiians.

(4) Under the treaty making power of the United States, Congress exercised its constitutional authority to confirm a treaty between the United States and the government that represented the Hawaiian people, and from 1826 until 1893, the United States recognized the independent authority of the Kingdom of Hawaii.

(5) Pursuant to the provisions of the Hawaiian Homes Commission Act, 1920 (42 Stat. 308, chapter 42), the United States set aside 203,500 acres of land in the Federal territory that later became the State of Hawaii to address the conditions of Native Hawaiians.

(6) By setting aside 203,500 acres of land for Native Hawaiian homesteads and farms, the Act assists the Native Hawaiian community in maintaining distinct native settlements throughout the State of Hawaii.

(7) Approximately 6,800 Native Hawaiian lessees and their family members reside on Hawaiian Home Lands and approximately 18,000 Native Hawaiians who are eligible to reside on the Home Lands are on a waiting list to receive assignments of land.

(8) In 1959, as part of the compact admitting Hawaii into the United States, the United States established the Ceded Lands Trust for 5 purposes, 1 of which is the betterment of the conditions of Native Hawaiians. Such trust consists of approximately 800,000 acres of land, submerged lands, and the revenues derived from such lands, the assets of which have never been completely inventoried or segregated.

(9) Throughout the years, Native Hawaiians have repeatedly sought access to the Ceded Lands Trust and its resources and revenues in order to establish and maintain native settlements and distinct communities throughout the State.

(10) The Hawaiian Home Lands and the Ceded Lands provide an important foundation for the ability of the Native Hawaiian community to maintain the practice of Native Hawaiian culture, language, and traditions, and for the survival of the Native Hawaiian people.

(11) Native Hawaiians have maintained other distinctly native areas in Hawaii.

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

(1) The Congress hereby finds that:

(1) On November 23, 1993, Public Law 103-150 (107 Stat. 1510) (commonly known as the Apology Resolution) was enacted into law, extending an apology on behalf of the United States to the Native people of Hawaii for the United States role in the overthrow of the Kingdom of Hawaii.

(13) The Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States and
further acknowledges that the Native Hawai- ian people never directly relinquished their claims to their inherent sovereignty as a people over their national lands to the United States through treaty, cession, or by conquest or by a plebiscite or referendum. (14) The Apology Resolution expresses the commitment of Congress and the President to do all things necessary to the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and Native Hawaiians; and to have Congress and the President, through the President’s designated officials, consult with Native Hawaiians on the reconciliation process as called for under the Apology Resolution.

(15) Despite the overthrow of the Hawaiian government, Native Hawaiians have continued to maintain their separate identity as a distinct native community through the formation of cultural, social, and political institutions, and to give expression to their rights as native people to self-determination and self-governance as evidenced through their participation in the Office of Hawaiian Affairs.

(16) Native Hawaiians also maintain a distinct Native Hawaiian community through the provision of governmental services to Native Hawaiians, including the provision of health care services, educational programs, employment and training programs, children’s services, conservation programs, fish and wildlife protection, agricultural programs, native language immersion programs and native language immersion schools from kindergarten through high school, as well as college and master’s degree programs in native language immersion instruction, and traditional arts programs, and continuing their efforts to enhance Native Hawaiian self-determination and local control.

(17) Native Hawaiians are actively engaged in Native Hawaiian cultural practices, traditional agricultural methods, fishing and subsistence practices, maintenance of cultural use areas and sacred sites, protection of burial sites, and the exercise of their traditional rights to gather medicinal plants and herbs, and food sources.

(18) The Native Hawaiian people wish to preserve and transmit to future generations their unique cultural identity and heritage.

(19) The United States has enacted dozens of statutes on their behalf pursuant to its recognized trust responsibility; and the United States has also been involved in the development of the Native Hawaiian government for the purpose of giving expression to their rights as native people to self-determination and self-governance.

(20) The United States has declared that
(A) The enactment of the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”’, approved March 18, 1893 (Public Law 68-3; 73 Stat. 4) by the United States, as defined in paragraph (7)(A), and the lineal descendants of the aboriginal, indigenous, native people who resided in the islands that now constitute the State of Hawaii on or before January 1, 1893, and who occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii, and includes all Native Hawaiians who were eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) and their lineal descendants.

(21) The United States has recognized and reaffirmed the special trust relationship with the Native Hawaiian people through—

(A) the enactment of the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”, approved March 18, 1893 (Public Law 68-3; 73 Stat. 4) by the United States, as defined in paragraph (7)(A), and the lineal descendants of the aboriginal, indigenous, native people who resided in the islands that now constitute the State of Hawaii on or before January 1, 1893, and who occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii, and includes all Native Hawaiians who were eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) and their lineal descendants.

(22) The United States has recognized and reaffirmed that
(A) Native Hawaiians have a cultural, historic, and land-based link to the aboriginal, indigenous, native people who exercised sovereignty over the Hawaiian Islands;
(B) Native Hawaiians have never relinquished their claims to sovereignty or their sovereign lands;
(C) the United States extends services to Native Hawaiians because of their unique status as the aboriginal, indigenous, native people of the United States;

(23) the United States possesses the authority under the Constitution to enact legislation to address the conditions of Native Hawaiians and to continue its involvement in the administration of Native Hawaiian affairs; and
(24) the United States has a special trust relationship with the Native Hawaiian people for purposes of continuing a government-to-government relationship with the Native Hawaiian government and for the recognition of the United States of a Native Hawaiian government for purposes of continuing a government-to-government relationship with the Native Hawaiian government.

(25) The term “Native Hawaiian government” means the citizens of the government of the Native Hawaiian people that is recognized by the United States under the authority of section 7(b) of this Act.

(26) The term “Secretary” means the Secretary of the Interior.

(27) The term “Task Force” means the Native Hawaiian Interagency Task Force established under the authority of section 6 of this Act.

SEC. 3. UNITED STATES POLICY AND PURPOSE.

(A) POLICY.—The United States reaffirms that

(1) Native Hawaiians are a unique and distinct aboriginal, indigenous, native people, with whom the United States has a political and legal relationship;

(2) the United States has a special trust relationship to promote the welfare of Native Hawaiians.

(3) Congress possesses the authority under the Constitution to enact legislation to address the conditions of Native Hawaiians and to continue this authority through the enactment of—

(A) the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42); and

(B) more than 150 other Federal laws addressing the conditions of Native Hawaiians;

(4) Native Hawaiians have—
(A) an inherent right to autonomy in their internal affairs;

(B) an inherent right of self-determination and self-governance;

(C) the right to reorganize a Native Hawaiian government; and

(D) the right to become economically self-sufficient; and

(5) the United States shall continue to engage in a process of reconciliation and political relations with the Native Hawaiian people.

(b) PURPOSE.—It is the intent of Congress that the purpose of this Act is to provide a process for the reorganization of a Native Hawaiian government and for the recognition by the United States of the Native Hawaiian government.
SEC. 4. ESTABLISHMENT OF THE UNITED STATES OFFICE FOR NATIVE HAWAIIAN AFFAIRS.

(a) In General.—There is established within the Office of the Secretary the United States Office for Native Hawaiian Affairs.

(b) Powers of the United States Office for Native Hawaiian Affairs shall—

(1) effectuate and coordinate the special trust relationship between the Native Hawaiian people and the United States through the Secretary, and with all other Federal agencies;

(2) upon the recognition of the Native Hawaiian government by the United States as provided for in section 7(d)(2) of this Act, effectuate and coordinate the special trust relationship between the Native Hawaiian government and the United States, and upon the recognition of the Native Hawaiian government as provided for in section 7(d)(3) of this Act, in the implementation and protection of the rights of Native Hawaiians and their political, legal, and trust relationship with the United States, and the recognition of the Native Hawaiian government and its political, legal, and trust relationship with the United States;

(3) facilitate a process for self-determination, reconciliation with the Native Hawaiian government by the United States, and upon the recognition of the Native Hawaiian government as provided for in section 7(d)(2) of this Act, in the implementation and protection of the rights of Native Hawaiians and their political, legal, and trust relationship with the United States;

(4) consult with the Native Hawaiian Interagency Task Force, other Federal agencies, and with relevant agencies of the State of Hawaii on policies, practices, and proposed actions affecting Native Hawaiian resources, rights, or lands;

(5) be responsible for the preparation and submittal to the Committee on Indian Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives of an annual report detailing the activities of the Interagency Task Force established under section 6 of this Act that are undertaken with respect to the consultation with the Native Hawaiian people and the Native Hawaiian government prior to taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;

(6) be responsible for continuing the process of reconciliation with the Native Hawaiian people, and upon the recognition of the Native Hawaiian government by the United States, be responsible for continuing the process of reconciliation with the Native Hawaiian government; and

(7) asiat the Native Hawaiian people in facilitating a process for self-determination, including but not limited to the provision of technical assistance to the development of the roll under section 7(c) of this Act, the organization of the Native Hawaiian Interim Governing Council as provided for in section 7(d) of this Act, and the recognition of the Native Hawaiian government as provided for in section 7(d) of this Act.

(c) AUTHORITY.—The United States Office for Native Hawaiian Affairs is authorized to enter into a contract with or make grants for the purposes of the activities authorized or addressed in section 7 of this Act for a period of 3 years from the date of enactment of this Act.

SEC. 5. DESIGNATION OF DEPARTMENT OF JUSTICE FOR INTERAGENCY TASK FORCE.
The Attorney General shall designate an appropriate official within the Department of Justice to assist the United States Office for Native Hawaiian Affairs in the implementation and protection of the rights of Native Hawaiians and their political, legal, and trust relationship with the United States, and upon the recognition of the Native Hawaiian government as provided for in section 7(d)(2) of this Act, in the implementation and protection of the Native Hawaiian government and its political, legal, and trust relationship with the United States.

SEC. 6. NATIVE HAWAIIAN INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—There is established an Interagency Task Force to be known as the “Native Hawaiian Interagency Task Force”.

(b) COMPOSITION.—The Task Force shall be composed of officials, to be designated by the President, from—

(1) each Federal agency that establishes or implements policies that affect Native Hawaiians or actions by any agency or agencies of the Federal Government which may significantly or uniquely impact on Native Hawaiian resources, rights, or lands;

(2) the United States Office for Native Hawaiian Affairs established under section 4 of this Act; and

(3) the Executive Office of the President.

(c) LEAD AGENCIES.—The Department of the Interior and the Department of Justice shall serve as the lead agencies of the Task Force, and meetings of the Task Force shall be convened at the request of either of the lead agencies.

(d) CO-CHAIRS.—The Task Force representative of the United States Office for Native Hawaiian Affairs shall be the authorized designee under the authority of section 4 of this Act and the Attorney General’s designee under the authority of section 5 of this Act shall serve as co-chairs of the Task Force.

(e) DUTIES.—The responsibilities of the Task Force shall be—

(1) the coordination of Federal policies that affect Native Hawaiians or actions by any agency or agencies of the Federal Government which may significantly or uniquely impact on Native Hawaiian resources, rights, or lands;

(2) to assure that each Federal agency develops a policy on consultation with the Native Hawaiian community which may significantly or uniquely impact on Native Hawaiian government by the United States as provided in section 7(d)(2) of this Act, consultation with the Native Hawaiian government; and

(3) to assure the participation of each Federal agency in the development of the report to Congress authorized in section 4(b)(5) of this Act.

SEC. 7. PROCESS FOR THE DEVELOPMENT OF A ROLL FOR THE ORGANIZATION OF A NATIVE HAWAIIAN INTERIM GOVERNMENT.

(a) ROLL.—

(1) PREPARATION OF ROLL.—The United States Office for Native Hawaiian Affairs shall assist the adult members of the Native Hawaiian community who wish to participate in the organization of a Native Hawaiian Interim Governing Council as provided for in section 7(c) of this Act, and the recognition of the Native Hawaiian government as provided for in section 7(d) of this Act.

(c) AUTHORITY.—The United States Office for Native Hawaiian Affairs is authorized to enter into a contract with or make grants for the purposes of the activities authorized or addressed in section 7 of this Act for a period of 3 years from the date of enactment of this Act.

SEC. 8. DESIGNATION OF DEPARTMENT OF JUSTICE FOR INTERAGENCY TASK FORCE.
The Attorney General shall designate an appropriate official within the Department of Justice to assist the United States Office for Native Hawaiian Affairs in the implementation and protection of the rights of Native Hawaiians and their political, legal, and trust relationship with the United States, and upon the recognition of the Native Hawaiian government as provided for in section 7(d)(2) of this Act, in the implementation and protection of the Native Hawaiian government and its political, legal, and trust relationship with the United States.

SEC. 9. CONGRESSIONAL SUBMISSION OF SUGGESTED CANDIDATES.—In appointing members of the Commission, the Secretary, in his or her discretion, may choose such members from among—

(aa) five suggested candidates submitted by the Majority Leader of the Senate and the Minority Leader of the Senate from a list of candidates provided to such leaders by the Chairman and Vice Chairman of the Committee on Indian Affairs of the Senate; and

(bb) four suggested candidates submitted by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives from a list provided to the Speaker and the Minority Leader by the Chairman and Ranking member of the Committee on Resources of the House of Representatives.

(iii) EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at not more than the rate authorized for traveling expenses under chapter 1 of chapter 57 of title 5, United States Code, while away from his home residence in the performance of services for the Commission.

(b) CERTIFICATION.—The Commission shall certify that the individuals listed on the roll developed under the authority of this subsection are Native Hawaiians, as defined in section 2(7)(A) of this Act.

(c) SECRETARY.—

(i) CERTIFICATION.—The Secretary shall review the Commission’s certification of the membership roll and determine whether it is consistent with applicable Federal law, including the National Origin Formula, the special funding formulas provided under subchapter I of chapter 57 of title 5, United States Code, while away from their home residence in the performance of services for the Commission.

(ii) BROADCAST.—Upon making the determination authorized in subparagraph (A), the Secretary shall publish a final roll.

(c) APPEAL.—

(i) ESTABLISHMENT OF MECHANISM.—The Secretary is authorized to establish a mechanism for an appeal of the Commission’s determination as it concerns—

(I) the exclusion of the name of a person who is entitled to be included, as defined in section 2(7)(A) of this Act, for the reasons provided in section 7(c)(2)(A) of this Act; or

(ii) a challenge to the inclusion of the name of a person who is entitled to be included, as defined in section 2(7)(A) of this Act, for any reason.

(ii) BROADCAST.—Upon making the determination authorized in subparagraph (A), the Secretary shall publish a final roll.

(iii) APPEAL.—The Secretary shall review the Commission’s certification of the membership roll and determine whether it is consistent with applicable Federal law, including the National Origin Formula, the special funding formulas provided under subchapter I of chapter 57 of title 5, United States Code, while away from their home residence in the performance of services for the Commission.

(d) BROADCAST.—Upon making the determination authorized in subparagraph (A), the Secretary shall publish a final roll.

(c) APPEAL.—

(i) ESTABLISHMENT OF MECHANISM.—The Secretary is authorized to establish a mechanism for an appeal of the Commission’s determination as it concerns—

(I) the exclusion of the name of a person who is entitled to be included, as defined in section 2(7)(A) of this Act, for the reasons provided in section 7(c)(2)(A) of this Act; or

(ii) a challenge to the inclusion of the name of a person who is entitled to be included, as defined in section 2(7)(A) of this Act, for any reason.

(ii) BROADCAST.—Upon making the determination authorized in subparagraph (A), the Secretary shall publish a final roll.
(ii) Publication; update.—The Secretary shall publish the final roll while appeals are pending, and shall update the final roll and the publication of the final roll upon the final disposition of any appeal.

(D) Failure to act.—If the Secretary fails to make the certification authorized in subparagraph (A) within 90 days of the date that the Congress submits the membership to the Secretary, the certification shall be deemed to have been made, and the Commission shall publish the final roll.

(4) Effect of publication.—The publication of the final roll shall serve as the basis for the eligibility of adult members listed on the roll to participate in all referenda and elections conducted under this Act, including elections to establish the membership of a Native Hawaiian Interim Governing Council and the Native Hawaiian government.

(b) Recognition of Rights.—The right of the Native Hawaiian people to organize for their common welfare and to adopt appropriate organic governing documents is hereby recognized by the United States.

(c) Organization of the Native Hawaiian Interim Governing Council.—

(1) Organization.—The adult members listed on the roll developed under the authority of subsection (a) are authorized to (A) be organized for candidates to the duly elected officers of the Native Hawaiian Interim Governing Council, (B) establish the criteria for citizenship in the Native Hawaiian government, (C) provide for the exercise of those governing documents, and (D) conduct a referendum of the adult members listed on the roll concerning the text and description of the proposed organic governing documents.

(2) Powers.—(A) In general.—The Native Hawaiian Interim Governing Council is authorized to hold elections for the purpose of ratifying the proposed organic governing documents, and upon ratification of the organic governing documents, to hold elections for the officers of the Native Hawaiian government.

(B) Assistance.—Upon the request of the Native Hawaiian Interim Governing Council, the United States Office of Native Hawaiian Affairs may assist the Council in conducting such elections.

(3) Elections.—(i) In general.—The Native Hawaiian Interim Governing Council is authorized to hold elections for the purpose of ratifying the proposed organic governing documents, and upon ratification of the organic governing documents, to hold elections for the officers of the Native Hawaiian government.

(ii) Assistance.—Upon the request of the Native Hawaiian Interim Governing Council, the United States Office of Native Hawaiian Affairs may assist the Council in conducting such elections.

(4) Termination.—The Native Hawaiian Interim Governing Council shall have no power or authority under this Act after the time at which the duly elected officers of the Native Hawaiian government take office.

(d) Recognition of the Native Hawaiian Government.—

(1) Process for recognition.—(A) Submittal of organic governing documents.—The duly elected officers of the Native Hawaiian government shall submit the organic governing documents of the Native Hawaiian government to the Secretary.

(B) Certification.—Within 90 days of the date that the duly elected officers of the Native Hawaiian government submit the organic governing documents to the Secretary, the Secretary shall certify that the organic governing documents—

(i) were adopted by a majority vote of the adult members listed on the roll prepared under the authority of subsection (a),

(ii) are consistent with applicable Federal law and the special trust relationship between the United States and the indigenous native people of the United States,

(iii) provide for the exercise of those governmental authorities that are recognized by the United States, including the authorities that are exercised by other governments representing the indigenous, native people of the United States,

(iv) provide for the protection of the civil rights of the citizens of the Native Hawaiian government and all persons subject to the authority of the Native Hawaiian government,

(v) establish the criteria for citizenship in the Native Hawaiian government; and

(vi) provide authority for the Native Hawaiian government to negotiate with Federal, State, and local governments, and other entities.

(C) Failure to act.—If the Secretary fails to act within 90 days of the date that the duly elected officers of the Native Hawaiian government submitted the organic governing documents of the Native Hawaiian government along with a certification of the organic governing documents, the organic governing documents shall serve as the basis for the eligibility of adult members listed on the roll to participate in all referenda and elections conducted under this Act, including elections to establish the membership of a Native Hawaiian Interim Governing Council and the Native Hawaiian government.

(2) Federal recognition.—If the Secretary determines that the organic governing documents are not consistent with applicable Federal law, the Secretary shall resubmit the organic governing documents to the duly elected officers of the Native Hawaiian government along with a justification for each of the Secretary's findings as to why the provisions are not consistent with such law.

(3)倏inmonment and delegation by the Native Hawaiian government.—If the organic governing documents are resubmitted to the duly elected officers of the Native Hawaiian government, the Secretary, under subsection (i), may delegate any part thereof, or any amendment made by this Act, shall continue in full force and effect.

Nothing in this Act is intended to serve as a settlement of any claims against the United States, or to affect the rights of the Native Hawaiian people under international law.

SEC. 11. REGULATIONS.

The Secretary is authorized to make such rules and regulations and such delegations of authority as the Secretary deems necessary to carry out the provisions of this Act.

SEC. 12. SEVERABILITY.

In the event that any section or provision of this Act, or any amendment made by this Act is held invalid, it is the intent of Congress that the remaining sections or provisions of this Act, and the provisions of this Act, and the provisions made by this Act, shall continue in full force and effect.
By Mr. LUGAR:

S. 82. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

S. 83. A bill to phase-out and repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

S. 84. A bill to increase the unified estate and gift taxes and the tax credit to exempt small businesses and farmers from estate taxes; to the Committee on Finance.

S. 85. A bill to amend the Internal Revenue Code of 1986 to increase the gift tax exclusion to $25,000; to the Committee on Finance.

I welcome the opportunity to introduce a series of bills intended to address the burden that estate taxes place on our economy. The estate tax hinders entrepreneurial activity and job creation in many economic sectors.

As Chairman of the Senate Agriculture Committee, I have held hearings on the impact of the estate tax on farmers, ranchers, and rural communities. The effects of inheritance taxes are severe on the agricultural community. Citing personal experiences, witnesses described how the estate tax discourages saving, capital investment, and job formation.

One such story came from a Hoosier, Mr. Woody Bidwell. Mr. Bidwell is a fifth generation tree farmer living in the house his great-grandparents built in 1885. I visited his 300 acres of forested property recently and can attest to their beauty. Typical of many farmers, Mr. Barton is over 65 years old and wants to retire. He fears that the estate tax may cause his children to strip the timber and then sell the land in order to pay the estate tax bill. His grandmother logged a portion of the land in 1939 to avoid the estate tax. His grandfather bought back the hard work and dedication of their ancestors from the federal government.

Mr. Barton believes, and I agree, that the actions of Congress have more impact on the outcome of his family’s land than his own planning and investment. This should not be the case.

The estate tax falls disproportionately on the agricultural population. Ninety-five percent of farms and ranch operations are sold proprietors or family partnerships, subjecting a vast majority of these businesses to the threat of inheritance taxes. According to USDA figures, farmers are six times more likely to face inheritance taxes than other Americans. And commercial farm estates—those core farms that produce 85 percent of our nation’s agricultural products—are fifteen times more likely to pay inheritance taxes than individuals.

The threat of estate taxes to family farms will become even more prevalent if nothing is done. With the average farmer approaching 60 years of age, farm families throughout the country are about to confront the burden of estate taxes as they prepare to pass their farm onto the next generation. Recently, the USDA estimated that between 1992 and 2002, more than 500,000 farmers will die. Demographic studies indicate that a quarter of all farmers could confront the inheritance tax during the next 20 years.

In light of this problem, today I offer several bills that would impact farmers throughout the country. The effects of inheritance taxes on the estate tax have mushroomed into an economic disincentives. The estate tax has been adjusted since 1972. Despite its ultimate veto, this legislation was an important step in raising the exemption amount from $10,000 to $25,000. My bill would raise the gift tax exemption from $10,000 to $25,000.

I believe that the best option is a simple repeal of the estate tax. However, if the estate tax is not repealed, the unified credit must be raised significantly. Despite our most recent success in raising the exemption level, I am optimistic that this will be the Congress that will finally repeal the estate tax.

I am hopeful that Senators will join me in the coming months, the bills that I have introduced will provide policymakers with a range of options as they seek to mitigate the burdens of the estate tax. Do so will lead to expanded investment incentives and job creation and will reinvigorate an important part of the American Dream. I am hopeful that Senators will join me in the effort to free small businesses, family farms, and our economy from this counterproductive tax. I ask unanimous consent that my four bills be printed in the RECORD.
SEC. 1. SHORT TITLE.
This Act may be cited as the “Gift Tax Repeal Act of 2001”.

SEC. 2. FINDINGS.
Congress finds the following:

(1) The economy of the United States cannot achieve strong, sustained growth without adequate levels of savings to fuel productive activity. Inadequate savings have been shown to lead to lower productivity, stagnating wages, and reduced standards of living.

(2) Savings levels in the United States have steadily declined over the past 25 years, and have lagged behind the industrialized trading partners of the United States.

(3) Anemic savings levels have contributed to the country’s long-term downward trend in real economic growth, which averaged close to 3.5 percent over the last 100 years but has slowed to 2.4 percent over the past quarter century.

(4) Congress should work toward reforming the entire Federal tax code to end its bias against savings and eliminate double taxation.

(5) Repealing the estate and gift tax would contribute to the goals of expanding savings and investment, boosting entrepreneurial activity, and expanding economic growth.

(6) Abolishing the estate tax would restore a measure of fairness to the Federal tax system. Families should be able to pass on the fruits of labor to the next generation without realizing a taxable event.

(7) Abolishing the estate tax would benefit the preservation of family farms. Nearly 95 percent of farms and ranches are owned by sole proprietors or family partnerships, subjecting most of this property to estate taxes upon the death of the owner. Due to the capital intensive nature of farming and its low return on investment, farmers are 15 times more likely to be subject to estate taxes than other Americans.

(8) Abolishing the estate tax would benefit the preservation of family farms. Nearly 95 percent of farms and ranches are owned by sole proprietors or family partnerships, subjecting most of this property to estate taxes upon the death of the owner. Due to the capital intensive nature of farming and its low return on investment, farmers are 15 times more likely to be subject to estate taxes than other Americans.

SEC. 3. PHASE-OUT OF ESTATE AND GIFT TAXES THROUGH INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) IN GENERAL.—The table in section 2010(c) of the Internal Revenue Code (relating to applicable credit amount) is amended to read as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>2003</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>2004</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>2005</td>
<td>$2,500,000</td>
</tr>
<tr>
<td>2006</td>
<td>$5,000,000</td>
</tr>
</tbody>
</table>

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2001.

SEC. 4. REPEAL OF FEDERAL TRANSFER TAXES.

(a) IN GENERAL.—Subtitle B of the Internal Revenue Code of 1986 is repealed.

(b) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or the Secretary’s delegate shall, as soon as practicable, publish in the Federal Register a notice not later than 90 days after the date of the enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

SEC. 5. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) IN GENERAL.—The table in section 2010(c) of the Internal Revenue Code (relating to applicable credit amount) is amended—

(1) by striking “2002” and inserting “2002” and inserting therefor “2003”;

(2) by striking “$700,000” and inserting “$5,000,000”, and...
By Mr. ROCKEFELLER (for himself, Ms. SNOWE, Mr. KERRY, Mr. HATCH, Mr. BAUCUS, Mr. BURNS, Mr. HOLLINGS, Mr. BAYH, Mrs. BOUTIN, Mr. BROWNBACK, Mr. CLELAND, Mrs. CLINTON, Mr. CRAIG, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. EDWARDS, Mr. ENZI, Mr. JOHNSON, Mr. KENNEDY, Ms. LANDRIEU, Mrs. LINCOLN, Mr. MILLER, Mrs. MURRIS, Mr. MURRAY, Mr. SMITH, Mr. WYDEN, Mr. HELMS, Mr. LEAHY, Mr. CONRAD, Mr. REID, and Mr. HARKIN):

S. 88. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability; to the Committee on Finance.

Broadband Tax Credit Legislation

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Broadband Internet Access Act of 2001. The convergence of computing and communications has changed the way America interacts and does business. Individuals, businesses, schools, libraries, hospitals, and many others reap the benefits of networked communications more and more each year. However, where in the past access to low bandwidth telephone facilities met our communications needs, today many people and organizations need the ability to transmit and receive large amounts of data quickly—as part of electronic commerce, distance learning, telemedicine, and even for more access to many web sites.

In some areas of the country companies are building networks that meet today’s broadband need as fast as they can. Technology companies are fighting to roll out the current generation of broadband facilities as quickly as they can in urban and suburban areas. They are tearing up streets to install fiber optics, converting cable TV facilities to broadband telecom applications, developing incredible new DSL technologies that convert regular copper telephone wires into broadband powerhouses.

Other areas are not as fortunate. In rural and inner city areas access to even the current generation of broadband communications is harder to come by. In fact, there are only a few broadband providers outside the prosperous areas of big cities and suburban areas nationwide. This is because in rural areas are more expensive to serve. Terrain is difficult. Populations are widely dispersed. Importantly, many of our current broadband technologies cannot serve people who live more than eighteen thousand feet from a phone company’s central office—which is the case for most rural Americans. In inner cities, companies may believe that lower household income levels will not support a market for their services, so they choose not to invest in these communities.

The bill provides a credit to 10 percent of the Internal Revenue Code of 1986 to provide an incentive to build current generation broadband facilities in rural areas by using a very focused tax credit. It would offer any company that invests in broadband facilities in rural or inner city areas a ten percent tax credit over the next five years. This tax credit will help fight the growing disparity in technology I just described.

Therefore, we must do everything we can to ensure that broadband communications are available to all areas of the country—rural and inner city as well as the prosperous urban and suburban communities. The Broadband Internet Access Act of 2001 addresses this problem.

The Act would give companies the incentive to build current generation broadband facilities in rural areas by using a very focused tax credit. It would offer any company that invests in broadband facilities in rural or inner city areas a ten percent tax credit over the next five years. This tax credit will help fight the growing disparity in technology I just described.

The credit is also restricted to investments needed for high-speed broadband telecommunications services. This means that only powerful broadband services are covered. Companies cannot claim that inferior services qualify for the credit. Only facilities that can download data at a rate of 1.5 megabytes per second, and upload data at 200 kilobytes per second qualify.

In addition, the bill provides a 20 percent tax credit for companies that invest in next generation broadband services. These powerful new services, that can deliver data capacities of 22 megabytes per second download and 5 megabytes per second upload will be the infrastructure the new economy depends as the digital economy matures. We need to reward the companies who have the foresight to invest in these next generation broadband services—they will benefit the whole country.

The Broadband Internet Access Act of 2000 is part of the solution to the critically important digital divide problem. Rural Americans and Americans living in inner cities deserve the chance to participate in the New Economy. Without access to broadband services, they will not have this chance. I hope that the Members of this body will support this important bill.

For those who want even more details, I ask unanimous consent that Attachment One to this statement, titled Broadband Internet Access Tax Credit, be made part of the Record. This attachment is a detailed explanation of the tax credit based on an analysis of the similar Broadband Internet Access Act of 2000, from the 106th Congress. We will hopefully have a more updated explanation the Bill will have changes to the bill for the 107th Congress very soon.

There being no objection, the attachment ordered to be printed in the Record, as follows:

Broadband Internet Access Tax Credit

New sec. 48A of the Code

Present Law

Present law does not provide a credit for investments in telecommunications infrastructure.

Explanations of Provision

The bill provides a credit to 10 percent of the qualified expenditures incurred by the taxpayer with respect to qualified equipment
with which “current generation” broadband services are delivered to subscribers in rural and underserved areas. In the addition, the bill provides a credit equal to 20 percent of the expenditures incurred by the taxpayer with respect to qualified equipment with which “next generation” broadband services are delivered to subscribers in rural areas, underserved areas, and to residential subscribers.

Current generation broadband services is defined as the transmission of signals at a rate of at least 1.5 million bits per second from the subscriber and at a rate of at least 200,000 bits per second from the subscriber. Next generation broadband services is defined as the transmission of signals at a rate of at least 22 million bits per second to the subscriber and at a rate of at least 5 million bits per second from the subscriber. Taxpayers will be permitted to substantiate their satisfaction of the required transmission rates through statistically significant test data demonstrating satisfaction of the required transmission rates, or by other reasonable methods. For this purpose, the fact that certain subscribers were provided with a written guarantee that the required transmission rates would be satisfied or satisfied by other reasonable methods. For this purpose, the fact that certain subscribers were not able to access such services at the required transmission due to limitations of the service provider’s network, or are the reason that the taxpayer, in the opinion of the provider, is equipment other than qualified equipment, shall not be taken into account.

A rural area is any census tract which is not within 10 miles of any incorporated or census designated place with a population of more than 2,500 people which is not within a county with a population density of more than 100 people per square mile. An underserved area is any census tract which is located in a county where in a state which is not identified as a low-income community, renewal zone or low-income community. A residential subscriber is any individual who purchases broadband services to be delivered to his or her dwelling.

Qualified equipment

Qualified expenditures are those amounts otherwise chargeable to the capital account with respect to the purchase and installation of qualified equipment for which depreciation is allowed in section 168. Qualified expenditures are those that are incurred by the taxpayer after December 31, 2001, and before January 1, 2003.

The expenditures are taken into account for purposes of claiming the credit in the first taxable year in which broadband service is delivered to at least 10 percent of the specified type of subscribers which the qualified equipment is capable of serving in an area in which the provider has legal or contractual area access rights or obligations. For this purpose, it is intended that the subscribers which the equipment is capable of serving will be determined by the least capable link in the system. For example, if a system has a packet switch capable of serving 10,000 subscribers, followed by a digital subscriber line access multiplexer (“DSLAM”) capable of serving only 2,000 subscribers, then the area which the equipment is capable of serving is the area served by the 2,000 DSLAM lines.

Although the credit only applies with respect to qualified expenditures incurred during specified periods, the fact that the expenditures are not taken into account until a later period will not affect the taxpayer’s eligibility for the credit. For example, if a taxpayer incurs qualified expenditures with respect to equipment providing next generation broadband services in 2004, but the taxpayer will be eligible for the credit in 2005 (assuming the other requirements of the bill are satisfied). To substantiate their satisfaction of the 10 percent subscription threshold, taxpayers will be required to provide such information as is required by the Secretary, which may include customer’s equipment ratings or evidence of independent certification.

Qualified equipment

Qualified equipment must be capable of providing broadband services at any time to each subscriber who is utilizing such services. It is intended that the equipment would be satisfied if a subscriber utilizing broadband services through the equipment is able to receive the required transmission rates in at least 99 out of 100 attempts.

In the case of a telecommunications carrier, qualified equipment is equipment that is capable of receiving a transmission from the outside of the building in which the subscriber is located. In the case of a commercial mobile service carrier, qualified equipment is equipment that extends from the customer side of a mobile telephone switching office to a transmission/reception antenna (including the antenna) of the subscriber. In the case of a cable operator or other open video system operator, qualified equipment is equipment that extends from the customer side of the headend to the outside of the building in which the subscriber is located. In the case of a satellite carrier or other wireless carrier (other than a telecommunications carrier), qualified equipment is equipment that extends from a transmission/reception antenna (including the antenna) to a transmission/reception antenna on the outside of the building in which the subscriber is located. In addition, any qualified packet switching equipment deployed in connection with other qualified equipment is qualified equipment, regardless of location, provided that it is the last such equipment in a series of transmission of a signal to a subscriber or the first in a series in the transmission of a signal from a subscriber.

Finally, the measures of bandwidth and demultiplexing equipment and other equipment making associated applications deployed in connection with other qualified equipment is qualified equipment, if the equipment can be connected between qualified packet switching equipment and the subscriber’s premises.

Although the taxpayer must incur the expenditures directly in order to qualify for the credit, the taxpayer may provide the requisite broadband services either directly or indirectly. For example, if a partnership constructs qualified equipment or otherwise incurs expenditures, but the requisite services are provided by one or more of its partners, the partnership will be eligible for the credit (assuming the other requirements of the bill are satisfied). It is anticipated that the Secretary will issue regulations or other published guidance with regard to the requirements of the bill are satisfied in such situations.

Mr. BURNS. Mr. President, I rise today in support of a bill I supported last Congress along with over half of the members in this body. The Broadband Internet Access Act of 2001, creates tax incentives for the deployment of broadband (high-speed) Internet services to rural, low-income, and residential areas. This bill will ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

The legislation provides graduated tax credits to companies that bring qualified telecommunication capabilities to targeted areas. It grants a 10 percent credit for expenditures on equipment that provide current generation bandwidth of 1.5 million bits per second downstream and 5 Mbps upstream to subscribers in rural and low-income areas, and a 20 percent credit for delivery of next generation 22 Mbps downstream and 5 Mbps upstream to these customers and other residential customers.

This bill has been endorsed by a number of organizations, including Bell Atlantic, MCI/Worldcom, Corning Incorporated, the National Telephone Cooperative Association, the Association for Local Telecommunications Services, the United States Distance Learning Association, and the Imaging Science and Information Systems Center at Georgetown University Medical Center.

Mr. President, in a few short years, the Internet has grown exponentially to become a mass medium used daily by over 100 million people worldwide. The explosion of information technology has created unprecedented opportunities undreamed of by previous generations. In my home state of Montana, companies such as Healthdirectory.com and Vanns.com are taking advantage of the global markets made possible by the Internet to reach their customers. The pace of broadband deployment to rural America must be accelerated for electronic commerce to meet its full potential however. Broadband access is as important to our small businesses in Montana as water is to agriculture.

I am aware of all of the recent discussions regarding the “digital divide” and I am very concerned that the pace of broadband deployment is greater in urban than rural areas. However, there is some positive and exciting news on this front as well. The reality on the ground shows that some of the “gloom and doom” scenarios are far from the case. By pooling their limited resources, Montana’s independent and co-op telephone companies are doing great things. I encourage my colleagues to support this bill.

Mr. GRASSLEY. S. 89. A bill to enhance the illegal narcotics control activities of the United States, and for other purposes; to the Committee on the Judiciary.
Mr. GRASSLEY. Mr. President. I rise today to introduce the “Drug-Free America Act of 2001.” As many of my colleagues know, drug use by the children in our country continues to be a serious concern of mine. The “Drug-Free America Act” offers a series of initiatives that I believe will support efforts across the board to discourage drug use at all levels in America.

Mr. President, I’ve said it before, but it bears repeating. Somewhere along the way, we lost the clear, consistent message that the only proper response to drugs is to say an emphatic “no.” We’re supposed to be more sophisticated, more tolerant. More willing to listen to notions of making dangerous drugs more available. What all of this “more” has meant is that we have more young people using more drugs at younger ages. Today we are competing with a drug culture that tells our children “drugs are cool,” that “drugs are safe,” and that drugs are being more aggressively marketed, and are presented as being “user-friendly.”

We cannot remain silent. I look forward to working with President Bush in providing the resources and messages necessary to let everyone know that drugs are bad, that drugs will damage your brain and your body, and that drug use will hurt you, your friends, your family, your community, and your future.

The drug problem confronting our country is not static. Methamphetamine, Ecstasy, and other new drugs pose different challenges and require different solutions than the heroin and cocaine epidemics. Treatment, education, prevention, and law enforcement efforts must all be strengthened and updated. The National Institutes of Health have some exciting research efforts underway that could really make a difference as we try to reclaim the lives of our fellow citizens who have been seduced by the false pleasures of drug use. There are several education and prevention initiatives that we can strengthen to support the educators, counselors, community activists, and parents who work hard every day to keep our children and our communities drug free. We should support ongoing efforts by the National Guard Counterdrug Directorate, and re-authorize the U.S. Customs Service, our Nation’s oldest law enforcement agency. We need to believe in our future. I believe that by working together, we can, we will make a difference. I hope my colleagues will join me in working to address this important problem before it becomes any worse.

Left unanswered, we will see another generation of young lives blighted. We will see families torn up by a widening circle of hurt from drug use. We saw what a similar wave of drug use did to us and to a generation of young people in the 1960s and 1970s. We are smarter now, we have better tools and better knowledge. We cannot afford to go through this again. I hope we can begin today to renew our commitment to a drug-free future for our young people. I have said this in numerous town meetings, and I now say it here, “working together, we can make a difference.”

I urge my colleagues to join me in supporting the “Drug-Free America Act, and look forward to working with my colleagues on these important initiatives.

Mr. President, I send this bill to the desk, and request that it be printed in the perfect print. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 89
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 “Drug-Free America Act of 2001.”

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—DOMESTIC DEMAND REDUCTION

Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. Purposes.

Subtitle A—Drug Treatment and Research
Sec. 111. Short title.
Sec. 112. Authorization of appropriations.
Sec. 113. Adolescent therapeutic community treatment programs.
Sec. 114. Residential treatment program in Federal prisons.
Sec. 115. Counter-Drug Technology Assessment Center.
Sec. 116. Sense of Congress on research by the National Institutes of Health.

Subtitle B—Drug-Free Communities
Sec. 121. Findings.
Sec. 122. Drug-free communities support program.

Subtitle C—Drug-Free Families
Sec. 131. Short title.
Sec. 132. Findings.
Sec. 133. Purposes.
Sec. 134. Definitions.
Sec. 135. Establishment of drug-free families support program.
Sec. 136. Authorization of appropriations.

Subtitle D—National Community AntiDrug Coalition Institute
Sec. 141. Short title.
Sec. 142. Establishment.
Sec. 143. Authorization of appropriations.

TITLE II—DOMESTIC LAW ENFORCEMENT

Subtitle A—National Guard Matters
Sec. 201. Minimum number of members of the National Guard on duty to perform drug interdiction or drug-related activities.

Subtitle B—Customs Matters
Sec. 211. Short title.

PART I—AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES CUSTOMS SERVICE FOR ENHANCED INSPECTION, TRADE FACILITATION, AND DRUG INTERDICTIO

Sec. 221. Authorization of appropriations.
Sec. 222. Counter-narcotics inspection and narcotics detection equipment for the United States-Mexico border, United States-Canada border, and Florida and Gulf Coast seaports; internal management improvements.

Sec. 223. Peak hours and investigative resource enhancement for the United States-Mexico and United States-Canada borders, Florida and Gulf Coast seaports, and the Bahamas.
Sec. 224. Agent rotations; elimination of backlog of background investigations.
Sec. 225. Air and marine operation and maintenance funding.
Sec. 226. Compliance with performance plan requirements.
Sec. 227. Report on intelligence requirements.

PART II—CUSTOMS MANAGEMENT
Sec. 231. Term and salary of the Commissioner of Customs.
Sec. 232. Internal compliance.
Sec. 234. Report on personnel allocation model.
Sec. 235. Report on detection and monitoring requirements along the southern tier and northern border.

PART III—MARKING VIOLATIONS
Sec. 241. Civil penalties for marking violations.

Subtitle C—Miscellaneous
Sec. 251. Tethered Aerostat Radar System.

SEC. 2. FINDINGS.

This Act makes the following findings:

(1) Illegal drugs cost America more than $70,000,000,000 annually. These costs include lost productivity, as well as money spent for drug treatment, illnesses related to drug use, crime prevention and enforcement, and welfare.

(2) Federal, State, and local governments spend more than $30,000,000,000 annually to combat illegal drugs and the consequences of illegal drugs.

(3) The estimated total expenditure by Americans on illegal drugs in 1995 was $48,700,000,000. The vast majority of these illegal drugs are produced overseas and then smuggled into the United States by major criminal organizations.

(4) The estimated worldwide potential of coca net production in 1996 was 303,600 metric tons, and in the same year, the worldwide cocaine cultivation was 209,700 hectares.

(5) The production of opium has also been increasing for at least the past 19 years, and reached a new high in 1996 of 4,212 metric tons. Production there has led to an increase in the heroin addict population of the United States, bringing it to a new high of more than 600,000 people.

Money laundering constitutes a serious challenge to the maintenance of law and order throughout the hemisphere and poses a threat to stability, reliability, and the integrity of governments, financial systems, and commerce.

(7) Money laundering of illegal drug profits is an integral part of the drug trafficking process, creating an obstacle in fighting drugs. It is estimated that $100,000,000,000 to $200,000,000,000 in United States currency is laundered each year.

(8) Certification pursuant to the Foreign Assistance Act of 1961 is an essential tool in United States foreign policy. Through the certification process there has been improvement in cooperation levels that demonstrates the importance of holding countries responsible for being major producing, transit, and money laundering countries.

(9) The major criminal organizations that traffic in illegal narcotics are international in scope and extremely flexible in their activities, and are becoming increasingly sophisticated in their operations. Their influence reaches to the highest levels of some foreign governments.
(19) The threat of corruption at all levels of government remains a significant concern when dealing with many nations. Explosive corruption in a number of countries is undermining values, and our Government's respect for law. United States assistance and the presence of decertification have encouraged many countries to take corruption seriously.

(11) The spread of illegal narcotics presents a threat to United States interests, both domestic and foreign. Drugs are a corrosive influence on our children, our families, and our communities.

TITLE I—DOMESTIC DEMAND REDUCTION

SEC. 101. SHORT TITLE.
This title may be cited as the “Domestic Narcotic Demand Reduction Act of 2001.”

SEC. 111. SHORT TITLE.
This subtitle may be cited as the “Drug Treatment and Research Enhancement Act of 2001.”

SEC. 112. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.
(a) SHORT TITLE.—This section may be cited as the “Key Professions Education Act.”

(b) CORE COMPETENCIES.—Subpart 2 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb–21 et seq.), as amended by the Youth Drug and Mental Health Services Act (Public Law 106–130), is amended by adding at the end the following:

**SEC. 510F. CORE COMPETENCIES.**

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

(1) According to a 1999 Monitoring the Future Report, heroin use doubled among youth in the United States between 1991 and 1995. Since that time, such heroin use among such youth has remained at the high level reached in 1995.

(2) The sharp increase in heroin use during the 1990’s may be a result of the introduction of the market of heroin of a higher purity.

(3) According to the National Center on Addiction and Substance Abuse, 29.9 percent of the population living in rural areas, 32.4 percent of the population living in small cities, and 30.2 percent of the population living in big cities used heroin very easily or fairly easy to procure.

(4) Studies show a high correlation between drug use, availability of drugs, and violence.

(5) A March 2000 report by the Office of National Drug Control Policy reported that in 1999 persons using illegal drugs were 16 times more likely to be arrested for larceny or theft, at least 14 times more likely to be absent driving under influence, drunkenness, and liquor law violations, and at least 9 times more likely to be arrested for assault.

(b) PURPOSE.—The purpose of this section is—

(1) to educate, train, motivate, and engage key professional to identify and intervene with children in families affected by substance abuse and to refer members of such families to appropriate programs and services in the communities of such families;

(2) to encourage professionals to collaborate with key professional organizations representing the targeted professional group, such as groups of educators, social workers, faith community members, and probation officers, for the purposes of developing and implementing key professional competencies; and

(3) to encourage professionals to develop networks to coordinate local substance abuse prevention coalitions.

(c) STATUTORY AUTHORIZATION.—The Secretary shall award grants to leading nongovernmental organizations with an expertise in aiding children of substance abusing parents or experience with community antidrug coalitions to help professionals participate in such coalitions and identify and help youth affected by drug abuse.

(d) DURATION OF GRANTS.—No organization shall receive a grant under subsection (c) for more than 5 consecutive years.

(e) APPLICATION.—Any organization desiring a grant under subsection (c) shall prepare and submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a plan for the evaluation of the project, including both process and outcome evaluation, and the submission of the evaluation at the end of the project period.

(f) USE OF FUNDS.—Grants awarded under subsection (c) shall be used to—

(1) develop core competencies with various professional groups that the professional can use in identifying and referring children affected by substance abuse;

(2) widely disseminate the competencies to professionals and professional organizations that are widely read and respected;

(3) develop training modules around the competencies; and

(4) develop training modules for community coalition leaders to enable such leaders to engage professionals from identified groups at the local level in community-wide prevention work.

(g) DEFINITION.—In this section, the term ‘professionals’ includes a physician, mental health provider, social worker, youth and family social service agency counselor, Head Start teacher, clergy, elementary and secondary school teacher, school counselor, school psychologist, school nurse, child care provider, or a member of any other professional group in which the members provide services to or interact with children, youth, or families.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $15,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

(i) NATIONAL INSTITUTE ON DRUG ABUSE.—Subpart 15 of part C of title IV of the Public Health Service Act (42 U.S.C. 285c et seq.) is amended by adding at the end the following:

**SEC. 464Q. NATIONAL DRUG ABUSE TREATMENT CLINICAL TRIALS NETWORK.**

(a) PROGRAM AUTHORIZED.—The Director of the Institute shall establish a National Drug Abuse Treatment Clinical Trials Network (referred to in this section as the ‘Network’), and provide for such Network, to conduct large scale drug abuse treatment studies in community settings using broadly diverse patient populations.

(b) ACTIVITIES OF NETWORK.—The Network described in subsection (a) shall use the support provided under subsection (a) to—

(1) conduct coordinated, multisite, clinical trials of behavioral and pharmacological approaches and combined therapies for drug abuse and addiction;

(2) conduct a research practice initiative to—

(A) identify factors that affect successful adoption of new treatments in order to transport research findings into real-life practice; and

(B) rapidly and efficiently disseminate scientific findings to the field and to communities in need;

(c) MEMBERS OF NETWORK.—The Network described in subsection (a) shall consist of treatment centers that are linked with community-based treatment programs that represent a diversity of treatment settings and patient populations in the regions of such centers;

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2007.

(e) PRACTICE/RESEARCH COLLABORATIVES.—Part A of title V of the Public Health Services Act (42 U.S.C. 290aa et seq.), as amended by the Youth Drug and Mental Health Services Act (Public Law 106–130), is amended by adding the following:

**SEC. 506C. PRACTICE/RESEARCH COLLABORATIVES.**

(a) IN GENERAL.—The Secretary shall award grants, cooperative agreements, or contracts to public or private nonprofit entities for the purpose of assisting local communities and regions within States in improving the quality of substance abuse treatment and clinical preventive services provided by such community initiatives.

(b) ELIGIBILITY.—To be eligible to receive a grant, contract, or cooperative agreement under this section an entity shall—

(1) be a public or private nonprofit entity;

(2) prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require; and

(3) demonstrate that the entity has developed a full partnership among—

(A) community-based treatment and prevention service providers that provide treatment services representing a variety of modalities and including both for profit and nonprofit private entities and programs that serve diverse populations;

(B) researchers on substance abuse prevention and treatment;

(C) government officials from the community involved in the grant application;

(D) State officials involved in the funding of substance abuse prevention and treatment services;

(E) service organizations that serve substance abusers including organizations providing health and mental health services, child welfare, law enforcement, social services, education, and other such services; and

(F) policymakers.

(c) USE OF FUNDS.—Amounts awarded under a grant, contract, or cooperative agreement under subsection (a) may be used to—

(1) develop ongoing communications for the entities described in subsection (b)(3) to support the establishment of an infrastructure for community-based studies and knowledge transfer;

(2) share evaluation and applied research results in seminars and publications;

(3) identify areas of particular local concern for further study;

(4) determine, in consultation with appropriate agencies (including the National Institute on Drug Abuse), public policy issues of interest to be included in an applied research agenda;

(5) identify and describe existing prevention and intervention strategies; and

(6) improve methods for evaluating prevention and treatment strategies;
“(7) recruit or retain substance abuse educators and practitioners to participate in specialized training programs to improve knowledge exchange and transfer;”

“(8) the implementation of training programs to sustain the adoption of community-based treatment study findings; and”

“(9) provide public policymakers and State officials with appropriate information.”

“(d) CONDITIONS.—The Secretary shall ensure that awards made under subsection (a) are directed toward urban and rural areas and address the needs of vulnerable populations including ethnic and racial minorities, women, and subgroups of individuals with sexually transmitted diseases or HIV.

“(e) DURATION OF AWARDS.—With respect to grants, cooperative agreements, or contracts awarded under this section, the period during which payments under such awards are made to the recipient may not exceed 5 years.

“(f) REPORT.—A recipient of a grant, contract, or cooperative agreement under this section shall prepare and submit to the Secretary a report for each year under the grant, contract, or cooperative agreement of the Secretary a report for each year under the grant, contract, or cooperative agreement for which funds are received under this section, and annually thereafter, a treatment report describing the services provided pursuant to this section.

“(g) EVALUATION.—The Secretary shall evaluate each project carried out under subsection (a) and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section, $20,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 and 2004.”

SEC. 113. ADOLESCENT THERAPEUTIC COMMUNITY TREATMENT PROGRAMS.

(a) SHORT TITLE.—This section may be cited as the “Adolescent Therapeutic Community Treatment Programs Act”.

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

(1) Of the adolescents that currently need substance abuse treatment services, only 20 percent of such adolescents are receiving such services.

(2) Providing alcohol and drug treatment services that are both cost effective, can help prevent crime, and reduces criminal justice costs.

(3) Studies have found that continuation of substance abuse treatment produces sustained drug use, welfare dependency, crime, and unemployment.

(4) The National Institute of Justice Arrestee Drug Abuse Monitoring Drug testing program found that more than half of juvenile male arrestees tested positive for at least 1 drug in 1998.

(5) The 1999 Monitoring the Study found that half of the teenagers in the United States have tried an illicit drug by the time such teenagers finish high school, and more than 28 percent of such teenagers have tried an illicit drug by the time such teenagers are in eighth grade.

(6) According to the 1999 National Household Survey on Drug Abuse, the average age of new heroin addicts or cocaine abusers was 18 years of age in 1992 to 21.3 years of age in 1998.

(7) Studies have shown that intervention at an early stage is effective in stopping an increasingly frequent drug user from becoming an addict. Whether voluntary or through legal or parental pressure, the sooner the substance abuse treatment program, the more likely such treatment is to be effective. Voluntary participation in substance abuse programs is not necessary in order to successfully treat a drug user.

(c) PROGRAM AUTHORIZED.—The Secretary shall award competitive grants to treatment providers who administer treatment programs to enable such providers to establish adolescent residential substance abuse treatment programs that provide services for individuals who are between the ages of 14 and 21.

(d) PREFERENCE.—In awarding grants under subsection (c), the Secretary shall consider the geographic location of each treatment provider and give preference to such treatment providers that are geographically located in such a manner as to provide services to addicts from non-metropolitan areas.

(e) DURATION.—For awards made under subsection (c), the period during which payments are made may not exceed 5 years.

(f) RESTRICTIONS.—A treatment provider receiving a grant under subsection (c) shall not use any amount of the grant under this section for land acquisition or a construction project.

(g) CONSTRUCTION.—Nothing in this subsection shall be construed to preclude qualifying faith-based treatment providers from receiving a grant under subsection (c).

(h) APPLICATION.—A treatment provider that desires a grant under subsection (c) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(i) USE OF FUNDS.—A treatment provider that receives a grant under subsection (c) shall use funds received under such grant to provide substance abuse services for adolescents, including—

(1) a thorough psychosocial assessment;

(2) individual treatment planning;

(3) a strong home environment; and

(4) daily work responsibilities; and

(5) family services.

(3) a strong focus on family involvement and family strengthening;

(4) a clearly articulated value system emphasizing both individual responsibility and responsibility for the community; and

(5) an emphasis on development of positive social skills.

(j) REPORT BY PROVIDER.—Not later than 1 year after receiving a grant under this section, and each year thereafter, a treatment provider shall prepare and submit to the Secretary a report describing the services provided pursuant to this section.

(k) DURATION OF GRANTS.—For awards made under subsection (c), the period during which payments are made may not exceed 5 years.

(l) REPORT.—The Secretary shall award competitive grants to treatment providers that are geographically located in such a manner as to provide services to addicts from non-metropolitan areas.

(2) CONCURRENT.—The report described in paragraph (1) shall—

(A) outline the services provided by providers pursuant to this section;

(B) evaluate the effectiveness of such services;

(C) identify the geographic distribution of all treatment programs provided pursuant to this section, and evaluate the accessibility of such centers for addicts from rural areas and small towns; and

(D) make recommendations to improve the programs carried out pursuant to this section.

(m) DEFINITIONS.—In this section—

(1) ADOLESCENT RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM.—The term “adolescent residential substance abuse treatment program” means a program that provides an orderly regimen of individual and group activities, lasting ideally no less than 12 months, in a community-based residential facility, and provides services tailored to meet the needs of adolescents and designed to return youth to their families in order that such youth may become capable of earning and supporting positive, productive, drug-free lives.

(2) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

(3) THERAPEUTIC COMMUNITY.—The term “Therapeutic Community” means a highly structured residential treatment facility that—

(A) employs a treatment methodology;

(B) relies on self-help methods and group process, a view of drug abuse as a disorder affecting the whole person, and a comprehensive approach to recovery;

(C) maintains a strong educational component; and

(D) carries out activities that are designed to help youths address alcohol or other drug abuse issues and learn to act in their own best interests, as well as in the best interests of others.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $21,000,000 for fiscal year 2002;

(2) $32,000,000 for fiscal year 2003;

(3) $35,000,000 for fiscal year 2004;

(4) $40,000,000 for fiscal year 2005; and

(5) $105,000,000 for fiscal year 2006.

SEC. 114. RESIDENTIAL TREATMENT PROGRAM IN FEDERAL PRISONS.

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

(1) In April 2000, there were more than 140,000 inmates in the Federal prison system.

(2) The Committee on the Judiciary of the Senate recommended that Congress appropriate funds for drug treatment.

(3) A March 2000 report by the Office of National Drug Control Policy reported that in 1999 illicit drug users—

(A) were 16 times more likely than non-users to be arrested and booked for larceny or theft;

(B) were more than 14 times more likely to be arrested and booked for driving under the influence, drunkenness, and liquor law violations; and

(C) were up to 9 times more likely to be arrested and booked for assault.

(4) According to the Federal Bureau of Investigation’s Uniform Crime Reports, drugs...
are one of the main factors leading to the total number of all homicides.

(5) In a 1999 study, the Bureau of Prisons reported that—
(A) offenders who completed a residential drug abuse treatment program and had been released for a minimum of 6 months were less likely to be arrested and use illegal drugs; and
(B) only 3.3 percent of such offenders who completed such program were likely to be arrested within the first 6 months that such offenders were in the community.

(b) PURPOSE.—The purpose of this section is to improve group counseling, and education, in prisons.

(c) PROGRAM AUTHORIZED.—The Director of the Federal Bureau of Prisons shall use funds made available under this section to establish residential drug abuse treatment units in Federal prisons.

(d) REQUIREMENTS.—A residential drug abuse treatment unit that receives funds under this section shall—
(1) maintain not less than 1,000 hours of activities per year; and
(2) maintain a staff of such unit in which there is not more than 1 staff member per 12 inmates;

(3) provide intensive treatment activities for all inmates in the residential drug treatment program, including individual and group counseling, education, work skills training, and other programs;

(4) have frequent, regular, and random drug testing of inmates and staff.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000 for each of fiscal years 2002 and 2003.

SEC. 115. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER.

(a) STUDY OF HEROIN USE IN THE UNITED STATES.—
(1) IN GENERAL.—Using amounts appropriated pursuant to the authorization of appropriations in subsection (c)(1), the Counter-Drug Technology Assessment Center (CTAC) of the Office of National Drug Control Policy shall carry out a study on the number of individuals in the United States who engaged in sustained use of heroin.

(2) BASIS FOR STUDY.—The study under paragraph (1) shall be based on the study entitled "The Number of 'Hardcore' Drug Users in the United States". Counter-Drug Technology Initiatives—Using amounts appropriated pursuant to the authorization of appropriations in subsection (c)(2), the Counter-Drug Technology Assessment Center of the Office of National Drug Control Policy shall—
(1) conduct outreach for purposes of reducing duplication of activities among Federal, State, and local entities regarding counterdrug technologies;

(2) develop and implement mechanisms for monitoring and coordinating such activities; and

(3) assist in the transfer of such technologies to State and local law enforcement agencies under the Technology Transfer Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Counter-Drug Technology Assessment Center of the Office of National Drug Control Policy for fiscal year 2002 the following:

(1) $15,000,000 for purposes of the study required under paragraph (1);

(2) $15,000,000 for purposes of activities under subsection (b).

SEC. 116. SENSE OF CONGRESS ON RESEARCH BY THE NATIONAL INSTITUTES OF HEALTH.

It is the sense of Congress that the National Institutes of Health should work with or collaborate with experts from private industry to promote research regarding pharmacological options that may be employed to support drug treatment efforts.

Subtitle B—Drug-Free Communities

SEC. 121. FINDINGS.

Congress makes the following findings:

(1) A child that has a positive relationship with both parents is less likely to use illegal drugs.

(2) Family activities, such as eating dinners together and spending quality time, can protect a child engaged by such activities will use illegal drugs.

(3) Most parents today work and have little opportunity to spend quality time with their children.

(4) Many families are headed by single parents who work all day and do not have enough time to spend with their children.

(5) The 1999 Parent’s Resource Institute for Drug Education study (referred to in this section as the "PRIDE study") reported that more than 4,000,000 students who are between the ages 11 and 18 used drugs regularly, and more than 1,000,000 of such students used an illegal drug in the past month.

(6) The PRIDE study found that students with parents who talked to them about drug use had a 37 percent lower drug use rate than students with parents who did not talk to them about drug use.

(7) The 1999 Monitoring the Future study found that nearly 55 percent of high school seniors in the United States believed drug use was increasing in 1999;

(8) 9 percent of the population viewed illegal drug use as a serious problem in the United States; and

(9) 73 percent of the population viewed illegal drug use as a serious problem in their communities.

SEC. 122. DRUG-FREE COMMUNITIES SUPPORT PROGRAM.

(a) EXTENSION AND INCREASE OF PROGRAM.—Section 1024(a) of the National Parental Empowerment Act of 1997 (21 U.S.C. 1524(a)) is amended—
(1) by striking “and” at the end of paragraph (4); and

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

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

“(b) EXTENSION OF LIMITATION ON ADMINISTRATIVE COSTS.—Section 1024(b) of that Act (21 U.S.C. 1524(b)) is amended by adding at the end the following new subparagraph:

“(6) 8 percent for each of fiscal years 2003 through 2007.”.

(b) MODIFICATION OF ELIGIBILITY CRITERIA OR AMOUNT FOR GRANT RECIPIENTS.—Section 1023 of that Act (21 U.S.C. 1523) is amended by adding at the end the following new subsection:

“(c) MODIFICATION OF ELIGIBILITY CRITERIA OR AMOUNT FOR GRANT RECIPIENTS.—The Administrator may not implement any modification of eligibility or amount for the renewal of a grant under this section, or any modification in grant amount upon renewal of a grant under this section, until one year after the date on which the Administrator notifies the recipient of the grant concerned of such modification.”.

(c) SOURCE OF FUNDS FOR EVALUATION OF PROGRAM BY ADMINISTRATOR.—Section 1033(b) of that Act (21 U.S.C. 1533(b)) is amended by adding at the end the following new paragraph:

“(5) SOURCE OF FUNDS FOR EVALUATION OF PROGRAM.—Amounts for activities under paragraph (3)(B) shall be derived from amounts under section 1024(a) that are available under section 1024(b) for administrative costs.”.

Subtitle C—Drug-Free Families

SEC. 131. SHORT TITLE.

This subtitle may be cited as the “Drug-Free Families Act of 2001”.

SEC. 132. FINDINGS.

Congress makes the following findings:

(1) The National Institute on Drug Abuse estimates that in 1962, less than 1 percent of the nation’s adolescents had ever tried an illicit drug. By 1978, drug use among young people had escalated to the highest levels in history: 34 percent of adolescents (ages 12-17), 65 percent of high school seniors (age 18), and 70 percent of young adults (ages 18-25) had used an illicit drug.

(2) Drug use among young people was not confined to initial trials. By 1978, 16 percent of adolescents, 29 percent of high school seniors, and 38 percent of young adults had used an illicit drug in the past month. Moreover, in 9 high school seniors used marijuana during the past 30 days, and 3 in 1978, the year the largest number of seniors used marijuana, their belief that marijuana could hurt them was at its lowest (35 percent) since surveys have tracked these measures.

(3) In 1999, the year the largest number of seniors used marijuana, their belief that marijuana could hurt them was at its lowest (35 percent) since surveys have tracked these measures.

(4) Three forces appeared to be driving this escalation in drug use among children and young adults. Between 1972 and 1978, a nationwide political campaign conducted by drug legalization advocates persuaded 11 State legislatures to “decriminalize” marijuana. (Many of those States have subsequently “recriminalized” the drug.) Such legislative action reinforced advocates’ assertion that marijuana was “relatively harmless”.

(5) The decriminalization effort gave rise to the emergence of “head shops” (shops for “heads,” or drug users— ‘coked heads,’ ‘pot heads,’ ‘smokers,’ ‘acid heads,’ etc.) which sold drug paraphernalia—an array of toys, implements, and instructional pamphlets and booklets to enhance the use of illicit drugs. Some 30,000 such shops were estimated to be doing business throughout the nation by 1978.

(6) In the absence of Federal funding for drug education, many of the drug education materials that were available pro- claimed that few illicit drugs were addictive and most were “less harmful” than alcohol and marijuana. (Many of those States have subse- quently “recriminalized” the drug.) Such legislative action reinforced advocates’ assertion that marijuana was “relatively harmless”.

(7) Between 1977 and 1980, 3 national parent drug prevention conventions of the National Family Action in PRIDE, and the National Federation of Parents for Drug-Free Youth (now called the National Family Partner- ship) fell. Those conventions form some 4,000 local parent prevention groups across the nation to reverse all of these trends in order to prevent children from using drugs. Their work created what has come to be known as the parent drug prevention movement, or more simply, the parent movement. This movement set 3 goals to prevent the use of any illegal drug, to persuade those who had started using drugs to stop, and to obtain treatment for...
those who had become addicted so that they could return to drug-free lives.

(8) The parent movement pursued a number of objectives to achieve these goals. First, it worked to educate the public about the harmful effects of drugs, teach information to their children, communicate that they expected their children not to use drugs, establish consequences for those who failed to meet that expectation.

Second, it helped parents form groups with other parents to set common age-appropriate social and behavioral guidelines to protect their children from exposure to drugs. Third, it encouraged parents to insist that their communities and the family drug-prevention efforts to protect children from drug use.

(9) The parent movement stopped further efforts to decriminalize marijuana, both at the local and at the State level.

(10) The parent movement worked for laws to ban the sale of drug paraphernalia. If drugs were illegal, it made no sense to condemn the sale of toys and implements to enhance the use of illegal drugs, particularly when those devices were targeted toward adults. As town, cities, counties, and States passed anti-drug laws to ban drug paraphernalia, drug legalization organizations challenged their constitutionality in Federal courts until the early 1980’s, when the United States Supreme Court held that the law was constitutional and the Court held the right of communities to ban the sale of drug paraphernalia.

(11) This parent movement insisted that drug-education materials convey a strong no-use message in compliance with both the law and with medical and scientific information that demonstrates that drugs are harmful, particularly to young people.

(12) The parent movement encouraged others in society to join the drug prevention effort. From First Lady Nancy Reagan to the entertainment industry, the business community, the media, the medical community, the educational community, the criminal justice community, the faith community, and local, State, and national political leaders.

(13) The parent movement helped to cause drug use among young people to peak in 1979. As its efforts continued throughout the next decade, and as others joined parents to expand the drug-prevention movement, between 1979 and 1990 the drug-prevention efforts contributed to reducing monthly illicit drug use by two-thirds among adolescents under the legal purchase age and daily marijuana use among high-school seniors from 10.7 percent to 1.9 percent. Concurrently, both the parent movement and the larger drug-prevention movement that worked throughout the 1980’s, working together, increased high school seniors’ belief that marijuana could hurt them, from 35 percent in 1979 to 61.6 percent in 2001.

(14) Unfortunately, as drug use declined, most of the 4,000 volunteer parent groups that contributed to the reduction in drug use disband. Many of those who had contributed to the success laid the groundwork for the expanded parent movement that followed. Meanwhile, base their drug-prevention missions on research and other factors to ensure the healthy growth of children; and

(15) Provide resources in the fiscal year 2002 Federal drug control budget for a grant to the Parent Collaboration to conduct a national campaign to mobilize parents and families to reduce drug use by their children, their families, and otherwise carry out the responsibilities assigned by section 133.

(16) The Parent Collaboration is to conduct a national campaign to address these issues in order to build a new parent and family movement to prevent drug use among children.

(17) Motivating parents and parent groups and communities and families to coordinate with local community anti-drug organizations that form the Parent Collaboration, as well as coordinating parent and family drug-prevention efforts with Federal, State, and local government and private agencies and youth groups, and to foster parents, and foster parents, raising the family's children.

(18) Recognizing that these challenges make it much more difficult to reach parents today, several national parent and family drug-prevention organizations have formed the Parent Collaboration to address these issues in order to build a new parent and family movement to prevent drug use among children.

(19) The Parent Collaboration's mission is to convey a clear, consistent, no-use message to parents and families; to help parents and families redress drug abuse and drug addiction among adolescents who are at risk of drug use, and return them to drug-free lives; to help parents and families, neighbors, and school communities to reduce risk factors and increase protective factors to ensure the healthy growth of children; and

(20) Provide resources in the fiscal year 2002 Federal drug control budget for a grant to the Parent Collaboration to conduct a national campaign to mobilize today's parents and families and bring together their parents and families and all others who are interested in protecting children from drug use and all of its related problems.

(21) The Parent Collaboration is to conduct a national campaign to mobilize today's parents and families and bring together their parents and families and all others who are interested in protecting children from drug use and all of its related problems.

(22) Provision of grants to an organization to provide for the establishment of a National Community AntiDrug Coalition Institute. Requirements:

(a) In general.—The Director of the Office of National Drug Control Policy shall make grants to an organization to provide for the establishment of a National Community AntiDrug Coalition Institute.

(b) Authorization of appropriations.—There is authorized to be appropriated $5,000,000 for each of fiscal years 2002 through 2006 for a grant to the Parent Collaboration to conduct the national campaign to mobilize parents and families.

SEC. 141. SHORT TITLE.

This subtitle may be cited as the “National Community AntiDrug Coalition Institute Act of 2001.”

SEC. 142. ESTABLISHMENT.

(a) In general.—The Director of the Office of National Drug Control Policy shall establish a National Community AntiDrug Coalition Institute that will:

(1) be a national nonprofit organization that represents, provides technical assistance, training, and other skills and expertise and broad, national-level experience in community anti-drug coalitions; and

(2) develop a National Community AntiDrug Coalition Institute that will:

(a) develop a National Community AntiDrug Coalition Institute that will:

(A) provide education, training, and technical assistance for coalition leaders and community teams;

(B) conduct evaluation, testing, and diffusion of training, technical assistance, and other programs; and

(C) bridge the gap between research and practice by translating knowledge from research into practical information.

(b) Discharge of responsibilities.—The Director of the Office of National Drug Control Policy shall make grants to an organization to provide for the establishment of a National Community AntiDrug Coalition Institute.

(c) Authorization of Appropriations.—There is authorized to be appropriated $2,000,000 for each of fiscal years 2002 and 2003.
for purposes of making grants as provided in section 142.

TITLE II—DOMESTIC LAW ENFORCEMENT

Subtitle A—National Guard Matters

SEC. 201. MINIMUM NUMBER OF MEMBERS OF THE NATIONAL GUARD ON DUTY TO PERFORM DRUG INTERDICATION OR COUNTER-DRUG ACTIVITIES.

(a) FINDINGS.—The Congress makes the following findings regarding members of the National Guard who participate in drug interdiction and counter-drug activities of the National Guard:

(1) Such members have significantly higher rates of attendance at active duty training and annual training than members of the National Guard who do not participate in such activities.

(2) Such members attend significantly more military training than members of the National Guard who do not participate in such activities, thereby putting such members at a higher state of military readiness.

(3) Such members attend significantly more non-military training designed to enhance support of law enforcement and community-based agencies than members of the National Guard who do not participate in such activities.

(4) Such members are above-average soldiers and airmen who maintain a high level of individual combat readiness.

(5) The increased individual combat readiness has a positive effect on individual combat readiness in the National Guard as a whole and contributes to the success of unit training and unit readiness.

(6) Such members evoke positive comments regarding their qualifications and performance in the National Guard.

(b) MINIMUM NUMBER OF MEMBERS ON DUTY.—Section 112(f) of title 32, United States Code, is amended—

(1) by striking—

‘‘(1) Such members have significantly higher rates of attendance at active duty training and annual training than members of the National Guard who do not participate in such activities.

(2) Such members attend significantly more military training than members of the National Guard who do not participate in such activities, thereby putting such members at a higher state of military readiness.

(3) Such members attend significantly more non-military training designed to enhance support of law enforcement and community-based agencies than members of the National Guard who do not participate in such activities.

(4) Such members are above-average soldiers and airmen who maintain a high level of individual combat readiness.

(5) The increased individual combat readiness has a positive effect on individual combat readiness in the National Guard as a whole and contributes to the success of unit training and unit readiness.

(6) Such members evoke positive comments regarding their qualifications and performance in the National Guard.

(b) MINIMUM NUMBER OF MEMBERS ON DUTY.—Section 112(f) of title 32, United States Code, is amended—

(1) by striking—

‘‘(1) Such members have significantly higher rates of attendance at active duty training and annual training than members of the National Guard who do not participate in such activities.

(2) Such members attend significantly more military training than members of the National Guard who do not participate in such activities, thereby putting such members at a higher state of military readiness.

(3) Such members attend significantly more non-military training designed to enhance support of law enforcement and community-based agencies than members of the National Guard who do not participate in such activities.

(4) Such members are above-average soldiers and airmen who maintain a high level of individual combat readiness.

(5) The increased individual combat readiness has a positive effect on individual combat readiness in the National Guard as a whole and contributes to the success of unit training and unit readiness.

(6) Such members evoke positive comments regarding their qualifications and performance in the National Guard.’’

(c) USE OF NATIONAL GUARD PERSONNEL.—

(1) To the extent provided in the budget for fiscal year 2002 for the Department of Defense for the National Guard counterdrug school during the fiscal year ending in the year preceding the year in which such report is submitted.

(2) By no later than the date on which the President submits to Congress a report on the activities of the National Guard for fiscal year 2002, the Secretary of Defense shall submit to Congress a report on the activities of the National Guard during the fiscal year ending in the year preceding the year in which such report is submitted.

(d) ANNUAL REPORTS ON ACTIVITIES.—

(1) Not later than February 1, 2002, and annually thereafter, the Secretary of Defense shall submit to Congress a report on the activities of the National Guard counterdrug schools for the fiscal year ending in the year preceding the year in which such report is submitted.

(2) The report required under paragraph (1) in 2002 shall set forth the following:

(A) The amount made available for each National Guard counterdrug school during the fiscal year ending in the year preceding the year in which such report is submitted.

(B) A description of the activities of each National Guard counterdrug school during the year preceding the year in which such report is submitted.

(3) The report required under paragraph (1) in 2002 shall set forth, in addition to the matters described in paragraph (2), a description of the activities relating to the establishment of the Midwest Counterdrug Training Center in Johnston, Iowa.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) There is hereby authorized to be appropriated for fiscal year 2002 $25,000,000 for purposes of the National Guard counterdrug schools in that fiscal year.

(2) The amount made available for any National Guard counterdrug school for any fiscal year after fiscal year 2002 shall be based on the amount made available for such fiscal year for the National Guard counterdrug schools in that fiscal year.

(f) AVAILABILITY OF FUNDS.—

(1) Of the amount authorized to be appropriated by subsection (e)(1)

(A) $4,000,000 shall be available for the National Interagency Civil-Military Institute, San Luis Obispo, California; and

(B) $8,000,000 shall be available for the Multi-Jurisdictional Counterdrug Task Force Training, St. Petersburg, Florida;

(C) $3,000,000 shall be available for the Midwest Counterdrug Training Center, Johnston, Iowa;

(D) $5,000,000 shall be available for the Regional Counterdrug Training Academy, Meridian, Mississippi; and

(E) $5,000,000 shall be available for the Northeast Regional Counterdrug Training Center, Fort Indiantown Gap, Pennsylvania.

(2) Amounts available under paragraph (1) shall remain available until expended.

(g) FUNDING FOR FISCAL YEARS AFTER FISCAL YEAR 2002.—

(1) The budget of the President for fiscal years after fiscal year 2002 shall include an amount under section 1105 of title 31, United States Code, for each fiscal year after fiscal year 2002 that the amount requested for such fiscal year for the National Guard counterdrug schools.

(2) It is the sense of Congress that—

(A) the amount authorized to be appropriated for the National Guard counterdrug schools for any fiscal year after fiscal year 2002 should not be less than the amount authorized for such fiscal year for the National Guard counterdrug schools for fiscal year 2002 by subsection (e)(1), in constant fiscal year 2002 dollars; and

(B) the amount made available to each National Guard counterdrug school for any fiscal year after fiscal year 2002 should be less than the amount made available for such fiscal year for fiscal year 2002 by subsection (e)(1), in constant fiscal year 2002 dollars.

Title III—Customs Matters

SEC. 211. SHORT TITLE.

This subtitle may be cited as the ‘‘Customs Authorization Act of 2001’’.

PART I—AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES CUSTOMS SERVICE FOR ENHANCED INSPECTION, TRADE FACILITATION, AND DRUG INTERDICTIO

SEC. 211. AUTHORIZATION OF APPROPRIATIONS. —

(a) National Environmental and Non-commercial Operations.—

(1) In this section—

(A) the term ‘‘Customs Modernization Working Capital Fund’’ means—

(i) the Customs Modernization Working Capital Fund established under section 301 of the Procedural Reform and Simplification Act of 1998 (19 U.S.C. 2075(a)); and

(ii) the Working Capital Fund (in this section referred to as the ‘‘Fund’’); and

(B) ‘‘customs revenue’’ means—

(i) customs duties, fees, and charges of customs under the customs laws of the United States; and

(ii) the proceeds of the Working Capital Fund;

(2) customs revenue means—

(A) customs duties and fees imposed on merchandise imported into the United States; and

(B) the proceeds of the Working Capital Fund;

(b) COMMERCIAL OPERATIONS.—

(1) In this section—

(A) the term ‘‘customs revenue’’ means—

(i) customs duties, fees, and charges of customs under the customs laws of the United States; and

(ii) the proceeds of the Working Capital Fund;

(2) customs revenue means—

(A) customs duties and fees imposed on merchandise imported into the United States; and

(B) the proceeds of the Working Capital Fund;

(c) AIR AND MARINE INTERDICTION.—

(1) The amount authorized to be appropriated for Customs Service Operations for United States Customs Service for Enhanced Inspection, Trade Facilitation, and Drug Interdiction for fiscal year 2002, $1,695,520,000.

(2) The amount authorized to be appropriated for Customs Service Operations for United States Customs Service for Enhanced Inspection, Trade Facilitation, and Drug Interdiction for fiscal year 2003, $1,622,000,000.

(3) The amount authorized to be appropriated for Customs Service Operations for United States Customs Service for Enhanced Inspection, Trade Facilitation, and Drug Interdiction for fiscal year 2004, $1,549,500,000.

(4) The amount authorized to be appropriated for Customs Service Operations for United States Customs Service for Enhanced Inspection, Trade Facilitation, and Drug Interdiction for fiscal year 2005, $1,477,000,000.

(5) The amount authorized to be appropriated for Customs Service Operations for United States Customs Service for Enhanced Inspection, Trade Facilitation, and Drug Interdiction for fiscal year 2006, $1,405,500,000.

(6) The amount authorized to be appropriated for Customs Service Operations for United States Customs Service for Enhanced Inspection, Trade Facilitation, and Drug Interdiction for fiscal year 2007, $1,333,000,000.

(7) The amount authorized to be appropriated for Customs Service Operations for United States Customs Service for Enhanced Inspection, Trade Facilitation, and Drug Interdiction for fiscal year 2008, $1,260,500,000.

(8) The amount authorized to be appropriated for Customs Service Operations for United States Customs Service for Enhanced Inspection, Trade Facilitation, and Drug Interdiction for fiscal year 2009, $1,188,000,000.

(9) The amount authorized to be appropriated for Customs Service Operations for United States Customs Service for Enhanced Inspection, Trade Facilitation, and Drug Interdiction for fiscal year 2010, $1,115,500,000.

(10) The amount authorized to be appropriated for Customs Service Operations for United States Customs Service for Enhanced Inspection, Trade Facilitation, and Drug Interdiction for fiscal year 2011, $1,043,000,000.

(d) AUTHORIZATION OF APPROPRIATIONS FOR MODERNIZING CUSTOMS SERVICE COMPUTER SYSTEMS.—

(1) Establishment of Automation Modernization Working Capital Fund.—There is established within the United States Customs Service an Automation Modernization Working Capital Fund (in this section referred to as the ‘‘Fund’’). The Fund shall consist of the amounts authorized to be appropriated in this title and shall be used to support the development, implementation, and maintenance of the Customs Service’s Automated Systems. The Fund shall be maintained in the United States Treasury and shall be subject to the provisions of the Customs Service Modernization Reform Act of 2002 (enacted by section 301 of such Act (19 U.S.C. 2075(a)) and shall be established and administered by the Secretary of the Treasury in accordance with section 301 of such Act (19 U.S.C. 2075(a)).
For related computer system modernization activities of the Customs Service.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for theFox Fiscal year 2002 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 221(a) of this Act, $138,996,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of narcotics detection equipment, for ports where the current allocations are inadequate.

(3) REPORT AND AUDIT.—(A) REPORT.—The Commissioner of Customs shall, not later than March 31 of each year, submit to the Comptroller General of the United States, the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate a report on the progress being made in the modernization of the Customs Service computer systems. Each such report shall—

(i) include explicit criteria used to identify, evaluate, and prioritize investments for computer systems modernization planned for the Customs Service for each of fiscal years 2002 through 2006; (ii) provide a schedule for mitigating any deficiency in the volume of traffic; (iii) provide a plan for expanding the utilization of private sector sources for the development and integration of computer systems; and (iv) contain timely schedules and resource allocations for implementing the modernization of the Customs Service computer systems.

(B) AUDIT.—Not later than 30 days after a report described in subparagraph (A) is received, the Comptroller General shall audit the report and shall provide the results of the audit to the Commissioner of Customs, the Committee on Appropriations and the Committee on Ways and Means of the House of Representatives, and the Committee on Appropriations and the Committee on Finance of the Senate.

(3) CESSATION OF REPORT.—No report is required under this paragraph after September 30, 2003.

SEC. 220. CARGO INSPECTION AND NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND GULF COAST SEAPORTS—INTERNAL MANAGEMENT IMPROVEMENTS.

(a) FISCAL YEAR 2002.—Of the amounts made available for fiscal year 2002 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 221(a) of this Act, $138,996,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of narcotics detection equipment, for ports where the current allocations are inadequate.

(b) FISCAL YEAR 2003.

(1) IN GENERAL.—Of the amounts made available for fiscal year 2003 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 221(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a) for the acquisition of equipment other than the equipment described in subsection (a) and can be obtained at a lower cost than the equipment described in subsection (a) for the acquisition of equipment other than the equipment described in subsection (a).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed $1,000,000 for 2,000,000 electron volts (2 MeV).

(C) $2,500,000 for demonstration project for proactive detection technology.

(D) $2,500,000 for demonstration project for passive detection technology.

(E) $1,000,000 for demonstration project for automation of the Automated Export System.

(F) $1,000,000 for demonstration site for a high-energy relocatable rail car inspection system with an x-ray source switchable from 2,000,000 electron volts (2 MeV) to 6,000,000 electron volts (6 MeV) at a shared Department of Defense testing facility for a two-month testing period.

(G) $2,500,000 for demonstration project for new data management systems.

(H) $2,000,000 for new data management systems.

(I) $1,000,000 for demonstration project for new data management systems.

(J) $1,000,000 for demonstration project for new data management systems.

(K) $1,000,000 for demonstration project for new data management systems.

(L) $1,000,000 for demonstration project for new data management systems.

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(W) $1,000,000 for demonstration project for new data management systems.

(X) $1,000,000 for demonstration project for new data management systems.

(Y) $1,000,000 for demonstration project for new data management systems.

(Z) $1,000,000 for demonstration project for new data management systems.

(AA) $1,000,000 for demonstration project for new data management systems.

(BB) $1,000,000 for demonstration project for new data management systems.

(CC) $1,000,000 for demonstration project for new data management systems.

-DD) $1,000,000 for demonstration project for new data management systems.

(EE) $1,000,000 for demonstration project for new data management systems.

(FF) $1,000,000 for demonstration project for new data management systems.

(GG) $1,000,000 for demonstration project for new data management systems.

(HH) $1,000,000 for demonstration project for new data management systems.

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(NN) $1,000,000 for demonstration project for new data management systems.
for equipment specified in any other of such subparagraphs (A) through (B); (a) the amount specified in any of subparagraphs (A) through (Q) of subsection (a)(2) for equipment specified in any other of such subparagraphs (A) through (Q); and (c) the amount specified in any of subparagraphs (A) through (E) of subsection (a)(3) for equipment specified in any other of such subparagraphs (A) through (E).

SEC. 223. PEAK HOURS AND INVESTIGATIVE RESOURCES—ENHANCEMENT FOR UNITED STATES-MEXICO AND UNITED STATES-CANADA BORDERS, FLORES AND GULF COAST SEA, PORTS, AND THE BAHAMAS.

(a) IN GENERAL.—Of the amounts made available for fiscal years 2002 and 2003 under subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)), as amended by section 221(a) of this Act, $181,861,600 for fiscal year 2002 (including $5,673,600 until expended for investigative equipment) and $350,863,340 for fiscal year 2003 shall be available for the following:

(1) A net increase of 335 inspectors, 120 special agents, and 10 intelligence analysts for the United States-Mexico border, and 375 inspectors, 150 special agents, and 10 intelligence analysts for the United States-Canada border, in order to open all primary lanes on such borders during peak hours and enhance investigative resources.

(2) A net increase of 285 inspectors and canine enforcement officers to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Mexico border and a net increase of 125 inspectors to be distributed at large sea facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Canada border.

(3) A net increase of 40 special agents and 10 intelligence analysts to facilitate the activities of the additional inspectors authorized under paragraphs (1) and (2).

(4) A net increase of 40 inspectors at sea ports in southeast Florida to process and screen cargo.

(5) A net increase of 70 special agent positions, 21 intelligence analyst positions, 9 support staff positions, and the necessary equipment to enhance investigation efforts targeted at internal conspiracies at the Nation’s seaports.

(6) A net increase of 360 special agents, 30 intelligence analysts, and additional resources authorized among officers that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money-laundering organizations.

(7) A net increase of 2 special agent positions to re-establish a Customs Attache Office in Southeast Asia.

(8) A net increase of 62 special agent positions and 8 intelligence analyst positions for maritime smuggling investigations and interdiction operations.

(9) A net increase of 50 positions and additional resources to the Office of Internal Affairs to enhance investigative resources for anticorruption efforts.

(10) The costs incurred as a result of the increase in personnel hired pursuant to this section.

(b) RELOCATION OF PERSONNEL.—Notwithstanding any other provision of this section, the Commissioner of Customs may reduce the current number of full-time employees in the personnel provided for in any of paragraphs (1) through (9) of subsection (a) by not more than 25 percent, if the Commissioner of Customs makes a corresponding increase in the personnel provided for in one or more of such paragraphs (1) through (9).

(c) NET INCREASE.—In this section, the term ‘‘net increase’’ means an increase in the number of employees in each position described in this section over the number of employees in such position that was provided for in fiscal year 2000.

SEC. 224. AGENT ROTATIONS; ELIMINATION OF BARRIERS TO BACKGROUND INVESTIGATIONS.

Of the amounts made available for fiscal years 2002 and 2003 under subparagraphs (A) and (B) of section 301(b)(2) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)), as amended by section 221(a) of this Act, $16,000,000 for fiscal year 2002 (including $10,000,000 until expended) and $6,000,000 for fiscal year 2003 shall be available to—

(1) provide additional funding to clear the backlog of existing background investigations and to provide for background investigations during extraordinary recruitment activities of the agency; and

(2) provide for the interoffice transfer of up to 100 special agents, including costs related to relocations, between the Office of Investigations and Office of Affairs, at the discretion of the Commissioner of Customs.

SEC. 225. AIR AND MARINE OPERATION AND MAINTENANCE FUNDING.

(a) FISCAL YEAR 2002.—Of the amounts made available for fiscal year 2002 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3)), as amended by section 221(c) of this Act, $130,513,000 shall be available until expended for the following:

(1) $96,500,000 for Customs Service aircraft restoration and replacement initiative.

(2) $15,000,000 for increased air interdiction and investigative support activities.

(3) $19,013,000 for marine vessel replacement and related equipment.

(b) FISCAL YEAR 2003.—Of the amounts made available for fiscal year 2003 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3)) as amended by section 221(c) of this Act, $75,524,000 shall be available until expended for the following:

(1) $36,500,000 for Customs Service aircraft restoration and replacement initiative.

(2) $15,000,000 for increased air interdiction and investigative support activities.

(3) $23,024,000 for marine vessel replacement and related equipment.

SEC. 226. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.

(a) IN GENERAL.—As part of the annual performance plan for each of fiscal years 2002 and 2003, as required under section 1115 of title 31, United States Code, the Commissioner of Customs shall evaluate the benefits of the activities authorized to be carried out pursuant to sections 222 through 225 of this Act.

(b) ENFORCEMENT PERFORMANCE MEASURES.—The Commissioner of Customs is authorized to contract for the review and assessment of enforcement performance goals and indicators required by section 1115 of title 31, United States Code, with experts in the field of law enforcement, from academia, and from the research community. Any contract for review or assessment conducted pursuant to this subsection shall provide for recommendations of additional measures that would improve the enforcement strategy and performance of the Customs Service.

(c) REPORT TO CONGRESS.—The Commissioner of Customs shall submit any assessment, review, or report provided for under this section to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 227. REPORT ON INTELLIGENCE REQUIREMENTS.

The Commissioner of Customs shall, not later than one year after the date of the enactment of this Act, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing the following:

(1) An assessment of the intelligence-gathering and information-gathering capabilities and needs of the Customs Service.

(2) An assessment of the extent to which any limitations on the intelligence-gathering and information-gathering capabilities necessary for adequate enforcement of the customs laws of the United States and other laws enforced by the Customs Service.

(3) The Commissioner’s recommendations for improving the intelligence-gathering and information-gathering capabilities of the Customs Service.

PART II—CUSTOMS MANAGEMENT

SEC. 231. TERM AND SALARY OF THE COMMISSIONER OF CUSTOMS.

(a) TERM.—

(1) GENERAL REQUIREMENTS.—The first section of the Act entitled ‘‘An Act to create a Bureau of Customs and a Bureau of Prohibition in the Department of the Treasury’,’’ approved March 3, 1927 (19 U.S.C. 717), is amended—

(A) by striking ‘‘There shall be’’ and inserting ‘‘(a) IN GENERAL.—There shall be’’;

(B) in the second sentence—

(i) by inserting ‘‘for a term of 5 years’’ after ‘‘Senate’’;

(ii) by striking ‘‘and’’ at the end of paragraph (3) and inserting ‘‘; and’’;

(iii) by striking the period at the end of paragraph (3) and inserting ‘‘;’’; and

(iv) by adding at the end the following new paragraph (4)—

‘‘(4) have demonstrated ability in management;’’; and

(C) by adding at the end the following:

‘‘(b) VACANCY.—Any individual appointed to fill a vacancy in the position of Commissioner occurring before the expiration of the term for which the individual’s predecessor was appointed shall be appointed only for the remainder of that term.‘‘

‘‘(c) REMOVAL.—The Commissioner may be removed at the will of the President.‘‘

(2) REAPPOINTMENT.—The Commissioner may be appointed to more than one 5-year term.

(b) SALARY.—

(1) IN GENERAL.—

(A) Section 5315 of title 5, United States Code, is amended by striking the following item:

‘‘Commissioner of Customs, Department of the Treasury.’’

(B) Section 5314 of title 5, United States Code, is amended by inserting at the end the following item:

‘‘Commissioner of Customs, Department of the Treasury.’’

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2001.

SEC. 232. INTERNAL COMPLIANCE.

ESTABLISHMENT OF INTERNAL COMPLIANCE PROGRAM.—The Commissioner of Customs shall—
Ways and Means of the House of Representatives a report on the enactment of this Act, report on the agencies and private sector organizations view of current best practices in internal section (a) as part of the Inspector General implementation of the programs described in sub-
Treasury shall review and audit the imple-
ments under the personnel allocation model. 

of the Customs Service;—

Not later than 6 months after the date of the enactment of this Act, and annually thereafter, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representa-
tives a report on the programs and reviews conducted under this subsection, (b) EVA-
uation and REPORT ON BEST PRACTICES—The Secretary of Customs shall, as part of the development of an improved system of internal compliance, initiate a re-
view of current best practices in internal compliance among government agencies and private sector organizations and, not later than 18 months after the date of the enactment of this Act, report on the results of the review to the Committee on Governmental Affairs and the Committee on Finance of the Senate and the Committee on Government Reform and the Committee on Ways and Means of the House of Representa-
tives. (c) REVIEW BY INSPECTOR GENERAL.—The Inspector General of the Department of the Treasury shall, and audit the im-
plementation of the programs described in sub-
section (a) as part of the Inspector General’s report required under the Inspector General Act of 1978 (3 U.S.C. App.).

SEC. 233. REPORT ON PERSONNEL FLEXIBILITY. Not later than 6 months after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representa-
tives a report on the following: (1) The resources and personnel require-
ments under the personnel allocation model under development in the Customs Service. (2) The implementation of the personnel allocation model.

SEC. 235. REPORT ON DETECTION AND MONI-
TORING REQUIREMENTS ALONG THE SOUTHERN TIER AND NORTH-
ERN BORDER. Not later than 6 months after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Rep-
resentatives a report on the requirements of the Customs Service for counterdrug detec-
tion and monitoring equipment, and personnel; (a) The Secretary of Defense and for improving the ability of the Customs Service to fulfill its mission. The report shall also include an analysis of why the flexibility provisions under existing per-
sonnel rules to permit more effective man-
agement of the Customs Service and for improving the ability of the Customs Service to fulfill its mission. The report shall also include an analysis of why the flexibility provisions under existing per-
sonnel rules is insufficient to meet the needs of the Customs Service. 

(a) FINDINGS.—Congress makes the fol-
lowing findings: (1) Drug traffickers exploit openings in the United States detection and monitoring net-
work. Tethered Aerostat Radar Systems (TARS) are a critical element in closing poten-
tial routes for drug smuggling. (2) The Tethered Aerostat Radar System, a network of 11 radar sites, serves as an impor-
tant component of the counterdrug mission of the United States. It provides high alti-
itude radar surveillance, detection, and moni-
toring capabilities to military and law en-
forcement entities. Failure to operate the TARS system will degrade the counterdrug capability for the United States. (3) Most of the illicit drugs consumed in the United States enter the country over the Southwest, Gulf of Mexico, or Florida bor-
ders. The United States will not have com-
plete coastal radar coverage to combat counterdrug trafficking unless the entire Teth-
ered Aerostat Radar System network is standardized and maintained, including the tethered aerostat Radar Sites in sites in Matagorda, Texas, Brownsville, Texas, Horseshoe Beach, Florida. (4) The Department of Defense, the lead Federal agency for detection and moni-
toring, is responsible for fulfilling the surve-
illiance, detection, and monitoring mission in support of counterdrug operations. (5) The Department of Defense’s current budget allocation for the Tethered Aerostat Radar System is inadequate. At present, 3 sites are not in operation because of the ex-
piration of their current contracts. (b) RESPONSIBILITY FOR TETHERED AERO-
STAT RADAR SYSTEM.—The Secretary of De-
fense shall take all necessary actions to en-
sure that the Department of Defense Teth-
ered Aerostat Radar System network are placed under the policy direction of the Drug Enforcement Policy and Support office of the Assistant Secretary of Defense for Spec-
ial Operations and Low Intensity Conflict. (c) LIMITATION ON TRANSFER.—The Sec-
retary shall not transfer funds relating to the transfer of responsibility for the Teth-
ered Aerostat Radar System program to any entity outside the Department of Defense. (d) REPORT ON CONGRESSIONAL APPROPRIATIONS FOR THE TETHERED AEROSTAT RADAR SYSTEM.—Not later than 6 months after the date of the enactment of this Act, the Commissioner of Customs shall submit to the congressional defense committees and the United States Customs Service and Horseshoe Beach, Florida. Matagorda, Texas, Morgan City, Louisiana, and Horseshoe Beach, Florida. (2) any gaps in radar coverage of the ar-
ival zones along the southern tier and northern border of the United States; and (3) any limitations imposed on the enforce-
ment activities of the Customs Service as a result of the reliance on detection and moni-
toring equipment, technology, and personnel operated under the auspices of the Depart-
ment of Defense.

PART III—MARKING VIOLATIONS SEC. 241. CIVIL PENALTIES FOR MARKING VIOLATIONS. Section 306(a) of the Tariff Act of 1930 (19 U.S.C. 1356a) is amended— (1) by redesigning paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; (2) by striking “Any person” and inserting “(1) In general:”; (5) by moving the remaining text 2 ems to the right; and (6) by adding at the end the following new paragraph: “(2) CIVIL PENALTIES.—Any person who de-
faces, destroys, removes, alters, covers, ob-
scures, or obliterates any mark required under this section shall be liable for a civil penalty of not more than $10,000 for each vio-
lation. The civil penalty imposed under this subsection shall be in addition to any marking duties assessed under section 306(a)(1). Subtitle C—Miscellaneous SEC. 251. TETHERED AEROSTAT RADAR SYSTEM. 

By Mr. BINGAMAN: S. 90. A bill authorizing funding for nanoscale science and engineering re-
search and development at the Depart-
ment of Energy for fiscal years 2002 through 2006; to the Committee on En-
ergy and Natural Resources.

NANO SCIENCE AND NANOENGINEERING

Mr. BINGAMAN. Mr. President. I rise today to introduce a bill authorizing the Secretary of Energy to provide for a long term commitment in its Office of Science to the area of nanoscience and nanoeengineering. This new area is of fundamental importance for main-
taining our global economic leadership in energy technology as well in areas such as microchip design, space and transportation, medicines and bio-
medical devices. The fields of nanoscience and nanoeengineering are so new and broad in their reach that no one industry can support them. They are a perfect example how we in Con-
gress can make a difference to support our nation’s technological leadership, a key element of the 21st century global economy.

The fields of nanoscience and engine-
neering encompass the ability to create new states of matter by repositioning the atoms that make up their struc-
ture. The physical features that nanoscale R&D will develop are on the order of about 10 nanometers or 1000 times smaller than the diameter of a human hair. What we are talking about is making materials and devices not be miniaturization, which is a top down approach. Nanoscience is the bottom up fabrication of materials, atom by atom. When you build materials at this level, amazing things begin to happen. We are talking about microchips whose features will shrink as close as 100 atoms for a factor of 100 below where industry projects they will be in the year 2010. These chip features will lead to radical breakthroughs in
speed, cost and density of information storage. In the field of medicine and health, we are talking about drugs whose routes of delivery are literally at the molecular level. It will be possible to custom build proteins and other materials for use in biomedical devices. In the field of energy efficiency, batteries and fuel cells can be built with storage capacities far exceeding our current state of the art. In the transportation industry, it will be possible to make ultra strong and light materials reducing the weight in airplanes, cars and space vehicles. All these breakthroughs in the diverse industries I have discussed will keep the United States’ as a global leader in the 21st century economy.

The Department of Energy and its Office of Science are uniquely suited to support this critical research. The Office of Science has been at the forefront of conducting nanotechnology research for the past decade through its broad array of materials, physics, chemistry and biology programs. This authorization bill will carry forth four broad objectives of the Office of Science’s existing nanotechnology effort, fundamental understanding of nanoscale phenomena, (2) achieve the ability to design bulk materials with desired properties using nanoscale manipulation, (3) study how living organisms produce materials naturally and apply the knowledge to create new materials, and (4) develop experimental and computer tools with a national infrastructure to carry out nanoscience. Let me briefly comment on the fourth area in this list. The Office of Science is the nation’s leader in developing and managing national user facilities across the broad range of physical sciences. It would be a natural progression for the Office of Science to develop similar user facilities with advanced nanoscience tools, located across the United States, will contain unique equipment and computers which will be accessible to individuals as well as multi-disciplinary teams. In the past, Office of Science national user facilities have served as crossing points between the transition from fundamental science to industrial capability. I expect that these nanoscience user facilities will serve as a similar transition point from long range fundamental research to applied industrial know-how. Accordingly, in this authorization bill I have allotted portions of the yearly budget towards developing these unique user facilities.

This bill is an important first step in a combined national nanoscience effort which will help to maintain the technological edge of our U.S. industry. I encourage my House colleagues in the Science Committee to also consider this bill with the possibility of joint hearings so that we may be enlightened by the Office of Science’s full potential. I also hope that the other federal R&D agencies will make similar commitments in their areas of expertise. Maintaining this edge, by promoting these long term and high risk investigations is something which we cannot expect in the short time frame world of today’s industry. It is critical that our U.S. government step into this void, particularly in nanoscience, in the 21st century and provide the necessary intellectual capital to propel our national economy as a leader in the 21st century.

By Mr. Gramm (for himself, Mrs. Hutchison, Mr. Domenici, Mr. Kyl, Mr. McCain, and Mrs. Boxer):

S. 92. A bill to authorize appropriations for the United States Customs Service for fiscal years 2002 and 2003, and for other purposes; to the Committee on Finance.

PROTECTION OF U.S. BORDERS

Mr. GRAMM. Mr. President, on behalf of Senators Hutchison, Domenici, Kyl, McCain, and Boxer, I am introducing legislation today which will authorize the United States Customs Service to acquire the necessary personnel and technology to reduce delays at our border crossings with Mexico and Canada. This bill will authorize the United States Customs Service to acquire the necessary personnel and technology to reduce delays at our border crossings with Mexico and Canada.

This bill represents the progress that we made in this regard in the last Congress, and in the efforts that we first initiated in the 105th Congress. This legislation passed the Senate unanimously on August 5, 1999, and a similar bill passed the House of Representatives on May 25, 1999, by a vote of 410-2. In addition to the resources dedicated to our nation’s land borders, this bill also incorporates the efforts of Senators Grassley and Graham in adding resources for interdiction efforts in the air and along our coastline, provisions that were passed by the Senate in last year’s bill.

I am very concerned about the impact of narcotics trafficking on Texas and the nation and have worked closely with federal and state law enforcement officials to identify and secure the necessary resources to battle the onslaught of illegal drugs. At the same time, however, our current enforcement strategy is burdened by insufficient staffing, a gross underuse of vital interdiction technology, and is effectively closing the door to legitimate trade.

At a time when NAFTA and the expanding world marketplace are making it possible for us to create more commerce, freedom and opportunity for people on both sides of the border, it is important that we eliminate the border crossing delays that are stifling these goals. In order for all Americans to fully enjoy the benefits of growing trade with Mexico and Canada, we must ensure that the Customs Service has the resources necessary to accomplish its mission. Customs inspections should not be obstacles to legitimate trade and commerce. CUSTOMS staffing needs to be increased significantly to facilitate the flow of substantially increased traffic on both the southwestern and Northern borders, and these additional personnel need the necessary technology to allow them to inspect more cargo, more efficiently. The practical effect of these increases will be to open all the existing primary inspection lanes where congestion is a problem during peak hours and to enhance investigative capabilities on the Southwest border.

Long traffic lines at our international crossings are counterproductive to improving our trade relationship with Mexico and Canada. This bill is designed to shorten those lines and promote legitimate commerce, while providing the Customs Service with the means necessary to tackle the drug trafficking operations that are now rampant along the 1,200-mile border between Texas and Mexico.

I will be speaking further to my colleagues about this initiative and urge their support for this bill.

By Ms. Snowe (for herself and Mr. Jeffords):

S. 93. A bill to amend the Federal Election Campaign Act of 1971 to require disclosure of certain disbursements made for electioneering communications, and for other purposes; to the Committee on Rules and Administration.

CAMPAIGN REFORM

Ms. Snowe. Mr. President, I rise to introduce a bill along with my friend and colleague from Vermont, Senator Jeffords, to ensure that we will have balanced, comprehensive campaign finance reform that doesn’t close one loophole while leaving another open. It is a bipartisan approach to a burgeoning segment of undisclosed and unregulated campaign activity that will only get worse if left unchecked.

I am pleased to see the Senate finally on record as having a majority in support of campaign finance reform. In fact, 53 senators cast a vote supporting the combined approach of a soft money ban and a sound, constitutional approach to addressing a veritable explosion in unregulated, so-called ‘issue ads’.

Senator Jeffords and I crafted this measure because we wanted campaign finance reform; we wanted a bill that represented the best possible policy; and we wanted a package that could bridge the political gap that had opened between supporters and opponents.

On the one hand, we had Republicans concerned that McCain-Feingold, as it stood, might not have done enough to focus on the use of the union dues for political purposes. On the other hand, we had Democrats who didn’t want unions signaled out and wanted corporate money to be addressed as well.
That’s the context in which we set out to carefully construct a measure that would withstand constitutional scrutiny, address some of the most egregious abuses, and focus on areas where we know the Supreme Court has already allowed us to go. That is, with regard to the prohibition on union and corporation money for electioneering. Indeed, the compromise language eventually adopted was supported by groups like Common Cause and Public Citizen, and by the bill’s sponsors themselves. I was also agree to enter into the record a portion of a March 1, 1998 Washington Post editorial that said, “...The editorial went on to say that “that’s the sort of compromise that the legislative process at its best produces.”

I am pleased that a provision based directly on that amendment is now included in the McCain-Feingold bill being introduced today, and of which I am an original cosponsor. I think the provision strengthens the McCain-Feingold bill in terms of providing balance and a more comprehensive approach to reform.

Mr. President, I have stood on the Senate floor and spoken of the burgeoning problem this bill seeks to address. And I have said that, if we do nothing, the situation will only get worse. Well, it has gotten worse, and let me just take a moment before describing what the bill will do to detail why this bill is necessary in the first place.

What I’m talking about here are broadcast advertisements the sole purpose of which is to influence federal elections, but that require no disclosure and have none of the restrictions that for decades have been placed on other forms of campaigning. These are broadcast ads that masquerade as information or educational, but are really “stealth advocacy” ads for or against candidates.

According to estimates by the Annenberg Public Policy Center which has been extensively studying this trend, in the 2000 elections over $400 million was spent on these so-called “issue ads”—many of which are blatant attempts to influence federal elections, and everyone knows it. And that number was four times what was estimated for the last presidential election cycle, I might add, may be just the tip of the iceberg. Because we simply don’t know all the money that’s been spent.

So how do we address the problem? The Snowe-Jeffords approach is simple and straightforward. First, we require disclosure on all groups and individuals running broadcast ads within 30 days of a primary and 60 days of any election that mention the name of a federal candidate. And second, a ban on the use of union or corporate treasury money to pay for these ads.

That’s what this boils down to, Mr. President. Disclosure, disclosure, disclosure. In fact, nothing in this bill prevents anyone from running any ads at any time saying anything they want. All we say is, if you spend more than $10,000 per year on these broadcast ads you can’t use union or corporation money. That’s the only ban on anything in this bill. And we require you to disclose who is bankrolling the ads if they give $500 or more.

We devised this approach in consultation with noted constitutional scholars and reformers such as Norm Ornstein of the American Enterprise Institute Joshua Rosenkranz, Director of the Brennan Center for Justice at NYU, and Daniel Ortiz, John Allan Love Professor of Law at the University of Virginia School of Law. The bill is narrowly and carefully crafted, and based on the precept that the Supreme Court has made clear that, for constitutional purposes campaigning—whether by the presidential candidates or by ad hoc groups, which make no mistake, these ads— is different from other speech.

Corporations have been banned from direct involvement in campaigns since the Tillman Act of 1907—unions were banned from federal elections generally by the Taft-Hartley Act of 1943 and the prohibition was finally made permanent in 1947 with the Taft-Hartley Act.

Under Snowe-Jeffords, unions and corporations still have a voice in federal elections through independent expenditures. And I believe a political action committee a political action committee to which individuals voluntarily contribute up to the amount allowed by law. They just can’t use unlimited shareholder monies or money from union coffers to fund the ads—a logical extension of current law.

As for disclosure, the Brennan Center analysis has concluded that, “Congress is permitted to demand that the sponsor of an electioneering message disclose the source of the funding and the message and the sources of the funds.”

It has been said in the past that this measure prohibits running these ads altogether. In point of fact, anyone can run any ad saying anything they want at any time. They simply must not use union or corporate treasury money within 30 days of a primary or 60 days before a general election, and they must let us know who paid for them. Is that too much to ask?

The fact is, Mr. President, we are burying our heads in the sand if we do nothing about this problem. It is clearly taking elections out of the hands of individuals and of candidates.

Certainly, there are some legitimate issue ads out there. They are truly designed to inform the public, or advocate a particular position. We don’t effect these ads one iota. We don’t want to effect these ads.

And certainly, people have a right to disagree with candidates, and even attack them. That is why nothing in this bill prevents people from doing so. All we say is that we ought to know who is paying for these ads, and that they should not be paid for with union or corporation money—like any other activity that is influencing a federal election.

Again, the bill only requires disclosure for large donors to all groups running more than $500 worth of ads run- ning 30 days before a primary and 60 days before a general election. And it only bans union and corporation treasury money from funding such ads, based on the 1907 and 1947 laws I mention earlier.

Our approach has garnered majority support from the Senate in the past and in light of the previous elections it deserves even greater support today. We need balanced, meaningful, and comprehensive campaign finance reform, and this bill is a vital component. I urge its consideration.

Mr. JEFFORDS. Mr. President, I rise today to express my strong support for the bill Senator Snows and I are introducing and urge my Senate colleagues to join as cosponsors of this important legislation.

Throughout the last Congress the Senate spent many legislative hours debating campaign finance reform. In fact, since my election to the House in 1976 I have spent many long hours working with my colleagues to craft campaign finance reform legislation that could ensure the legislative process and survive a constitutional challenge. We have come close in the past, and I believe circumstances still remain right for enactment of meaningful campaign finance reform during this Congress.

I believe that the irregularities associated with our recent campaigns point out the fact that current election laws are not being strongly enforced or working to achieve the goals that we all have for campaign finance reform. Without action, these abuses will become more pronounced and widespread and will undermine the integrity of elections.

The Snowe-Jeffords bill, the Advancing Truth and Accountability of Campaign Communications Act (ATACC), will boost disclosure requirements and tighten the rules on expenditures of corporate and union treasury funds in the weeks preceding a primary and general election.

I would like to begin with a story that may help my colleagues understand the need for this legislation, and the need for my colleagues to understand from their own campaigns. Two individuals are running for the Senate and have spent the last few months holding debates, talking to the voters and traveling around the state. Both candidates feel that they have information, the votes of the past, and insights, views and opinions on the issues, and that the voters can use this information to decide on which candidate they will support.

Two weeks before the day of the election a group called the People for the Truth and the American Way, that’s the sort of compromise that the legislative process at its best produces.”
candidates and that candidate’s name. However, these advertisements do not use the express terms of “vote for” or “vote against.” These advertisements discuss personal and family issues.

The voters do not know who this group is, its financial backers, and why they have an interest in this specific election, and under our current election law the voters will not find out. Thus, even though the candidates have attempted to provide the voters with all the relevant information concerning the candidate’s views on the issues, they will be casting their vote lacking critical information concerning these advertisements.

Some people may say that voters do not need this information. But as James Madison said, “A popular government without popular information is but a prologue to a tragedy or a farce or perhaps both. Knowledge will forever govern ignorance and a people who mean to be their own governors must arm themselves with the power which knowledge gives.”

Mr. President, the ATACC act will arm the people with the knowledge they need in order to sustain our popular government. And the need to arm the people with this knowledge is becoming greater every year. The amount of money spent on issue advocacy is increasing over time at an alarming rate. In the 1995–1996 election cycle an estimated $135-150 million was spent on issue advocacy, while in the 1997–1998 cycle an estimated $275–340 million was expended on these types of advertisements. There appears to have been no slowing of expenditures during the 1999–2000 election cycle as the most recent estimates show the previous election cycle’s total being surpassed with the final two months of campaigning, where a large proportion of these advertisements are run, remaining.

I have long believed in Justice Brandeis’ statement that, “Sunlight is said to be the best of disinfectants.” The disclosure requirements in the ATACC act are narrow and tailored to provide the electorate with the important pertinent information they will need to make an informed decision. Information included on the disclosure statement includes the sponsor of the advertisement, amount spent, and the identity of the contributors who donated more than $100. By getting the public this information will greatly help the electorate evaluate those who are seeking federal office.

Additionally, this disclosure, or disinfectant as Justice Brandeis puts it, will also help deter actual corruption and avoid the appearance of corruption that may already feel pervades our campaign finance system. This, too, is an important outcome of the disclosure requirements of this bill. Getting this information into the public purview would help the FEC and interest groups to help ensure that our federal campaign finance laws are obeyed. If the public doesn’t feel that the laws Congress passes in this area are being followed, this will lead to a greater level of disillusionment in their elected representatives. Exposure to the light of day of any corruption by this required disclosure will help reassure our public that the laws will be followed and obeyed.

While our bill focuses on disclosure, it will also prohibit corporations and unions from using general treasury monies to fund these types of electioneering communications from the period close to an election. Since 1907, federal law has banned corporations from engaging in electioneering. In 1947, that ban was extended to prohibit unions from electioneering as well. The Supreme Court has upheld these restrictions in order to avoid the deleterious influences on federal elections resulting from the use of money by those who exercise control over large aggregations of capital. By treating both corporations and unions similarly we were able to extend this ban cautiously and fairly. I feel that this prohibition, coupled with the disclosure requirements, will address many of the concerns my colleagues from both sides of the aisle have raised with regards to our current campaign finance laws.

Mr. President, I think it is important to clarify at this time some of the things that this bill will not do. It will not prevent grass-roots lobbying communications, it does not cover printed material nor does it cover the text or a copy of the advertisement to be disclosed. Finally, it does not restrict how much money can be spent on ads, nor restrict how much money a group raises. These points must be expressed early on to ensure that my colleagues can clearly understand what we are and are not attempting to do with our legislation.

We have taken great care with our bill to avoid violating the important principles in the First Amendment of our Constitution, recognizing that the provisions would be held constitutional, but that the Supreme Court has been most tolerant of regulation. We also strove to make the requirements sufficiently clear and narrow to overcome unconstitutional claims of vagueness and overbreadth.

Mr. President, I wish I could guarantee that these provisions would be held constitutional, but as we found out with the Religious Freedom Restoration Act, even with near unanimous support, it is difficult to gauge what the Supreme Court will decide on constitutional issues. However, I feel that the provisions we have created follow closely the constitutional roadmap established by the Supreme Court by the decisions in this area, and that it would be upheld.

I know that campaign finance reform is an area that is challenging and beliefs. However, I feel that the ATACC act offers a constructive and constitutional solution that addresses some of the problems that have been expressed concerning our current campaign finance system. The American people are watching and hoping that we will have a fair, informative and productive debate on campaign finance reform. I know that the proposal that Senator Snowe and I have put forward will do just that.

The electorate has grown more and more disappointed with the tenor of campaigns over the last few years, and this disappointment is reflected in the low number of people that actually participate in what makes this country and democracy great, voting. I feel that giving the voters the additional information required by our legislation will help dispel some of the disillusionment the electorate feels with our campaign system and reinvigorate people to participate again in our democratic system.

In conclusion, the very basis of our democracy requires that an informed electorate participate by going to the polls and voting. The ATACC act will through its disclosure requirements inform our electorate and lead people to again participate in our democratic system.

By Mr. DORGAN:

S. 94. A bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for electricity produced from wind; to the Commission on Finance.

EXTENDING WIND POWER INCENTIVES

Mr. DORGAN. Mr. President, today I am introducing a bill that would extend for five additional years the Federal tax incentive that is currently available for facilities that produce electricity from wind.

Despite all of its promise, wind energy is still a relatively untapped clean source of energy in our region and across the country. U.S. wind energy capacity in today’s electricity marketplace is about 2,600 megawatts. That’s enough to serve about 1,500,000 typical American households. In 1999, the Administration committed our country to a goal of producing five percent of our total electricity needs—about 80,000 megawatts—from wind power by the year 2020.

Wind energy is one of the world’s fastest growing energy technologies. As a result, wind energy can—and should—play a larger role in helping this country move toward greater energy independence and energy security, and it is clear that recent energy prices over the past year provide a stark reminder of the importance of reducing our reliance on foreign energy sources and keeping a diverse energy supply here at home. In addition, for states like North Dakota, wind energy offers needed economic opportunities for farmers and other rural landowners.

North Dakota is the top-ranked state for wind energy potential and is often referred to as the “Saudi Arabia” of wind energy experts. Together, North and South Dakota could supply two-thirds of the nation’s current electricity supply with their wind energy.
capacity, according to a Department of Energy analysis.

Greater wind development would also bring new jobs to many rural communities. Moreover, struggling family farmers could earn an extra $2,000-3,000 annually for each 750 kilowatt wind turbine placed on the farm, while removing only a small fraction of land from the farmer’s overall operation.

Congress and the Administration have taken important steps in the effort to promote greater wind energy development. Congress has increased federal funding for wind and other renewable energy research and development at the Department of Energy over the past several years. It has also provided a substantial federal income tax credit that is vital for continued private sector investment in wind generation facilities. Most recently, the U.S. Department of Agriculture’s Rural Utilities Service awarded its first-ever wind energy loan a rural electric cooperative serving the Upper Midwest will use to finance the construction of wind turbine generators and power lines to help distribute wind-generated power to rural communities.

Regrettably, Congress and the Administration have undermined their very own efforts by failing to ensure that federal income tax credits provided to facilities producing electricity from wind is available over the long term.

I recently cosponsored a wind energy conference in North Dakota. It was attended by five hundred people, including developers, industry experts, utility executives, rural landowners, public officials and others. This was double the number of expected participants, which demonstrates just how much interest in this renewable energy resource.

Among other things, I heard from wind energy developers who emphasized that one of the major obstacles to growth of new wind technologies is the continued uncertainty surrounding the availability of the wind energy production tax credit. This credit is now scheduled to expire at the end of the year. Industry experts tell me that financial lenders will soon stop providing needed capital to new wind initiatives. As a result, projects already underway will quickly come to a halt. Many developers will simply be unable to build and purchase equipment, obtain all necessary environmental permits and bring wind turbine generators on-line by year’s end.

One of the best ways to give developers the certainty and help they need to bring the benefits of new wind turbines to the marketplace at a competitive rate is to provide a sufficiently long period of time for them to access the credit. That’s exactly what the bill I’m introducing today would do. Specifically, my bill would extend the current production tax credit for qualifying wind facilities that are placed in service on or before December 31, 2006.

The wind energy production tax credit has had broad bipartisan support in the Senate and the House of Representatives in previous years, so I am optimistic that we can pass this legislation quickly in this new Congress. I urge my Senate colleagues to cosponsor this legislation and help get it enacted into law as soon as possible. If we don’t, many new wind energy initiatives will come to a standstill at a time when this country can least afford it.

Mr. KOHL (for himself and Mr. F'REINGOLD):

S. 95. A bill to promote energy conservation investments in Federal facilities, and for other purposes; to the Committee on Energy and Natural Resources.

FEDERAL ENERGY BANK LEGISLATION

Mr. KOHL. Mr. President, I rise today to introduce legislation entitled “The Federal Energy Bank Act.” The purpose of this Act is to provide a stable long term source of funding for energy efficiency projects throughout the Federal Government. If we are to start the Nation on the road toward increased energy conservation we must begin with the Federal Government. This bill would make the necessary investments to make this first step toward long term energy conservation possible.

Energy policy is a raging issue for our country at this time. Natural gas prices are at all-time highs at a time when we are becoming more and more dependent on gas because of its minimal impact on the environment. Gas has become of victim of its own success, as our demand for the commodity has outstripped our ability in the short term to bring the supply to market. While I do not oppose continuing fossil fuel exploration and extraction, we cannot drill our way out of the tight energy market. We must also consider other options including conservation. Conservation often gets a bad rap as people think politicians are simply telling them to turn down the heat and shut off the lights they aren’t using. Conservation doesn’t necessarily mean hardship and darkness, it can also mean new technologies that do not require us to change our habits. It means using energy smarter, using it when we need it, and only as much as we need. Conservation means holding on to the energy we have, and not wasting it.

Conservation doesn’t necessarily mean mean new technologies that do not require us to change our habits. It means using energy smarter, using it when we need it, and only as much as we need. Conservation means holding on to the energy we have, and not wasting it.

One of the best ways to conserve energy, that means megawatts of generation that will not need to be built. That does not mean we do not need additional generation, the situation in California makes the clear the danger of not keeping up with the demand, it just means that less capacity will be necessary. Anyone who has ever grappled with the siting issues involved with a power plant knows it will be difficult to build even with a minimum of power generation and transmission. I have long believed that our Nation must implement a sensible national energy policy which emphasizes greater energy conservation and efficiency, as well as the development of renewable resources. This bill is just one step of many that need to be taken to reduce our energy consumption problems. The events in the Middle East, coupled with the environmental problems associated with the use of fossil fuels, have only increased the need for improved energy conservation. Simply put, we cannot continue to rely on imported oil to meet such a large part of our Nation’s energy needs. This dependence places our economic security at great risk. In addition, the use of oil and other fossil fuels contributes to global climate change, air pollution, and acid rain.

Mr. President out attempts to remedy this situation are nothing new. In fact, the laws requiring significant energy use reductions are already in place. The Energy Policy Act of 1992 cutbacks which do not Federal agencies use cost-effective measures, with less than a 10-year payback, to reduce energy consumption in their facilities. President Clinton, with Executive Order 13123, extended the mandate by requiring Federal agencies to reduce energy consumption by 35 percent by the year 2010 compared to 1985 energy uses. If accomplished, this would save the American taxpayer millions in annual energy costs and in turn put us on the road to future energy savings. This would also improve our environment, our balance of trade, and our national security.

Mr. President, my business background has taught me that most large paybacks come from positive long-term investments. Unfortunately, the Federal Government does not traditionally take this approach. More often than not, it seeks short-term savings and in turn do not address the problem of energy consumption or encourage future energy conservation.

Mr. President, my bill will help address this funding shortfall. The bill proposes the creation of energy efficiency projects by Federal agencies and in the long run will reduce the overall amount of money spent on energy consumption by the Federal Government. For each of the fiscal years 1999, 2000, 2001, each Federal agency will contribute an amount equal to 5 percent of its previous year’s utility costs into a fund or bank managed by the Secretary of the Treasury.

The Secretary of Energy will authorize the fund to be used by the Federal agency for use toward investment in energy efficiency projects. The agency will then repay the loan, making the bank self-supporting after a few years. The Secretary of Energy will also establish a Federal energy efficiency project, determining the project is cost-effective and produces a payback in 3 years or less. Agencies will be required to report the progress of each project with a cost of more than $1 million to the Secretary 1 year after installation. The Secretary will then report to Congress each year on all the operations of the bank.
Mr. President, this bill will provide the real dollars required to make the Executive order goals a reality.

Mr. President, in closing I would like to thank Johnson Controls, the largest public company in Wisconsin, for their continued leadership and input on this bill. As a maker of energy conservation systems, Johnson has provided me with the real world insights that have helped me draft a bill that attempts to address our energy conservation needs. Mr. President, I ask unanimous consent the full text of the bill be printed in full in the RECORD. I urge my colleagues to support this bill and will push for its early enactment.

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

S. 95

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 Energy Bank Act.”

SECTION 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) energy conservation is a cornerstone of national energy security policy; (2) Federal Government is the largest consumer of energy in the economy of the United States; (3) many opportunities exist for significant energy cost savings within the Federal Government; and (4) to achieve the energy savings required by Executive Order, the Federal Government must promote significant investments in energy systems, products, and energy management control systems.

(b) PURPOSE.—The purpose of this Act is to promote energy conservation investments in Federal facilities.

SECTION 3. DEFINITIONS.

In this Act:

(A) an Executive agency (as defined in section 105 of title 5, United States Code, except that the term also includes the United States Postal Service); (B) Congress and any other entity in the legislative branch; and (C) a court and any other entity in the judicial branch.

SEC. 4. ESTABLISHMENT OF BANK.

(a) IN GENERAL.—There is established in the United States a trust fund to be known as the “Federal Energy Bank”, consisting of—

(1) such amounts as are appropriated to the Bank under section 8;

(2) such amounts as are transferred to the Bank under subsection (b);

(3) such amounts as are repaid to the Bank under section 5(b)(4); and

(4) any interest earned on investment of amounts in the Bank under subsection (c).

(b) TRANSFERS TO BANK.

(1) IN GENERAL.—At the beginning of each fiscal years 2002, 2003, and 2004, each agency shall transfer to the Secretary for deposit in the Bank, an amount equal to 5 percent of the total utility payments paid by the agency in the preceding fiscal year.

(2) UTILITIES PAID AS PART OF RENTAL PAYMENTS.—The Secretary shall by regulation establish a formula by which the appropriate portion of a rental payment that covers the cost of utilities shall be considered to be a utility payment for the purposes of paragraph (1).

(c) INVESTMENT OF FUNDS.—The Secretary of the Treasury shall invest such portion of funds in the Bank as is not, in the Secretary’s judgment, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

SECTION 5. LOANS FROM THE BANK.

(a) IN GENERAL.—The Secretary of the Treasury shall make loans to Federal agencies from the Bank. The Secretary shall pay such loan amounts as are appropriated to the Bank under section 8; and

(b) LOAN PROGRAM.

(1) IN GENERAL.—In accordance with section 6, the Secretary shall establish a program to loan amounts from the Bank to any agency that submits an application satisfactory to the Secretary in order to finance an energy efficiency project.

(2) PERFORMANCE CONTRACTING FUNDING.—To the extent available, an agency shall not submit a project for which performance contracting funding is available.

(c) PURPOSES OF LOAN.

(1) IN GENERAL.—A loan under this section may be made to pay the costs of—

(i) an energy efficiency project; or

(ii) development and administration of a performance contract.

(B) LIMITATION.—An agency may use not more than 15 percent of the amount of a loan under subparagraph (A) to pay the costs of administrative design and duration data (including data collection and energy surveys).

(d) REPAYMENTS.

(A) IN GENERAL.—An agency shall repay to the Bank the principal amount of the energy efficiency project loan plus interest at a rate determined by the President, in consultation with the Secretary of the Treasury.

(B) WAIVER.—The Secretary may waive the requirement of subparagraph (A) if the Secretary determines that interest by an agency is not required to sustain the needs of the Bank in making energy efficiency project.

(C) AGENCY ENERGY BUDGETS.—Until a loan is repaid, an agency budget submitted to Congress for a fiscal year shall not be reduced by the value of energy savings accrued as a result of the energy conservation measures implemented with funds from the Bank.

(D) AVAILABILITY OF FUNDS.—An agency shall not receive funds not available by this Act. Funds loaned to an agency shall be retained by the agency until expended, without regard to fiscal year limitation.

SECTION 6. SELECTION CRITERIA.

(a) IN GENERAL.—The Secretary shall establish criteria for the selection of energy efficiency projects to be awarded loans in accordance with subsection (b).

(b) SELECTION CRITERIA.—The Secretary may make loans only for energy efficiency projects that—

(1) are technically feasible;

(2) are determined to be cost-effective using life cycle cost methods established by the Secretary; and

(3) include a measurement and management component to—

(A) commission energy savings for new Federal facilities; and

(B) monitor and improve energy efficiency management at existing Federal facilities; and

(4) have a project payback period of 3 years or less.

SECTION 7. REPORTS AND AUDITS.

(a) REPORTS TO THE SECRETARY.—Not later than 1 year after the installation of an energy efficiency project that has a total cost of more than $1,000,000, and each year thereafter, an agency shall submit to the Secretary a report that—

(1) states whether the project meets or fails to meet the energy savings projections for the project; and

(2) for each project that fails to meet the savings projections, states the reasons for the failure and describes proposed remedies.

(b) AUDITS.—The Secretary may audit any energy efficiency project that is financed with funding from the Bank to assess the project’s performance.

(c) REPORTS TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit to Congress a report on the operations of the Bank, including a statement of the total receipts into the Bank, and the total expenditures from the Bank to each agency.

SECTION 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. FEINGOLD. Mr. President, I am delighted to join with my colleague, the Senior Senator from Wisconsin (Mr. KOHL) as an original cosponsor of the Federal Energy Bank Act.

As a politician, the idea of the federal government “leading by example” was one of the keys of the energy conservation message that has made sense to me for a long time, so much so, in fact, that in campaigning for the Senate in 1992, I included energy efficiency in my campaign platform. I proposed an 82-point plan to reduce the deficit, a series of specific spending reductions, and revenue changes which, if enacted in sum total, would have eliminated the deficit.

Among those items, as I was a candidate for office after the passage of the 1992 Energy Policy Act and after the United States’ signing of the Framework Convention on Climate Change in Rio De Janeiro, Brazil, was one to encourage the federal government to implement a comprehensive energy savings program for the federal government through energy efficiency investments.

After all, I believe that if Wisconsin consumers and business have been converted to the wisdom of compact fluorescent light bulbs, efficient heating and cooling systems, weatherization, and energy saving computers, among the wide range of potential efficiency improvements, that the federal government promoting those actions should...
also make the same investments to the taxpayers’ benefit.

Section 152 of the Energy Policy Act mandated that Federal agencies use all cost-effective measures that could be implemented with less than a 10-year payback to reduce energy consumption in their facilities by 20 percent by the year 2000 compared to 1985 consumption levels. Both of the two previous Administration have been committed to these types of common sense “no-regrets” energy efficiency strategies. After taking office, I have learned that among the most significant constraints to implementing more energy efficient practices in the federal government is the lack of sufficient funds to invest in energy efficient equipment.

Section 152 of the Energy Policy Act of 1992 directed the Secretary of Energy to conduct a detailed study of options for financing energy and water conservation measures in Federal facilities as required under the Act and by subsequent Executive Orders. On June 3, 1997, the then Secretary of Energy (Mr. Peña) released that study. It documented a need for a $5.7 billion financial investment between 1996 and 2005 to meet the Energy Policy Act and Executive Orders, a value which could vary from a low of $4.4 billion to a high of $7.1 billion given variability in energy and water investment requirements.

The best estimate, according to the study of the total federal funding available to spend on energy and water efficiency improvements from various sources, including direct agency appropriations, energy savings performance contracts, and utility demand-side management programs, and appropriations to the Federal Energy Efficiency Fund, to the federal government to meet those needs over the same time period is $3.7 billion. Thus, under DOE’s best estimate, at the federal level, there is a shortfall of funds necessary to achieve our federal energy and water conservation objectives of $2 billion.

In order to address this shortfall, I am pleased to join as a co-sponsor of this legislation to create a federal energy revolving fund or “energy bank.” I hope this legislation can be one of the items on which we can reach bipartisan consensus in our efforts to develop a national energy strategy this Congress. Some may be critical of the energy efficiency measures necessitated by the existence of the current Federal Energy Efficiency Fund alleviates the need for additional federal conservation investment. The problem with the current fund, which operates as a grant program for agencies to make efficiency improvements, is that it does not contribute to the replenishment of capital resources because it does not have to be paid back and is therefore dependent upon appropriations.

Under the legislation, I join in co-sponsoring with my colleague from Wisconsin today, federal agencies will be required, to deposit 5 percent of their total utility payments in the proceeding fiscal year to capitalize the fund. After 2001, the Secretary of Energy will determine an amount necessary to ensure that the fund meets its obligations.

Agencies will then be able to get a loan from the fund to finance energy efficiency projects, which they will be responsible for repaying with interest. The projects must use off-the-shelf technologies and must be cost-effective. The best approach is that the technologies are required to have a three-year pay back period, and, therefore, this legislation achieves some modest savings for the taxpayer. CBO scores this measure as saving $3 million over 5 years. There is a need to improve federal procurement of energy efficient technologies, and this measure is a positive, proactive measure to ensure that Federal agencies specifically set aside funds to achieve this goal. The Senate, the then Senator from Wisconsin (Mr. KOHL) and I look forward to working with the administration to advance this legislation as a piece of the country’s overall greenhouse gas strategy.

In conclusion, I look forward to working with my Senior Senator on this issue. I believe that this is a unique opportunity for Senate colleagues to support legislation that is both fiscally responsible and environmentally sound.

By Mr. KOHL.

S. 96. A bill to ensure that employees of traveling sales crews are protected under the Fair Labor Standards Act of 1938 and under other provisions of law; to the Committee on Health, Education, Labor, and Pensions.

TRAVELING SALES CREW PROTECTION ACT

Mr. KOHL. Mr. President almost two years have gone by since the tragic accident in Janesville, WI, that brought to light the abuse of workers in the magazine sales industry. Since 1992, forty-two sales people have been killed or injured in similar crashes. Unfortunately deaths and injuries still occur. Parents are still separated from their children without knowing where they are or whether they are safe. Young people are not being paid for their work, and are being falsely listed as independent contractors. Roving sweatshops continue to travel our highways and solicit unlicensed in our neighborhoods.

My legislation would go a long way toward ending this sad state of affairs. Today I have introduced legislation to crack down on abuses in the traveling sales crew industry. These companies employ crews who travel from city to city selling products door to door. Often times, however, these companies mistreat their workers and violate local, state, and federal labor law. Because they rapidly move from state to state, enforcement efforts are difficult if not impossible for local authorities.

In 1987 former Senator Roth, as part of the Permanent Subcommittee on Investigations looked into this industry, and was appalled at what he found. Incidents of verbal and physical abuse of workers were widespread. Young people were coerced into continuing to sell long after they wanted to leave through threats and taunts from their employers. When they were able to get free they were often unpaid or denied the bus ticket home they were promised when they signed up.

The compensation system for the workers was also rigged to ensure that workers could not leave. Prospective salespeople were promised when they were recruited, but soon found that decent pay was difficult to come by. Sellers were paid on a commission basis according to their sales, but they were also charged by the company for their accommodations and fined for small infractions like showing up late to meetings or sleeping on the van. Salespeople were not paid in a timely manner, but their earnings were kept on “paper” and the employees only directly allowed to pay for food. Employees were seldom allowed to see the paper work that tracked their earnings so they had little idea about how much they are entitled. Many found that they were not able to keep up with the sales and fell in debt to the company. After working 12 hour days, six days a week for months, employees actually owed the company money! These young people became indentured servants, working long hours for only room and board.

In the thirteen years since Senator Roth’s investigation, nothing has changed. These abuses continue, and Congress should act.

I am not one to frivolously engage in regulating business, but in this case the need for federal involvement is clear. Because of the mobility of these companies, states cannot protect these people on these groups alone. They need federal help to eliminate the unscrupulous actors in the industry.

The Traveling Sales Crew Protection Act would take important steps to eliminate employers who abuse their workers. First, it would no longer allow minors to be employed in this line of work. Door to door sales can be dangerous work and combined with the long hours and hazardous travel, creates a job too dangerous for children. Second, the bill would narrowly eliminate the exemption under the Fair Labor Standards Act for these specific kinds of operations. Covering these employees with minimum wages laws and overtime requirements protects them from becoming indentured servants to their employers through complex compensation systems. This provision is carefully crafted to cover only traveling sales crews, individuals who sell over the road, or at trade shows would be unaffected. Lastly the bill creates a new procedure for the Department of Labor to monitor those engaged in supervising and running these operations.
These measures are important steps forward in a nationwide effort to eliminate this particularly abusive form of worker exploitation. I hope I will have my colleagues' support as I try to make the painful crash in Janesville, the last chapter in this shameful story.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD.

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

S. 96

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 “Traveling Sales Crew Protection Act”.

TITLE I—FAIR LABOR STANDARDS ACT OF 1938

SEC. 101. APPLICATION OF PROVISIONS TO CERTAIN OUTSIDE SALESMEN.

(a) In general.—Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

“(c) to require the employers of such workers to register under this Act; and

(b) LIMITATION ON CHILD LABOR.—Section 12 of the Fair Labor Standards Act of 1938 (29 U.S.C. 212) is amended by adding at the end the following:

“(a) Any person desiring to be issued a Certificate of Registration from the Secretary, as either a traveling sales crew employer or traveling sales crew supervisor, shall file with the Secretary a written application that contains the following:

(1) A declaration, subscribed and sworn to by the applicant, stating the applicant’s permanent place of residence, the type or types of sales activities to be performed, and such other relevant information as the Secretary may require.

(2) A statement identifying each vehicle to be used to transport any member of any traveling sales crew and, if the vehicle is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with the requirements of section 204(d) with respect to each such vehicle.

(3) Has failed to comply with this title or any regulation promulgated under this title; or

(b) To comply with any final order issued by the Secretary as a result of a violation of this title or any regulation promulgated under this title; or

(c) To comply with any final judgment obtained by the Secretary as a result of a violation of this title or any regulation promulgated under this title; or

(d) Has been convicted within the 5 years preceding the date on which the application was filed or the Certificate was issued—

(1) Of any crime under Federal or State law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, peonage, or smuggling or harboring individuals who have entered the United States illegally;

(2) Has been found to have violated paragraph (2) of section 174A(a) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(1) or (2));

(3) Has failed to comply with any bonding or security requirements as the Secretary may establish; or

(e) In general.—A person who is refused the issuance or renewal of a Certificate or Registration, or whose Certificate of Registration is suspended or revoked, shall be afforded an opportunity for an agency hearing, upon a request made within 30 days after the date of issuance of the notice of refusal, suspension, or revocation. If no hearing is requested as provided for in this subsection, the refusal, suspension, or revocation shall constitute a final and unappealable order.

(2) HEARING.—If a hearing is requested under paragraph (1), the initial agency decision shall be made by an administrative law judge, with all issues to be determined on the record pursuant to section 554 of title 5, United States Code, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 90 days after the decision of the administrative law judge. A final

(1) SEC. 205. ISSUANCE OF CERTIFICATE OF REGISTRATION.

(b) In general.—In accordance with regulations, and after any investigation which the Secretary deems appropriate, the Secretary shall issue a Certificate of Registration, as either a traveling sales crew employer or traveling sales crew supervisor, to any person who meets the standards for such registration.
order which takes effect under this paragraph shall be subject to review only as provided under paragraph (3).

(3) REVIEW BY COURT.—Any person against whom an order has been entered may seek an agency hearing under this subsection may obtain review by the United States district court for any district in which the person is located or in which the United States District Court for the District of Columbia, by filing a notice of appeal in such court within 30 days from the date of such agency order, and simultaneous sending of a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the agency order was based. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code. Any final decision, order, or judgment of such District Court concerning such review shall be subject to appeal as provided for in chapter 83 of title 28, United States Code.

(e) TRANSFER OR ASSIGNMENT OF CERTIFICATE; EXPIRATION; RENEWAL.—

(1) LIMITATION.—A Certificate of Registration may not be transferred or assigned.

(2) EXPIRATION AND EXTENSION.—

(A) EXPIRATION.—Unless earlier suspended or revoked, a Certificate of Registration shall expire 12 months from the date of issuance.

(B) EXTENSION.—A Certificate of Registration may be temporarily extended, at the Secretary’s discretion, by the filing of an application with the Secretary at least 30 days prior to the Certificate’s expiration date.

(c) COSTS OF GOODS, SERVICES, AND BUSINESS EXPENSES.—

(1) PROHIBITION.—No employer of traveling sales crew workers shall—

(A) require any worker to purchase any goods or services solely from such employer; or

(B) impose on any worker any of the employer’s business expenses, such as the cost of maintaining or operating a motor vehicle used to transport the traveling sales crew.

(2) INCLUSION AS PART OF WAGES.—An employer may include as part of the wages paid to a traveling sales crew worker the reasonable cost to the employer of furnishing board, lodging, or other facilities to such worker; however—

(A) such facilities are customarily furnished by such employer to the employees of the employer; and

(B) such cost shall not exceed the fair market value of such facility and does not include any profit to the employer.

(d) SAFETY AND HEALTH IN TRANSPORTATION.—

(1) STANDARDS.—An employer of traveling sales crew workers shall provide transportation for such workers in a manner that is consistent with the following standards:

(A) The employer shall ensure that each vehicle which the employer uses or causes to be operated of such vehicle for the transportation of wages shall be in United States currency or in a negotiable instrument such as a bank check or draft payable to the order of the employer which the employer shall have an insurance policy or fidelity bond which insures the employer against liability for damage to persons and property arising from the ownership, operation, or the causing to be operated of such vehicle for such purposes.

(2) Workers’ Compensation Insurance.—If an employer of traveling sales crew workers is the employer of such workers for purposes of a State workers’ compensation law and such employer provides workers’ compensation coverage for such workers as provided for by such State law, the following modifications to the requirements of paragraph (1) shall apply:

(A) No insurance policy or liability bond shall be required of the employer if such employer provides workers’ compensation coverage for such workers as provided for by such State law.
(B) An insurance policy or liability bond shall be required of the employer for all circumstances under which workers’ compensation coverage for the transportation of such workers is not provided under such State law.

SEC. 205. ENFORCEMENT PROVISIONS.

(a) CRIMINAL SANCTIONS.—An employer who willfully and knowingly violates this title, or any regulation promulgated under this title, shall be fined not more than $10,000 or imprisoned for not to exceed 1 year, or both. Upon conviction for any subsequent violation of this title, or any regulation promulgated under this title, the employer shall be fined not more than $50,000 or imprisoned for not to exceed 3 years, or both.

(b) JUDICIAL ENFORCEMENT.—

(1) INJUNCTIVE RELIEF.—The Secretary may petition any appropriate district court of the United States for temporary or permanent injunctive relief if the Secretary determines that this title, or any regulation promulgated under this title, has been violated. (2) SOLICITOR OF LABOR.—Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil suit under this title, but all such litigation shall be subject to the direction and control of the Attorney General.

(c) ADMINISTRATIVE SANCTIONS: PROCEEDINGS.—

(1) CIVIL MONEY PENALTY.—Subject to paragraph (2), the employer that violates this title, or any regulation promulgated under this title, may be assessed a civil money penalty of not more than $10,000 for each such violation.

(2) DETERMINATION OF PENALTY.—In determining the amount of any penalty to be assessed under paragraph (1), the Secretary shall take into account—

(A) the previous record of the employer in terms of compliance with this title and the regulations promulgated under this title; and

(B) the gravity of the violation.

(3) PROCEEDINGS.—

(A) IN GENERAL.—An employer that is assessed a penalty under this section shall be afforded an opportunity for an agency hearing, upon request made within 30 days after the date of issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested as provided for in this subsection, the assessment shall constitute a final and unappealable order.

(B) ADMINISTRATIVE LAW JUDGE.—If a hearing is requested under subparagraph (A), the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates this decision. Notice of such hearing, or any modification or vacate of such decision, of the administrative law judge shall be issued to the parties within 90 days after the decision of the administrative law judge. A final order which takes effect under this paragraph shall become the final order unless the Secretary shall be set aside only if found to be unsupported by substantial evidence as to the assessments. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as to the assessments.

(C) REVIEW.—An employer against whom an order imposing or vacating a penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which an employer is located, or the United States District Court for the District of Columbia, by filing a notice of appeal in such court within 30 days from the date of such order. Such notice shall be subject to the rules of the district court for the United States District Court for the District of Columbia, by filing a notice of appeal in such court within 30 days from the date of such order. Such notice shall be subject to the rules of the district court for the District of Columbia, by filing a notice of appeal in such court within 30 days from the date of such order. Such notice shall be subject to the rules of the district court for the District of Columbia.

(D) DETERMINATION OF AMOUNT.—In determining the amount of damages to be awarded under subsection (A), the court may consider, in addition to any judgment awarded under this section, any acceleration of wages or other compensation provided by a State compensation law.

(E) DETERMINATION OF DAMAGES.—In determining the amount of damages to be awarded under this section, the court may consider, in addition to any judgment awarded under this section, any acceleration of wages or other compensation provided by a State compensation law.
shall have jurisdiction, for cause shown, to restrain violations of this subsection and order all appropriate relief, including hindering or reinstatement of the worker, with back pay or damages.

1. WAIVER OF RIGHTS.—Agreements by workers purporting to waive or to modify their rights under this title shall be void as contrary to public policy, except that a waiver of confidential rights in favor of the Secretary shall be valid for purposes of enforcement of this title.

2. PRODUCTION AND RECEIPT OF EVIDENCE.—

(a) The Secretary may issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with investigations under paragraph (1) in a case in which the Secretary may administer oaths, examine witnesses, and receive evidence.

(b) The Secretary shall conduct investigations under paragraph (1) in a case in which the Secretary may administer oaths, examine witnesses, and receive evidence.

(c) The Secretary shall conduct investigations under paragraph (1) in a case in which the Secretary may administer oaths, examine witnesses, and receive evidence.

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(y) The Secretary shall conduct investigations under paragraph (1) in a case in which the Secretary may administer oaths, examine witnesses, and receive evidence.

(z) The Secretary shall conduct investigations under paragraph (1) in a case in which the Secretary may administer oaths, examine witnesses, and receive evidence.

(A) To use their facilities and services;

(B) To delegate to Federal and State agencies such authority, other than rulemaking, as may be useful in carrying out this title; and

(C) To allocate or transfer funds to, or otherwise pay or reimburse, such agencies for expenses incurred pursuant to agreements under this paragraph.

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(C) To allocate or transfer funds to, or otherwise pay or reimburse, such agencies for expenses incurred pursuant to agreements under this paragraph.
poverty line to 18 percent for those below. And nothing adds more to these high costs than the dramatic shortage of quality child care in this country. The Children’s Defense Fund states in a recent report that “parents and experts report that child care is in short supply for some workers and for certain types of care—and that some communities have little or no licensed care.”

“This shortage of quality child care is not just inconvenient. It is dangerous, and could jeopardize the ability of children to succeed later in life. Research on the brain has confirmed that the most significant period in a child’s development and education is between the years 0–3. Good early childhood programs can improve children’s chances of long-term success in school, higher earnings as adults, and decreased involvement with the criminal justice system.

But the lack of quality child care is not only harmful to children. It places a tremendous strain on parents. Full-time child care can cost $4,000 to $6,000 per year, and many working families simply cannot find affordable, quality child care for their young children. And the worst mistake: the lack of reliable child care has a direct impact on businesses and our economy. Parents who can’t find reliable child care are more likely to miss work, and the lack of stable child care makes it more difficult for parents to be productive while at work.

Clearly, we all have a stake in increasing the supply of quality child care for families. It will take a sustained effort from families, from government—and yes, from businesses too—to build the child care infrastructure necessary to make sure children, parents, and businesses succeed.

My legislation brings all these players together in a simple, common-sense way. We provide a tax credit to businesses who are willing to take action to increase the supply of quality child care. The credit is available for child care activities such as:

Expenses related to the acquisition, expansion, or repair of an on- or near-site day care center, after-hours care facility, or sick-child facility. This credit would also be available for a consortium of businesses that joined together to create a child care center.

Direct company subsidization of the operating costs of a child care facility.

Direct company payments or reimbursements to employees for their child care expenses.

A company’s reservation for their employees of child care slots in a licensed child care facility.

Company expenditures on training and continuing education for child care workers.

The credit would be 25 percent for these activities, and 10 percent for the cost of a company’s contract with a non-profit Child Care Resource and Referral service, which help parents locate child care in their communities.

The credit is capped at $150,000 per year. Safeguards in the legislation ensure that the companies receive the tax credits for capital expenditures that go toward facilities that stay in operation for several years.

In 1997, this Senate passed a similar proposal by a bipartisan vote of 72–28. Versions of this tax credit have been included in most major child care legislation introduced by Democrats and Republicans in the 106th Congress, including the tax bill passed by the Senate in July of 1999.

This bill makes us all partners in ensuring we have enough quality child care for working families. I hope my colleagues will continue their long-term support of the child care infrastructure tax credit, and I look forward to working with all of you to pass it this year.

Mr. President, I ask unanimous consent that the full text of the bill 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. 99

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Child Care Infrastructure Act.”

SEC. 2. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

SEC. 45E. EMPLOYER-PROVIDED CHILD CARE CREDIT.

(1) QUALIFIED CHILD CARE EXPENDITURE.—

(A) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to the sum of—

(i) 25 percent of the qualified child care expenditures, and

(ii) 10 percent of the qualified child care resource and referral expenditures, of the taxpayer for the taxable year.

(B) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED CHILD CARE EXPENDITURE.—

(A) IN GENERAL.—The term ‘qualified child care expenditure’ means any amount paid or incurred—

(i) to acquire, construct, rehabilitate, or expand property;

(ii) which is to be used as part of a qualified child care facility of the taxpayer; and

(iii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

(B) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

(II) which does not constitute part of the principal residence (within the meaning of section 121) of the taxpayer or any employee of the taxpayer.

(ii) for the operating costs of a qualified child care facility of the taxpayer, including costs related to transportation of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training;

(iii) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

(iv) to reimburse an employee for expenses for child care which enables the employee to be gainfully employed including expenses related to—

(I) day care and before and after school care;

(II) transportation associated with such care, and

(III) before and after school and holiday programs including educational and recreational programs and camp programs.

(D) FAIR MARKET VALUE.—The term ‘qualified child care expenditure’ shall not include expenses in excess of the fair market value of such care.

(2) QUALIFIED CHILD CARE FACILITY.—

(A) IN GENERAL.—The term ‘qualified child care facility’ means a facility—

(i) which is under the control of a non-profit corporation or association which is a qualified child care organization and is engaged, in substantial part, in the provision of child care resources and referral services;

(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

(i) enrollment in the facility is open to employees of the taxpayer during the taxable year;

(ii) if the facility is the principal trade or business of the taxpayer, at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

(3) QUALIFIED CHILD CARE RESOURCE AND REFERRAL EXPENDITURE.—

(A) IN GENERAL.—The term ‘qualified child care resource and referral expenditure’ means any amount paid or incurred under a contract to provide child care resource and referral services to an employee of the taxpayer.

(B) NONDISCRIMINATION.—The services shall not be treated as qualified unless the provision of such services (or the eligibility to use such services) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

(4) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.

(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care resource and referral expenditure of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

(A) the applicable recapture percentage, and

(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

(2) APPLICABLE RECAPTURE PERCENTAGE.—

(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

The applicable recapture percentage is:

<table>
<thead>
<tr>
<th>Years</th>
<th>Percentage</th>
</tr>
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<tbody>
<tr>
<td>1-3</td>
<td>100</td>
</tr>
<tr>
<td>Year 4</td>
<td>85</td>
</tr>
</tbody>
</table>
For purposes of this subsection, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

(2) **OTHER DEDUCTIONS AND CREDITS.**—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

(b) **CONFORMING AMENDMENTS.**

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended by striking "clause (i)" in the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ', and', and by adding at the end the following:

"(14) the employer-provided child care credit determined under section 45E.'

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

"Sec. 45E. Employer-provided child care credit."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

Mr. GRAHAM. Mr. President, I am extremely pleased to join my colleague Senator K истории, in introducing the Child Care Infrastructure Act of 2001. This measure will make child care more accessible and affordable to the many millions of Americans who find it not only important, but necessary, to work.

This legislation grants tax credits to employers who assist their employees with child care expenses, either by providing child care on-site, reimbursing employees for the cost of child care, or establishing a referral service to help employees locate a child care provider.

An employer is eligible for an income tax credit equal to 30 percent of the cost of child care expenses. Expenses eligible for the credit include:

- The cost of acquiring, constructing, rehabilitating or expanding employer property used to provide employees with child care;
- The cost of operating an employer child care facilities;
- Costs incurred under a contract with a qualified child care facility to provide child care services to employees;
- To reimburse employees for the cost of child care.

Employers may also be eligible for a separate credit equal to 10 percent of child care resource and referral expenses.

The bill establishes an overall limit on the amount of child care credits an employer can qualify to receive. That limit is $150,000 per year.

Why is this legislation important?

First, the workplace has changed over the years. In 1947, one in four workers with children between the ages of 6 and 17 were in the labor force. By 1996, their labor force participation rate had tripled to nearly three in four.

Indeed, the Bureau of Labor Statistics reports that 65 percent of all women with children under 18 years of age now work, and that the growth in the number of working women will continue into the next century.

Second, child care is one of the most pressing social issues of the day. It impacts every family—rich or poor—and influences on their future—and their future is our future.

In the 21st century, women will comprise more than 60 percent of all new entrants into the labor market. A large proportion of new mothers are expected to be mothers of children under the age of 6.

The implications for employers are clear. They understand the rapidly changing nature of our Nation's work force and that those employers who can help their employees with child care will have a competitive advantage.

Many smaller businesses would likewise join them, but they may lack the resources to offer child care to their employees. Our legislation would help to lower the obstacle to on-site child care.

Mr. President, we believe that this legislation will assist businesses in providing attractive, cost-effective tools for recruiting and retaining employees in a tight labor market.

We believe that encouraging businesses to help employees care for children will make it easier for parents to be more involved in their children's education.

Most of all, Mr. President, we believe that this bill is good for employers and families and will go far in addressing the issue of child care for working families of America. I urge all of my colleagues to support this important legislation.

By Mr. ALLARD: S. 100. A bill to amend the Internal Revenue Code of 1986 to repeal the state and gift taxes; to the Committee on Finance.
TIME TO END THE DEATH TAX

Mr. ALLARD. Mr. President, today I am introducing legislation to immediately eliminate the estate tax. I fundamentally oppose the estate tax. I call it the “death tax.” This unfair tax has been a concern of mine for some time now.

Congress has clearly demonstrated its support for easing this burden. The Taxpayer Relief Act of 1997 gradually increases the exemption. Last year, Congress decided that further action was needed and passed a bill that would have eliminated the federal estate tax. Unfortunately, President Clinton chose to veto that bill. I look forward to the opportunity to work with the new Administration to repeal this unfair tax by passing my bill.

The United States has one of the highest estate taxes in the world. While income tax rates have declined in recent decades, estate taxes have remained high. Today, the death tax is imposed on assets over $675,000. The rates begin at 37% and very rapidly rise to 55%. Some estates even pay a marginal rate of 60%.

This issue really hits home for me. Family farms and small businesses are two of the groups most affected by the estate tax. I grew up on my family’s farm in Colorado, and I owned a small business before I came to Washington. So, I truly understand the concerns of those who live in fear of the impact that this tax can have on their legacy to their children.

The estate tax has resulted in the loss of family farms and family businesses across the nation. Many people work their entire lives to build a business that they can pass on to their children. When these hard-working businessmen and farmers pass away, their families are often forced to sell off the business to pay the estate tax. I see this as an affront to those who try to pass on the fruits of their lives’ work to their children.

The people affected by this tax are not necessarily wealthy. Many small business people are cash poor, but asset rich. For example, the owner of a small restaurant might have $800,000 of assets, but not much cash on hand. Her children will still have to pay an excessive tax on the assets. The beer wholesaler, who has invested all of his revenue in trucks and storage, might have more than $675,000 in assets. That does not make him a cash-wealthy man.

Yet, he is still subject to this so-called “tax on the wealthy.”

The death tax also impacts employment and the economy. When a family-owned farm or a small business closes, the worker loses their jobs. Conversely, leaving resources in the economy can create jobs. A recent George Mason study found that if the estate tax were phased out over five years, the economy would create 198,895 more jobs, and grow by an additional $509 billion over a ten-year period.

Additionally, the estate tax is a disincentive for Americans to save their earnings. The government has created a number of tax breaks and other incentives for those who save their money: 401(k)s and IRAs—to name a few. Yet, the estate tax sends a contradictory message. Basically, it says, “If you don’t spend all your savings by the time you die, the government will penalize you.” This tax is no small penalty, either. We are talking about some very high tax rates.

The death tax also represents an unjust double taxation. The savings were taxed initially when they were earned. Then, when the saver passes away, the government makes a second cut. There is no good reason for the current system—other than the government’s desire to make a profit at the already trying time of the death of a dear one.

The current death tax law has a greater effect on the lower end of the scale than the higher. Wealthy people can afford lawyers and planners to help them plan their estate. Those at the lower end of the estate tax scale are often unable to afford sophisticated estate planning. So the current law also makes the tax somewhat regressive, which is not fair.

Planning and compliance with the estate tax can consume substantial resources. In 1995, the Gallup organization surveyed family firms. Twenty-three percent of owners of companies valued at less than $5 million said that they pay more than $50,000 per year in insurance premiums on policies to help them pay the eventual bill. To plan for the estate tax, the firms also spent an average of $33,000 on lawyers, accountants and financial planners, over a period of several years. This is money that could have been better spent to expand the business and create new jobs—rather than dealing with the death tax.

The estate tax only raises one percent of federal revenue, yet it costs businesses hundreds of billions of dollars. An American family should lose their farm or business because of the federal government. I support full repeal of the federal estate tax.

Mr. President, I ask unanimous consent that the text of my bill, as well as an article that I recently wrote, be entered into the Record.

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

S. 100

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 “Death Tax Termination Act of 2001.”

SEC. 2. REPEAL OF ESTATE AND GIFT TAXES.

Subtitle B of the Internal Revenue Code of 1986 relating to estate, gift, and generation-skipping transfer taxes, is hereby made inapplicable with respect to estates of decedents dying, and gifts made, after December 31, 2000.
It consumes significant resources in unproductive tax compliance activities and raises only a tiny portion of federal tax revenues. In other words, the estate tax is not worth all the trouble.

The estate tax can destroy a family business. This is the most disturbing aspect of the tax. No American family should lose its business scarce resources over the fate of the estate tax. Current estimates are that more than 70 percent of family businesses do not survive the second generation, and 67 percent do not survive to the third generation.

While there are many reasons for these high numbers, the estate tax is certainly one of these reasons. It fails to distinguish between cash and non-liquid assets, and since family businesses are often asset-rich and cash poor, they can be forced to sell assets to pay the tax. This can destroy the business outright, or leave it so strapped for capital that long-term survival is jeopardized.

Similarly, more and more large ranches and farms are facing the prospect of breakup and sale to developers in order to pay the estate tax. In addition to destroying a family business, it harms the environment.

The accounting firm Price Waterhouse recently calculated the taxable components of 1995 estates. While 21 percent of assets were corporate stocks and bonds, and another 21 percent estates. While 21 percent of assets were corporate stocks and bonds, and another 21 percent of assets were corporate stocks and bonds, and another 21 percent of assets were corporate stocks and bonds, and another 21 percent of assets were corporate stocks and bonds, and another 21 percent of assets were corporate stocks and bonds

The accounting firm Price Waterhouse recently calculated the taxable components of 1995 estates. While 21 percent of assets were corporate stocks and bonds, and another 21 percent mutual fund assets, fully 32 percent of gross estates consisted of “business assets” such as stock in closely held businesses, non-corporate businesses and farm assets, and interests, in limited partnerships. In larger estates, this portion rose to 55 percent. Clearly, a substantial portion of taxable estates consists of family businesses.

The National Center for Policy Analysis recently calculated that for the very wealthiest Americans, only 7.5 percent of their wealth is attributable to the estate tax.

The estate tax can destroy a family business or farm because of the estate tax. This is the most disturbing aspect of the estate tax. Many more expend substantial resources in tax planning and compliance.

Those that survive the estate tax often do so because they have significant difficulty surviving the estate tax, and 30 percent of respondents said they would have to sell part or all of their business. This is supported by a 1995 Family Business Survey conducted by Matthew Greenwald and Associates which found that 33 percent of family businesses anticipate having to liquidate or sell part of their business to pay the estate tax.

While some businesses are destroyed by the estate tax, others expend substantial resources in tax planning and compliance. Those that survive the estate tax often do so by purchasing expensive insurance. A 1995 Gallup poll showed that 25 percent of the owners of companies valued over $10 million pay $50,000 or more per year in insurance premiums on policies designed to help pay the eventual tax bill. The same survey found that family firms estimated they had spent on average more than $35,000 on lawyers, accountants and financial planners over a period of six and a half years in order to prepare for the estate tax.

In fact, one of the great ironies of the estate tax is that an extensive amount of tax planning can very nearly eliminate the tax. This results in a situation in which the very wealthy can end up paying less estate tax than the poorest means.

As noted above, life insurance can play a big role in estate planning. In addition to life insurance, there are also mechanisms such as qualified personal residence trusts, charitable remainder trusts, charitable lead trusts, generation-skipping trusts and the effective use of annual gifts. While these mechanisms may reduce the tax, they waste resources that could be put to much better use growing businesses and creating jobs.

One of the tenets of a fair tax system is that income is taxed only once. Income should be taxed when it is first earned or realized; it should not be repeatedly taxed by government. The estate tax violates this tenet. At the time of a person’s death, much of his or her savings, business assets or farm resources have been subjected to federal, state and local tax. These same assets are then taxed again under the estate tax. Price Waterhouse has calculated that those family businesses that do survive the estate tax face the prospect of nearly 73 percent of every dollar being taxed away.

Repeal of the estate tax would benefit the economy. Without the estate tax, greater business resources could be put toward productive economic activities. Recently, the Center for the Study of Taxation commissioned George Mason University’s Professor Richard Wagner to estimate the economic impact of a phase-out of the estate tax.

Wagner estimated that if the tax is phased out over five years beginning in 1999, the economy would create 189,900 more jobs and would grow by an additional $509 billion over a ten-year-period. Similarly, a recent Heritage Foundation study simulated the results of an estate tax repeal under two respected economic models, the Washington University Macro Model, and the Wharton Econometric Model. The result of their research is that the estate tax is forecast to increase jobs and gross domestic product, as well as reduce the cost of capital.

One might expect that with all the economic dislocation associated with the estate tax that it raises a significant amount of revenue or accomplishes a redistributionist social policy. In fact, the revenue from the estate tax is quite modest—approximately one percent of federal revenue or $14.7 billion in 1995. And as for social policy, the ability of the federal government to equalize wealth through the estate tax may be quite limited. A 1995 study published by the Rand Corporation found that for social purposes, the value of an estate tax revenue of 7.5 percent of their wealth is attributable to inheritance—the other 92.5 percent is from earnings.

America is a nation of tremendous economic opportunity. Success is determined principally through hard work and individual initiative. Our tax policy should focus on encouraging greater initiative rather than on attempts to limit inherited wealth.

The estate tax is a relic. It damages family businesses, harms the economy and constitutes double taxation. It is time for the estate tax to go.

By Mr. BINGAMAN:

S. 101. A bill to improve teacher quality, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

QUALITY TEACHERS FOR ALL ACT

Mr. BINGAMAN. Mr. President, today I am pleased to introduce a package of bills related to education for consideration in the reauthoriza-...
wishing to teach, including mid-career professionals and former military personnel. The bill also authorizes funds to support State efforts to increase the portability of teacher’s pensions, certification and years of experience so that teachers have greater mobility and school districts can fill vacant teaching positions with teachers who are fully-qualified. The funds may also be used for programs of support for new teachers to ensure that they are more likely to remain in the nation’s teaching force.

In order to make parents our partners in our efforts to raise teaching standards, this bill requires districts and schools to provide parents with information about the qualifications of their child’s teacher. These provisions build on legislation I authored that became part of the Higher Education Act of 1998 requiring a national report card on teacher training programs. The parental right to know provision in the National Dropout Prevention Quality Teachers for All Act will empower parents by informing them of the strengths and weaknesses of their children’s teachers, helping them to support the push for fully-qualified teachers.

The National Dropout Prevention Act is a bill designed to reduce the dropout rate in our nation’s schools through the use and dissemination of effective dropout prevention programs. While much progress has been made in encouraging all student to complete high school, the nation remains far from its goal of a 90 percent graduation rate for students, a goal that was to be attained in the year 2000. In fact, none of the states with large and diverse populations have yet come close to this goal and dropout rates approaching 50 percent between ninth grade and the senior year are commonplace in some of the most disadvantaged of our nation’s communities. This bill is based on many of the successes of the National Hispanic Dropout Project, a group of nationally recognized experts assembled in 1996-97 to help find ways of reducing the high dropout rates among Hispanic and other at-risk students. The group pointed out that there are widespread misconceptions about why so many student drop out of school and that there is little familiarity with proven drop out prevention programs. Most problematic is the fact that there is currently little federal support to provide or coordinate effective and proven dropout prevention programs or oversee the multitude of programs that include dropout prevention as a component.

The Act makes lowering the dropout rate a national priority. A national clearinghouse on effective school drop out prevention, intervention and re-entry programs would be created and efforts to prevent students from dropping out would be identified and disseminated. This bill also provides for support and recognition for schools engaged in effective dropout prevention efforts. In addition, this bill provides funds to pay the startup and implementation costs of effective, sustainable, coordinated and whole school dropout prevention programs. Funds can be used to implement comprehensive school wide reforms, create alternative school programs and create teaching communities. In addition, grant recipients could contract with community-based organizations to assist them in implementing necessary services.

The Access to High Standards Act is intended to help foster the continued growth of advanced placement programs throughout the nation and to help ensure equal access to these programs for low income students. Advanced placement programs already provide rigorous academics and valuable college credits at half the high schools in the United States, serving over 1.5 million students last year. Many states that have advanced placement incentive programs have already found success in increasing participation rates, raising achievement and increasing the involvement of low-income and under served students. Nevertheless, students, especially low-income students, continue to be denied or have limited access to this important educational resource. Over forty percent of our nation’s public schools still do not offer any Advanced Placement courses. As many of my colleagues know, college costs have risen many times faster than inflation over the last decade, making it difficult for many students to afford the high costs of obtaining a college education. Advanced placement programs address this issue by giving students an opportunity to earn college credit in high school by preparing for and passing AP exams. In fact, a single AP English test score of 3 or better is worth approximately $500 in tuition at the University of New Mexico and the credits granted to AP students nationwide are billions of dollars in savings each year.

By promoting AP courses, we also address the need to raise academic standards. AP courses provide schools with high academic standards and standardized achievement measures. Participating in AP courses helps student prepare for college as they serve to connect curriculum between high school and post secondary institutions. And, because the vast majority of AP teachers are those who provide instructional assistance as well, AP programs have the effect of raising school wide standards and achievement. Of course, there is no single remedy or federal program that can hope to address all of the issues that public education must face in order to improve the achievement of our students. However, I believe that high college costs and low academic standards deserve our close attention and I am confident that expansion of advanced placement programs will help states address these issues effectively.

In order to ensure that our children are well-prepared to meet the challenges of an increasingly complex and challenging world, it is critical to address improving our nation’s school with a comprehensive effort. The bills I introduce today are designed to build on the progress we have made in the past few years to raise standards and increase achievement in America’s schools. I ask unanimous consent to have the bills printed in the record at the conclusion of my remarks. I urge my colleagues to carefully consider supporting passage of these bills as there being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 101
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 “Quality Teachers for All Act.”

TITLE I—PARENTAL RIGHTS
SEC. 101. PARENTAL RIGHT TO KNOW.
Part E of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2802 et seq.) is amended by adding at the end the following:

“SEC. 14515. TEACHER QUALIFICATIONS.
“Any public elementary school or secondary school that receives funds under this Act shall provide to the parents of each student enrolled in the school information regarding—

(1) the professional qualifications of each of the student’s teachers, both generally and with respect to the subject area in which the teacher provides instruction; and

(2) the minimum professional qualifications required by the State for teacher certification or licensure.”

TITLE II—TEACHER QUALITY
SEC. 201. TEACHER QUALITY.
(a) In general.—Section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311) is amended—

(1) by redesignating subsections (c) through (g) as subsections (f) through (j), respectively; and

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

“(c) TEACHER QUALITY.—

“(1) STATE STANDARDS AND POLICIES.—Each State plan shall contain assurances, with respect to schools served under this part, that—

“(A) no student in those schools in the State will be taught for more than 2 consecutive years by an elementary school teacher, or for more than 2 consecutive years in the same subject by a secondary school teacher, who has not demonstrated the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the subject in which the teacher provides instruction;

“(B) the State provides incentives for teachers in those schools to pursue and achieve advanced teaching and subject area content standards;

“(C) the State has in place effective mechanisms to ensure that local educational agencies and schools served under this part are able—

“(i) to recruit effectively fully qualified teachers;

“(ii) to reward financially those teachers and principals whose students have made significant progress toward high academic performance, such as performance-based compensation systems and access to ongoing professional development opportunities for teachers and administrators; and

“(iii) to remove expeditiously incompetent or unqualified teachers consistent with procedures to ensure due process for teachers;
“(D) the State aggressively helps those schools, particularly in high need areas, recruit and retain fully qualified teachers;

(E) during the period that begins on the date of enactment of the Quality Teachers for All Act and ends 4 years after such date, elementary school and secondary school teachers in those schools will be at least as well qualified, in terms of experience and credentials, as the instructional staff in schools served by the same local educational agency that are not schools served under this part;

(F) any teacher who meets the standards set by the National Board for Professional Teaching Standards will be considered fully qualified to teach in those schools in any school district or community in the State.

‘‘(2) Qualifications of Certain Instructional Staff.—

‘‘(A) in general.—Each State plan shall contain assurances that, not later than 4 years after the date of enactment of the Quality Teachers for All Act—

‘‘(i) all instructional staff who provide services to students under section 1114 or 1115 will have demonstrated the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the subject in which the staff provides instruction, according to the criteria described in this section;

‘‘(ii) funds provided under this part will not be used to support instructional staff—

‘‘(I) whose additional duties to students under section 1114 or 1115; and

‘‘(II) for whom State qualification or licensing requirements have been waived or who are teaching under an emergency or other provisional credential.

‘‘(B) Elementary School Instructional Staff.—For purposes of making the demonstration described in subparagraph (A)(i), each member of the instructional staff who teaches elementary school students shall, at a minimum—

‘‘(i) have State certification (which may include certification obtained through alternative means) or a State license to teach; and

‘‘(ii) hold a bachelor’s degree and demonstrate subject matter knowledge, teaching knowledge, and teaching skill required to teach effectively in reading, writing, mathematics, science, and other elements of a liberal arts education.

‘‘(C) Middle School and Secondary School Instructional Staff.—In order to meet the demonstration described in subparagraph (A)(i), each member of the instructional staff who teaches in middle schools and secondary schools shall, at a minimum—

‘‘(i) have State certification (which may include certification obtained through alternative means) or a State license to teach; and

‘‘(ii) hold a bachelor’s degree or higher degree and demonstrate a high level of competence in all subject areas in which the staff member teaches through—

‘‘(I) achievement of a high level of performance on rigorous academic subject area tests;

‘‘(II) completion of an academic major (or courses totaling an equivalent number of credit hours) in each of the subject areas in which the staff member provides instruction; or

‘‘(III) achievement of a high level of performance in relevant subject areas through other professional employment experience.

‘‘(D) Special Education Aides and Other Paraprofessionals.—For purposes of subparagraph (A) funds provided under this part may be used to employ teacher aides or other paraprofessionals who do not meet the qualifications and licensing requirements under subparagraphs (B) and (C) only if such aides or paraprofessionals—

‘‘(i) provide instruction only when under the direct and immediate supervision, and in the immediate presence, of instructional staff who meet the criteria of this paragraph; and

‘‘(ii) possess particular skills necessary to assist instructional staff in providing services to students served under this Act.

‘‘(E) Instructional Staff Plan.—Each State plan shall contain assurances that, beginning on the date of enactment of the Quality Teachers for All Act, no school served under this part will use funds received under this Act to hire instructional staff who do not fully meet all the criteria for instructional staff described in this paragraph.

‘‘(F) Definition.—In this paragraph, the term ‘instructional staff’ includes any individual who has responsibility for providing any student or group of students with instruction in any of the core academic subject areas, including reading, writing, language arts, mathematics, science, and social studies.

‘‘(3) Assistance by State Educational Agency.—Each State plan shall describe how the State educational agency will help each local educational agency and school in the State develop and comply with the requirements of this section.

‘‘(4) Corrective Action.—The appropriate State educational agency shall take corrective action (as defined in section 1116(c)(5)(B)(i)) against any local educational agency that does not make sufficient effort to comply with subsection (c). Such corrective action shall be taken regardless of the conditions set forth in section 1116(c)(5)(B)(ii). In a case in which the State fails to take the corrective action, the Secretary shall withhold funds from the State, up to an amount equal to that reserved under section 1116(a) and 1116(c).

‘‘(B) Instructional Aides.—Section 1119 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6320) is amended by striking subsection (1).

SEC. 102. FULLY QUALIFIED TEACHER IN EVERY CLASSROOM.

Title I of the Elementary and Secondary Education Act of 1965 is amended by inserting after section 1119 (20 U.S.C. 6320) the following new section—

‘‘SEC. 1119A. A FULLY QUALIFIED TEACHER IN EVERY CLASSROOM.

‘‘(a) Grants.—

‘‘(1) In general.—The Secretary may make grants, on a competitive basis, to States or local educational agencies, to assist schools that receive assistance under this part by carrying out the activities described in paragraph (3).

‘‘(2) Application.—To be eligible to receive a grant under paragraph (1), a State or local educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

‘‘(3) Uses.—

‘‘(A) States.—In order to meet the goal under section 1111(c)(2) of ensuring that all instructional staff in schools served under this part have the subject matter knowledge, teaching knowledge, and teaching skill necessary to teach effectively in the subject in which the staff provides instruction, a State may use funds received under this section—

‘‘(i) to collaborate with programs that recruit, place, and train fully qualified teachers; and

‘‘(ii) to provide the necessary education and training, including establishing continuing education programs and paying the costs of tuition at an institution of higher education, for paraprofessionals, and programs that meet the criteria under section 203(b)(2)(A)(i) of the Higher Education Act of 1965 (20 U.S.C. 1023(b)(2)(A)(i)), to help teachers or other school personnel who do not meet the necessary qualifications and licensing requirements to meet the requirements, in order to quality for a payment of tuition or fees under this clause an individual shall agree to teach for each of at least 2 subsequent academic years after receiving assistance under this title. 

‘‘(B) Local Education Agencies.—In order to meet the goal described in paragraph (A), a local educational agency may use funds received under this section—

‘‘(i) to recruit fully qualified teachers, including through the use of signing bonuses or other financial incentives; and

‘‘(ii) to carry out the activities described in clauses (1), (ii), and (v) of subparagraph (A).

‘‘(4) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $1,000,000 for fiscal year 2002 and such sums as may be necessary for each subsequent fiscal year.

‘‘B. Other Assistance.—Notwithstanding any other provision of law, in order to meet the goal described in subsection (a)(3)(A)—

‘‘(A) a State receiving assistance under title II, title VI, title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.), or the Goals 2000: Educate America Act (20 U.S.C. 5801 et seq.) may use such assistance for the activities described in subsection (a)(3)(A); and

‘‘(B) a local educational agency receiving assistance under an authority described in paragraph (1) may use such funds for the activities described in subsection (a)(3)(B).

‘‘SEC. 1119B. CERTIFICATION GRANTS.

(a) Grants.—The Secretary may make grants to State educational agencies, local educational agencies, or schools that receive assistance under this part to pay for the costs of tuition or fees under this title. 

‘‘(B) Application.—To be eligible to receive a grant under this section an agency or school shall submit an application to the Secretary, which application shall contain such information as the Secretary may require.
"(c) Eligible Teachers.—To be eligible to receive financial assistance under subsection (a), a teacher shall obtain the certification described in subsection (a)".

"(d) Authorization of Appropriations.—

There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2002 and such sums as may be necessary for each subsequent fiscal year:"

SEC. 14516. PROHIBITION REGARDING PROFESSIONAL DEVELOPMENT SERVICES.

"None of the funds provided under this Act may be used for any professional development services for a teacher that are not directly related to the curriculum and subjects in which the teacher provides or will provide instruction."

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

S. 102. A bill to provide assistance to address school dropout problems; to the Committee on Health, Education, Labor, and Pensions.

DROPOUT PREVENTION LEGISLATION

Mr. BINGAMAN. 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. 102

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

SECTION 1. ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS.

Part D of title I of the Elementary and Secondary Education Act of 1965, as amended in section 101, is further amended by adding at the end the following:

"Subpart 4—Assistance to Address School Dropout Problems"

SEC. 1441. SHORT TITLE.

"This subpart may be cited as the 'Dropout Prevention Act'."

SEC. 1441A. PURPOSE.

"The purpose of this subpart is to provide for school dropout prevention and reentry and to raise academic achievement levels by providing grants, to schools through State educational agencies, that:

"(1) challenge all children to attain their highest academic potential; and

"(2) ensure that all students have substantial and ongoing opportunities to do so through schoolwide programs proven effective in school dropout prevention.

Chapter 1—Coordinated National Strategy

SEC. 1451. NATIONAL ACTIVITIES.

"(a) In General.—The Secretary is authorized—

"(1) to collect systematic data on the participation in the programs described in paragraph (1) of individuals disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged;

"(2) to establish and to consult with an interagency working group which shall—

"(A) address inter- and intra-agency program coordination issues at the Federal level with respect to school dropout prevention and middle school and secondary school reform; and

"(B) describe the ways in which State and local agencies can implement effective dropout prevention programs using funds from a variety of Federal programs, including the programs under title I and the School-to-Work Opportunities Act of 1994; and

"(C) address all Federal programs with school dropout prevention or school reentry elements or objectives, programs under title I of this Act, the School-to-Work Opportunities Act of 1994, subtitle C of title I of the Workforce Investment Act of 1998, and other programs; and

"(D) carry out a national recognition program in accordance with subsection (b) that recognizes schools that have made extraordinary progress in lowering school dropout rates under which a public middle school or secondary school from each State will be recognized.

"(b) Reconciliation Program.—

"(1) National Guidelines.—The Secretary shall develop uniform national guidelines for the recognition programs which shall be used to recognize schools from nominations submitted by State educational agencies.

"(2) Eligible Schools.—The Secretary may recognize any school participating in any public middle school or secondary school (including a charter school) that has implemented comprehensive reforms regarding the lowering of school dropout rates for all students at that school.

"(3) Support.—The Secretary may make monetary awards to schools recognized under this recognition program in amounts determined by the Secretary. Amounts received under this section shall be used for dissemination activities within the school district or nationally.

"(c) Capacity Building.—

"(1) In General.—The Secretary, through a contract with a non-Federal entity, may conduct a capacity building and design initiative in order to increase the types of prevention and reentry strategies being implemented.

"(2) Definition of Eligible Entity.—In this subsection, the term 'eligible entity' means an entity that, prior to the date of enactment of this Act—

"(A) provided training, technical assistance, and materials to 100 or more elementary schools or secondary schools; and

"(B) developed and published a specific educational program or design for use by the schools.

"(d) DURATION.—A grant under this chapter shall be awarded for a period of 3 years, and

"(e) Authorization of Appropriations.—

"There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2002 and such sums as may be necessary for each subsequent fiscal year:"

SEC. 1461. PROGRAM AUTHORIZED.

"(a) Grants.—

"(1) Discretionary Grants.—If the sum appropriated under section 1472 for a fiscal year is less than $250,000,000, then the Secretary shall use such sum to award grants, in accordance with the eligibility criteria, to State educational agencies to enable the State educational agencies to award grants under subsection (b).

"(2) Formula.—If the sum appropriated under section 1472 for a fiscal year equals or exceeds $250,000,000, then the Secretary shall use such sum to make an allotment to each State in an amount that bears the same ratio to the sum as the amount the State received under part A of title I for the preceding fiscal year bears to the amount received by all States under such part for the preceding fiscal year.

"(3) Definition of State.—In this chapter, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(b) Grants.—From amounts made available to a State under subsection (a), the State educational agency may award grants to or through local educational agencies to enable the public middle schools or secondary schools that serve students in grades 6 through 12, that have school dropout rates which are the highest of all school dropout rates in the State, to enable the schools to pay only the startup and implementation costs of effective, sustainable, coordinated, and whole school dropout prevention programs that involve activities such as—

"(1) professional development;

"(2) obtaining curricular materials;

"(3) release time for professional staff;

"(4) planning and research;

"(5) remedial education;

"(6) reduction in pupil-to-teacher ratios;

"(7) efforts to meet State student achievement standards;

"(8) counseling and mentoring for at-risk students; and

"(9) comprehensive school reform models.

"(c) Amount.—

"(1) In General.—Subject to subsection (d) and except as provided in paragraph (2), a grant under this chapter shall be awarded—

"(A) in the first year that a school receives a grant payment under this chapter, based on factors such as—

"(i) school size;

"(ii) costs of the model or set of prevention and reentry strategies being implemented; and

"(iii) local cost factors such as poverty rates;

"(B) in the second such year, in an amount that is not less than 75 percent of the amount the school received under this chapter in the first such year;

"(C) in the third year, in an amount that is not less than 50 percent of the amount the school received under this chapter in the first such year; and

"(D) in each succeeding year in an amount that is not less than 30 percent of the amount the school received under this chapter in the first such year.

"(2) Increases.—The Secretary shall increase the amount under this chapter by 10 percent if the school creates smaller learning communities within the school and the creation is certified by the State educational agency.

"(3) DURATION.—A grant under this chapter shall be awarded for a period of 3 years, and
SEC. 1462. STRATEGIES AND CAPACITY BUILDING.

Each school receiving a grant under this chapter shall implement research-based, sustainable, and widely replicated, strategies for school dropout prevention and reentry that are appropriate for the student population served by the school and that are focused on the education needs of an entire school population rather than a subset of students. The strategies may include—

(1) specific strategies for targeted purposes, such as effective early intervention programs designed to identify at-risk students, effective programs encompassing traditionally underserved students, including racial and ethnic minorities and pregnant and parenting teenagers, designed to prevent such students from dropping out of school, and effective programs to identify and encourage youth who have already dropped out of school to reenter school and complete their secondary education; and

(2) efforts, as breaking larger schools down into smaller learning communities and other comprehensive reform approaches, creating alternative school programs, linking students to their skills and employment, and addressing specific gatekeeper hurdles that only limit student retention and academic success.

SEC. 1463. SELECTION OF SCHOOLS.

(a) SCHOOL APPLICATION.

(1) IN GENERAL.—Each school desiring a grant under this chapter shall submit an application to the State educational agency, at such time, in such manner, and accompanied by such information as the State educational agency, such as effective early intervention programs designed to identify at-risk students, effective programs encompassing traditionally underserved students, including racial and ethnic minorities and pregnant and parenting teenagers, designed to prevent such students from dropping out of school, and effective programs to identify and encourage youth who have already dropped out of school to reenter school and complete their secondary education; and

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(1) contain a certification from the local educational agency serving the school that—

(i) the school has the highest number or rates of school dropouts in the age group served by the local educational agency;

(ii) the school has demonstrated an effective ability to use the funds under this chapter, including providing an assurance of the support of 80 percent or more of the professionals at the school; and

(iii) the local educational agency will support the plan, including—

(A) release time for teacher training;

(B) efforts to coordinate activities or feeder schools; and

(C) describing the instructional strategies to be implemented, how the strategies will serve all students, and the effectiveness of the strategies at the school;

(D) describe a budget and timeline for implementing the strategies;

(E) contain evidence of coordination with existing resources; and

(F) provide an assurance that funds provided under this chapter will supplement and not supplant other Federal, State, and local funds.

(G) describe how the activities to be assisted conform with research-based knowledge about school dropout prevention and reentry; and

(H) demonstrate that the school and local educational agency have agreed to conduct a schoolwide program under section 1466.

(b) STATE AGENCY REVIEW AND AWARD.

The State educational agency shall review applications and award grants to schools following a review by a panel of experts on school dropout prevention.

(c) ELIGIBILITY.—A school is eligible to receive a grant under this chapter if the school is—

(1) a public school (including a public alternative school); and

(2) that serves students 50 percent or more of whom are low-income individuals; or

(3) the community-based organization has evidence of coordination with the school, including presentations, document-sharing, and joint staff development regarding school dropout rates in the State disaggregated in the same manner as information under section 1451(a), according to procedures that conform with the National Center for Education Statistics’ Common Core of Data.

(d) COMMUNITY-BASED ORGANIZATIONS.—A school to which this chapter may use the grant funds to secure necessary services from a community-based organization, including private sector entities, if—

(1) the school approves the use;

(2) the funds are used to provide school dropout prevention and reentry activities related to school dropout;

(3) the community-based organization has demonstrated the organization’s ability to provide effective services as described in section 122 of the Workforce Investment Act of 1998.

(e) COORDINATION.—Each school that receives a grant under this chapter shall coordinate the activities assisted under this chapter with other Federal programs, such as programs assisted under chapter 1 of section 114 during the grant period.

(f) ADDITIONAL OFFERINGS.

Each school that receives a grant under this chapter shall provide information and technical assistance to other schools within the school district, including presentations, document-sharing, and joint staff development.

SEC. 1464. DISSEMINATION ACTIVITIES.

Each school that receives a grant under this chapter shall coordinate the activities assisted under this chapter with Federal programs, such as programs assisted under chapter 1 of part A of title IV of the Higher Education Act of 1965 and the School-to-Work Opportunities Act of 1994.

SEC. 1465. PROGRESS INCENTIVES.

Notwithstanding any other provision of law, each local educational agency that receives funds under title I shall use such funding to provide assistance to schools served by the agency that have not made progress toward lowering school dropout rates after receiving assistance under this chapter for 2 fiscal years.

SEC. 1466. SCHOOL DROPOUT RATE CALCULATION.

For purposes of calculating a school dropout rate under this chapter, a school shall use—

(1) the annual event school dropout rate for students leaving a school in a single year under subsection (a) according to a review by the National Center for Education Statistics’ Common Core of Data, if available; or

(2) in other cases, a standard method for calculating the school dropout rate as determined by the State educational agency.

SEC. 1467. REPORTING AND ACCOUNTABILITY.

(a) REPORTING.—In order to receive funding under this chapter, a school shall provide, on an annual basis, to the Secretary and the State educational agency a report regarding the status of the implementation of activities funded under this chapter, the outcome data for students at schools assisted under this chapter disaggregated in the same manner as information under section 1451(a) (such as dropout rates, rates of participation of pregnant students, and rates of participation of students of color), and the effectiveness of the strategies the school is implementing.

(b) ACCOUNTABILITY.—On the basis of the report submitted under subsection (a), the Secretary shall evaluate the effect of the activities assisted under this chapter on school dropout prevention compared to a control group.

SEC. 1468. STATE RESPONSIBILITIES.

(a) UNIFORM DATA COLLECTION.—Within 1 year after the date of enactment of chapter 1 of this title, each State educational agency that receives funds under this chapter shall report to the Secretary and state wide, all school district and school data regarding school dropout rates in the State disaggregated in the same manner as information under section 1451(a), according to procedures that conform with the National Center for Education Statistics’ Common Core of Data.

(b) ATTENDANCE-NEUTRAL FUNDING POLICIES.—Within 2 years after the date of enactment of the Dropout Prevention Act, a State educational agency that receives funds under this chapter shall report to the Secretary and implement education funding formulas that provide public schools that provide appropriate incentives to retain students in school throughout the school year, such as—

(1) a student count methodology that does not determine annual budgets based on attendance on a single day early in the academic year; and

(2) specific incentives for retaining enrolled students throughout the year.

(c) SUSPENSION AND EXPULSION POLICIES.—Within 2 years after the date of enactment of the Dropout Prevention Act, a State educational agency that receives funds under this chapter shall develop uniform, long-term suspension and expulsion policies that, in the case of a student disability, are consistent with the suspension and expulsion policies under the Individuals with Disabilities Education Act and regulations thereunder.

(d) REGULATIONS.—The Secretary shall promulgate regulations implementing subsections (a) through (c).

Chapter 3—Definitions; Authorization of Appropriations

SEC. 1471. DEFINITIONS.

In this subpart:

(1) Low-income.—The term ‘low-income’, unless with respect to an individual, means an individual determined to be low-income in accordance with measures described in section 1112(a)(5).

(2) Fiscal year.—The term ‘fiscal year’ has the meaning given the term in section 4(b)(1) of the State to Work Opportunities Act of 1994.

SEC. 1472. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subpart, $250,000,000 for fiscal years 2001 and 2002, and $100,000,000 for fiscal year 2003, to remain available until expended.

Mr. BINGAMAN (for himself, Mrs. Hutchison, and Ms. Collins):
S. 103. A bill to provide for advanced placement programs; to the Committee on Health, Education, Labor, and Pensions.

ADVANCED PLACEMENT PROGRAMS

Mr. BINGAMAN. 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:

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

SECTION 1. ADVANCED PLACEMENT PROGRAMS.

Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.) is amended by adding at the end the following:

PART I—ADVANCED PLACEMENT PROGRAMS

SEC. 10995A. SHORT TITLE.

‘‘This part may be cited as the ‘Access to High Standards Act.’”

SEC. 10995B. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) far too many students are not being provided sufficient academic preparation in secondary school, which results in limited employment opportunities, college dropout rates of over 25 percent for the first year of college, and remediation for almost one-third of college freshmen;

(2) there is a growing consensus that raising academic standards, establishing high academic expectations, and showing concrete results are at the core of improving public education;

(3) modeling academic standards on the well-known program of advanced placement courses is that many education leaders and almost half of all States have endorsed;

(4) advanced placement programs already are providing 30 different college-level courses, serving almost 60 percent of all secondary schools, reaching over 1,000,000 students (of whom 80 percent attend public schools, 55 percent are females, and 30 percent are minorities), and providing test scores that are accepted for college credit at over 3,000 colleges and universities, every university in France, and almost all institutions in Canada and the United Kingdom;

(5) States are now funding programs to increase participation in advanced placement programs, including 19 States that provide funds for advanced placement teacher professional development, 3 States that require that all public secondary schools offer advanced placement courses, 10 States that pay the fees for advanced placement tests for some or all students, and 4 States that require that their public universities grant uniform academic credit for scores of 3 or better on advanced placement tests; and

(6) the State programs described in this paragraph have shown the responsiveness of schools and students to such programs, raised the academic standards for both students participating in such programs and other children taught by teachers who are involved in advanced placement courses, and shown tremendous success in increasing enrollment, participation, and minority participation in advanced placement programs.

(b) PURPOSES.—The purposes of this part are—

(1) to encourage more of the 600,000 students who take advanced placement courses but do not take advanced placement exams each year to demonstrate their achievements through participation in advanced placement programs,

(2) to build on the many benefits of advanced placement programs for students, which benefits may include the acquisition of skills that are important to many employers, Scholastic Aptitude Tests (SAT) scores that are 100 points above the national averages, and the grades of students in secondary school and in college than the grades of students who have not participated in the programs;

(3) to support State and local efforts to raise academic standards through advanced placement programs, and thus further increase the number of students who participate and succeed in advanced placement programs;

(4) to increase the availability and breadth of the range of schools that offer advanced placement programs, which programs are still often distributed unevenly among regions, States, and even secondary schools within the same school district, while also increasing and diversifying student participation in the programs;

(5) to build on the State programs described in subsection (a)(6) and demonstrate that larger and more diverse groups of students can participate and succeed in advanced placement programs;

(b) to provide greater access to advanced placement courses for low-income and other disadvantaged students;

(7) to provide access to advanced placement courses for secondary school juniors and seniors who participate in advanced placement programs, which programs are still often distributed unevenly among regions, States, and even secondary schools within the same school district, while also increasing and diversifying student participation in the programs;

(8) to provide access to advanced placement placement courses for low-income and other disadvantaged students;

(9) to provide greater access to advanced placement courses for low-income and other disadvantaged students;

(10) to build on the State programs described in subsection (a)(6) and demonstrate that larger and more diverse groups of students can participate and succeed in advanced placement programs;

(c) AUTHORIZED ACTIVITIES.—An eligible entity may use grant funds under this section to expand access for low-income individuals to advanced placement incentive programs that involve—

(1) teacher training;

(2) preadvanced placement course development;

(3) curriculum coordination and articulation between grade levels that prepare students for advanced placement courses;

(4) curriculum development;

(5) books and supplies; and

(6) any other activity directly related to expanding access to advanced placement courses and expanding advanced placement incentive programs in advanced placement programs.

SEC. 10995C. FUNDING DISTRIBUTION RULE.

(a) GRANTS AUTHORIZED.—

(1) GRANTS AUTHORIZED.—From amounts appropriated under section 10995H for a fiscal year, the Secretary shall award first priority to funding activities under section 10995F, and shall distribute any remaining funds not so applied according to the following ratio:

(i) Seventy percent of the remaining funds shall be available to carry out section 10995D.

(ii) Thirty percent of the remaining funds shall be available to carry out section 10995E.

(b) DURATION AND PAYMENTS.—

(A) DURATION.—The Secretary shall award a grant under this section for a period of years.

(B) PAYMENTS.—The Secretary shall make grant payments under this section on an annual basis.

(c) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ‘‘eligible entity’’ means—

(1) a State educational agency, or a local educational agency, or an eligible entity that is a State educational agency participating in the authorized activities described in subsection (c).

(d) DURATION AND PAYMENTS.—

(A) DURATION.—The Secretary shall award a grant under this section for a period of years.

(B) PAYMENTS.—The Secretary shall make grant payments under this section on an annual basis.

(2) to provide greater access to advanced placement courses for low-income and other disadvantaged students;

(3) the availability of matching funds from State or local sources to pay for the cost of activities to be assisted;

(4) a focus on developing or expanding advanced placement programs and participation in the core academic areas of English, mathematics, and science; and

(5) in the case of an eligible entity that is a State educational agency, the State educational agency carries out programs in the State that target—

(i) local educational agencies serving schools with a high concentration of low-income students;

(ii) schools with a high concentration of low-income students;

(B) in the case of an eligible entity that is a local educational agency, the local educational agency serves schools with a high concentration of low-income students;

(c) AUTHORIZED ACTIVITIES.—An eligible entity may use grant funds under this section to expand access for low-income individuals to advanced placement incentive programs that involve—

(1) teacher training;

(2) preadvanced placement course development;

(3) curriculum coordination and articulation between grade levels that prepare students for advanced placement courses;

(4) curriculum development;

(5) books and supplies; and

(6) any other activity directly related to expanding access to advanced placement courses in advanced placement incentive programs particularly for low-income individuals.

(d) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(e) DATA COLLECTION AND REPORTING.—

(1) DATA COLLECTION.—Each eligible entity receiving a grant under this section shall annually report to the Secretary—

(A) the number of students taking advanced placement courses who are served by the eligible entity;

(B) the number of advanced placement exams taken by students served by the eligible entity;

(C) the scores on the advanced placement exams; and

(e) demographic information regarding individuals taking the advanced placement courses and tests disaggregated by race, ethnicity, sex, English proficiency status, and socioeconomic status.

(f) REPORT.—The Secretary shall annually compile the information received from each eligible entity under paragraph (1) and report to Congress regarding the information.

SEC. 10995E. ONLINE ADVANCED PLACEMENT COURSES.

(a) GRANTS AUTHORIZED.—From amounts appropriated under section 10995H and made available under section 10995C(2) for a fiscal year, the Secretary shall award grants to eligible entities to enable such agencies to award grants to local educational agencies to provide students with online advanced placement courses.

(b) STATE EDUCATIONAL AGENCY APPLICANTS.—

(1) APPLICATION REQUIRED.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(2) AWARD BASIS.—The Secretary shall award grants under this section on a competitive basis.

(c) GRANTS AUTHORIZED.—From amounts appropriated under section 10995H and made available under section 10995C(2) for a fiscal year, the Secretary shall award grants to such educational agencies grant funds to local educational agencies to provide students with online advanced placement courses.

(d) STATE EDUCATIONAL AGENCY APPLICANTS.—

(1) APPLICATION REQUIRED.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(2) AWARD BASIS.—The Secretary shall award grants under this section on a competitive basis.
award grants to local educational agencies within the State to carry out activities described in subsection (e). In awarding grants under this subsection, the State educational agency shall give priority to local educational agencies that—

(1) serve high concentrations of low-income students;

(2) serve rural areas; and

(3) the State educational agency determines will not have access to online advanced placement courses, including testing, or be able to pay for advance placement test fees without assistance provided under this section.

(d) Contracts.—A local educational agency desiring a grant under this section may enter into a contract with a nonprofit or for-profit organization to provide the online advanced placement courses, including testing, as needed by the educational agency.

(e) Uses.—Grant funds provided under this section may be used to purchase the online course enrollment fee for low-income students.

SEC. 10995F. ADVANCED PLACEMENT INCENTIVE PROGRAM

(a) Grants Authorized.—From amounts appropriated under section 10996H and made available under section 10996C for a fiscal year, the Secretary shall award grants to State educational agencies having applications approved under subsection (c) of this section to the State educational agencies to reimburse low-income individuals to cover part or all of the costs of advanced placement test fees, if the local educational agencies—

(1) are enrolled in an advanced placement class; and

(2) plan to take an advanced placement test.

(b) Award Basis.—In determining the amount of the grant awarded to each State educational agency under this section for a fiscal year, the Secretary shall consider the number of students eligible to be counted under section 1124(e) in the State in relation to the number of such students as counted in all the States.

(c) Information Dissemination.—A State educational agency shall disseminate information regarding the availability of advanced placement test fee payments under this section to eligible individuals through secondary school counselors.

(d) Applications.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary for the purposes of this section.

(e) Additional Uses of Funds.—If each eligible low-income individual in a State pays not more than a nominal fee to take the advanced placement test in a core subject, then a State educational agency may use grant funds made available under this section that remain after advanced placement test fees have been paid on behalf of all eligible low-income individuals in the State, for activities directly related to increasing the participation of low-income individuals in advanced placement courses;

(2) the participation of low-income individuals in advanced placement courses; and

(3) the availability of advanced placement courses in schools serving high-poverty areas.

(f) Supplement, Not Supplant.—Grant funds provided under this section shall supplement, not supplant, other non-federal funds that are available to assist low-income individuals in paying for the cost of advanced placement test fees.

(g) Regulations.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

(h) Report.—Each State educational agency annually shall report to the Secretary information regarding—

(1) the number of low-income individuals in the State who received assistance under this section; and

(2) any activities carried out pursuant to this section.

SEC. 10995G. DEFINITIONS.

In this part:

(1) Advanced Placement Test.—The term 'advanced placement test' includes only an advanced placement test approved by the Secretary for the purposes of this section.

(2) Low-Income Individual.—The term 'low-income individual' has the meaning given the term in section 402A(g)(2) of the Higher Education Act of 1965.

(3) Additional Uses of Funds.—In this part:

(1) Advanced Placement Incentive Program.—The term ‘advanced placement incentive program’ includes any program that provides advanced placement activities and services to low-income individuals.

(2) Advanced Placement Test.—The term 'advanced placement test' means an advanced placement test approved by the College Board or approved by the Secretary.

(3) Information Dissemination.—The term “information dissemination” means the dissemination of information to local educational agencies desiring a grant under this part, for purposes of section 10995F, a low-income individual (as defined in section 402A(g)(2) of the Higher Education Act of 1965 who is academically prepared to take successfully an advanced placement test as determined by a school teacher or advanced placement coordinator taking into consideration factors such as the determination is made under section 1124(c)(2).

(4) Low-Income Individual.—The term ‘low-income individual’ means an individual—

(a) who resides in a State having the meaning given the term in section 1124(c)(2) of the Higher Education Act of 1965;

(b) who is accepted into a postsecondary education program; and

(c) who is at least a high school junior.

(5) Institution of Higher Education.—The term ‘institution of higher education’ has the meaning given in section 101(a) of the Higher Education Act of 1965.

(6) State.—The term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

SEC. 10995H. AUTHORIZATION OF APPROPRIATIONS

For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for each of the four succeeding fiscal years.

By Ms. SNOWE (for herself, Mr. REID, Mr. WARNER, Ms. MIKULSKY, Ms. SPECTER, Mrs. MURRAY, Ms. COLINS, Mr. JOHNSON, Mr. WELLSTONE, Mr. LEAHY, Mr. KERRY, Mr. DURBIN, Mr. INOUYE, Mr. AKAKA, Mr. SARBANES, Mr. SCHUMER, Mr. HARKIN, Mrs. CLINTON, and Mr. CORZINE):

S. 104. A bill to require equitable coverage of prescription contraceptives and devices, and contraceptive services under health plans; to amend title XIX of the Social Security Act to extend such coverage to contraceptive services for women in the District of Columbia; and for other purposes.

EQUITABLE COVERAGE UNDER HEALTH PLANS

Mr. REID. Mr. President, I am proud to introduce today with Senator SNOWE, the Equity in Prescription and Contraception Coverage Act of 2001 (EPICC).

Our legislation would require insurers, HMOs and employee health benefit plans that offer prescription drug benefits to cover contraceptives and devices approved by the FDA. Further, it would require these insurers to cover outpatient contraceptive services if a plan covers other outpatient services. Lastly, it would prohibit the imposition of copays and limitations on prescription contraceptives or outpatient services that are greater than those for other prescription drugs.

Our bill gives Americans on both sides of the abortion debate the opportunity to join together in the common goal of preventing unintended pregnancies. I am pleased that we have support from both pro-life and pro-choice Senators for this bill.

We are introducing EPICC today—the first legislative day of the 107th Congress—because equity in prescription contraception coverage is long overdue. Senator SNOWE and I first introduced this bill in 1997. Since this time, the Viagra pill went on the market, and one month later was covered by most indemnity policies. Birth control pills, which have been on the market since 1960, are covered by only thirty-three percent of insurance plans.

Most recently, the U.S. Equal Employment Opportunity Commission (EEOC) issued a decision finding that an employer’s failure to include insurance coverage for contraceptives in an employee health benefits plan, when it covers other prescription drugs and devices, constitutes unlawful sex discrimination under Title VII of the Civil Rights Act of 1964.

The EEOC ruling is an important step toward ensuring that women have access to affordable contraceptives. At the same time, it highlights the importance of our legislation because title VII applies only to employers; it does not cover insurance providers. An estimated 16 million Americans obtain health insurance from private insurance other than employer-provided plans. Only the enactment of EPICC will ensure that contraceptive coverage is offered by insurance providers.

Our efforts have not been entirely without results. For the past three consecutive years, we have passed a provision in the Treasury-Postal Appropriations bill that requires Federal
health plans to cover prescription contraceptives. It is time to pass EPICC and extend this law to all Americans.

It is time to pass EPICC because EPICC is about equality for women. For all the advances women have made, they still earn 74 cents for every dollar a man makes and on top of that, they pay 68 percent more in out of pocket costs for health care than men. Reproductive health care services account for this 68 percent difference. You can be sure, if men had to pay for contraceptive drugs and devices, the insurance industry would cover them.

It is time to pass EPICC because the health industry has done a poor job of responding to women’s health needs. According to a study done by the Alan Guttmacher Institute, 49 percent of all large-group health care plans do not routinely cover any contraceptive methods, only 15 percent cover all five of the most common contraceptive methods. Women are forced to use disposable income to pay for family planning services not covered by their health insurance. The Pill— one of the most common birth control methods, can cost over $300 a year. Women who lack disposable income are forced to use less reliable methods of contraception.

It is time to pass EPICC because each year approximately 3 million pregnancies, or 50 percent of all pregnancies, in this country are unintended. Of these unintended pregnancies, about half end in abortion. Women who lack disposable income are routinely forced to use less reliable methods of contraception and the decision announced in December could be used by other women who seek coverage from their employers.

The Pregnancy Discrimination Act— and this EEOC decision—only reaches employer-sponsored insurance plans. The Equity in Prescription Insurance Contraceptive Coverage Act reaches all insurance plans, no matter the size, and includes individual insurance—not just employer-sponsored insurance plans.

It is time to pass EPICC because the EEOC’s decision provides a powerful impetus for action in Congress, and demonstrates the degree of concern that the court and the EEOC have with discriminatory prescription practices. The EEOC decision highlights the problem; I believe passage of our legislation in Congress is the solution.

Unfortunately, the lack of contraceptive coverage in health insurance is not news to most women. Countless American women have been shocked to learn that their insurance does not cover contraceptives, one of their most basic health care needs, even though other prescription drugs which are equally valuable to their lives are routinely covered. Less than half—49 percent—of all large-group health care plans cover any contraceptive method at all and only 15 percent cover the five most common reversible birth control methods. HMOs are more likely to cover contraceptives, but only 39 percent cover all five reversible methods. And ironically, 86 percent of large group plans, preferred provider organizations, and HMOs cover sterilization and blood pressure, weight loss medication and preventive dental care.

Another health plan—one that doesn’t cover these services—might not be in violation of the law. But most health plans cover similar services, and the decision announced in December could be used by other women who seek coverage from their employers.

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The Pregnancy Discrimination Act— and this EEOC decision—only reaches employer-sponsored insurance plans. The Equity in Prescription Insurance Contraceptive Coverage Act reaches all insurance plans, no matter the size, and includes individual insurance—not just employer-sponsored insurance plans.
And in conjunction with this, EPICC requires health plans which already cover basic health care services to also cover outpatient services related to prescription contraceptives.

The bill does not require insurance companies to cover prescription drugs. What the bill does say is that if insurers cover prescription drugs, they cannot carve prescription contraceptives out of their formularies. And it says that insurers which cover outpatient health care services to pay for contraception. It does not give contraceptive coverage to patients. But instead seeks to achieve contraceptive use.

This bill is good health policy. By helping families to adequately space their pregnancies, contraceptives contribute to healthy pregnancies and healthy births, reduce rates of maternal complications, and reduces the possibility of low-birthweight births.

Furthermore, the Equity in Prescription and Contraceptive Coverage Act makes good economic sense. We know that contraceptives are cost-effective: in the public sector, for every dollar invested in family planning, $4 to $14 is saved in health care and related costs. And all methods of reversible contraceptives are cost-effective when compared to the cost of unintended pregnancy. A sexually active women who uses no contraception costs the health care provider an average of $3,225 in a given year. The average costs of complicated vaginal delivery in 1993 was approximately $6,400, and for every 100 women who do not use contraceptives in a given year, 85 percent will become pregnant.

Why do insurance companies exclude prescription contraceptive coverage from their list of covered benefits—especially when they cover other prescription drugs? The tendency of insurance plans to cover sterilization and abortion reflects, in part, their long-standing desire to cover surgery and treatment over prevention. But insurers do not feel compelled to cover prescription contraceptives because they know that most women who lack contraceptive coverage will simply pay for them out of pocket. And in order to prevent an unintended pregnancy, a women needs to be on some from of birth control for almost 30 years of her life.

The Equity in Prescription Insurance and Contraceptive Coverage Act tells insurance companies that we can no longer tolerate policies that disadvantagte women and disadvantage our nation. When our bill is passed, women will finally be assured of equity in prescription drug coverage and health care services.

By Mr. FEINGOLD:

Mr. FEINGOLD. Mr. President, I rise today to offer a measure which will serve as a first step towards eliminating the inequalities borne by the dairy farmers of Wisconsin and the upper Midwest under the Federal Milk Marketing Order system.

The Federal Milk Marketing Order system, created nearly 60 years ago, established minimum prices for milk paid to producers throughout various marketing areas in the U.S. For sixty years, this system has discriminated against producers in the Upper Midwest by awarding a high price to dairy farmers in proportion to the distance of their farms from Eau Claire, Wisconsin.

This legislation is very simple. It identifies the single most harmful and unjust feature of the current system, and corrects it.

Under the current archaic law, the price for fluid milk increases depending on the distance from Eau Claire, Wisconsin, even though most milk marketing orders do not receive any milk from Wisconsin.

The bill I introduce today will prohibit the Secretary of Agriculture from basing minimum prices for Class I milk on the distance or transportation costs from any location that is not within a marketing area, except under certain circumstances, pursuant to the Committee on Agriculture, Nutrition, and Forestry.

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lower cost production area nor a primary source of reserve supplies of milk. In many of the markets with higher fluid milk differentials, milk is produced efficiently, and in some cases, at lower cost than the upper Midwest. Unfortunately, the prices didn’t adjust with changing economic conditions, most notably the shift of the dairy industry away from the Upper Midwest and towards the Southwest, specifically California, which now leads the nation in milk production.

Fluid milk prices should have been lowered to reflect that trend. Instead, in 1985, the prices were increased for markets distant from Eau Claire. USDA has refused to use the administrative authority provided by Congress to make the appropriate adjustments to reflect economic realities. They continue to stand behind single-basing-point pricing.

The result has been a decline in the Upper Midwest dairy industry, not because dairy farmers can’t produce a product that can compete in the market place, but because the system discriminates against them. Today, Wisconsin loses dairy farmers at a rate of more than 5 per day. The Upper Midwest, with the lowest fluid milk prices, is shrinking as a dairy region despite the dairy-friendly climate of the region. Other regions with higher fluid milk prices are growing rapidly.

In an unregulated market with a level playing field, these shifts in productivity reflect economic realities. But in a market where the government is setting the prices and providing that artificial advantage to regions outside the Upper Midwest, the current system is unconscionable.

I urge my colleagues to do the right thing and bring reform to this outdated system and work to eliminate the inequities in the current milk marketing order pricing system. 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. 105

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

SECTION 1. LOCATION ADJUSTMENTS FOR MINIMUM PRICES FOR CLASS 1 MILK.

Section 8c(3) of the Agricultural Adjustment Act of 1937, 7 U.S.C. 608c(3), entered into force on January 22, 1937, and has since been amended by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A)—

(A) clause (i) of the second sentence, by inserting after “the locations” the following: “within a marketing area subject to the order”; and

(B) by striking the last 2 sentences and inserting the following: “Notwithstanding subsection (b) or any other provision of law, when fixing minimum prices for milk of the highest use classification in a marketing area subject to an order under this subsection, the Secretary may not, directly or indirectly, base the prices on the distance from, or part of the costs incurred to transport milk to or from, any location that is not within the marketing area subject to the order, unless milk from the location constitutes at least 50 percent of the total supply of milk of the highest use classification in the marketing area. The Secretary shall report to the Committees on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the criteria that are used in determining whether the prices reflect in the preceding sentence, including a certification that the minimum prices are made in accordance with the preceding sentence.”; and

(2) in paragraph (B)(c), by inserting after “the locations” the following: “within a marketing area subject to the order”.

By Mr. FEINGOLD (for himself and Mr. HUTCHINSON):

S. 106. A bill to amend the provisions of titles 5 and 28, United States Code, relating to equal access to justice, award of reasonable costs and fees, taxpayers’ recovery of costs, fees, and expenses, administrative settlement offers, and for other purposes; to the Committee on the Judiciary.
United States found that only a small percentage of EAJA awards were denied because of the substantial justification defense. While it is impossible to determine the exact cost of litigating the issue of substantial justification, it is Prof. Krent’s opinion, based on cases reviewed after 1988 and 1990, that while the substantial justification defense may save some money, it was not enough to justify the cost of the additional litigation. In short, eliminating this often burdensome and costly step will streamline recovery under EAJA and may very well save the government money in the long run.

The second part of this legislation that will streamline and improve EAJA is a provision designed to encourage settlement and avoid costly and protracted litigation. Under the bill, the government can make an offer of settlement after an application for fees and other expenses has been filed. If the government’s offer is rejected and the prevailing party seeking recovery ultimately wins a smaller award, that party is not entitled to the attorneys’ fees and costs incurred after the date of the government’s offer. Again, this will encourage settlement, speed the claims process, and thereby reduce the time and expense of the litigation.

The final improvement to EAJA included in this legislation is the removal of the carve out of cases where the prevailing party is eligible to get attorneys’ fees under section 7430 of the Internal Revenue Code. Under current law, EAJA is inapplicable in cases where a taxpayer prevails against the government. I was an original cosponsor of a bill that suggested a similar reformed introduced by Senator Leahy of Vermont in the 106th Congress. This provision levels the playing field between the IRS and everyday citizens. There is no reason that taxpayers should be treated differently than any other party that prevails in a case against the government. They deserve to have their fees paid if they win.

We all know that the American small business owner has a difficult road to make ends meet and that unnecessary or overly burdensome government regulation can be a formidable obstacle to doing business. It can be the difference between success or failure. The Equal Access to Justice Act was conceived and implemented to help balance the formidable power of the federal government. It has already helped many Americans that are struggling today will make EAJA more effective for more Americans while at the same time helping to deter the government from acting in an indefensible and unwarranted manner.

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. 106

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

SECTION 1. EQUAL ACCESS TO JUSTICE REFORM.

(a) Short Title—This Act may be cited as the “Equal Access to Justice Reform Amendments of 2001”.

(b) Award of Costs and Fees—

(1) ADMINISTRATIVE PROCEEDINGS—Section 504(a)(2) of title 5, United States Code, is amended by inserting after “(2)” the following:

“(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys’ fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.”.

(2) JUDICIAL PROCEEDINGS—Section 2412(d)(1)(B) of title 28, United States Code, is amended by striking after “(B)” the following:

“(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys’ fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.”.

(3) PAYMENT FROM AGENCY APPROPRIATIONS—

(1) ADMINISTRATIVE PROCEEDINGS—Section 504(d) of title 5, United States Code, is amended by adding at the end the following:

“(2) The party shall also allege that the position of the agency was not substantially justified.”.

(2) JUDICIAL PROCEEDINGS—Section 2412(d)(2) of title 28, United States Code, is amended—

(A) in paragraph (a)(1)(A), by striking “,, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust”;

(B) in paragraph (a)(1)(B), by striking “,, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust”;

(C) in paragraph (3), by striking “,, unless the court finds that during such adversary adjudication the position of the United States was substantially justified. Whether or not the position of the United States was substantially justified shall be determined on the basis of the record (including the record with respect to the action or failure to act by the agency upon which the civil action is based) which is made in the civil action for which fees and other expenses are sought”.

(4) ELIMINATION OF SUBSTANTIAL JUSTIFICATION STANDARD—

(1) ADMINISTRATIVE PROCEEDINGS—Section 504 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by striking all beginning with “,, unless the adjudicative officer” through “expenses are sought”; and

(B) in subsection (a)(2), by striking “,, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust”.

(5) REPORTS TO CONGRESS—

(1) ADMINISTRATIVE PROCEEDINGS—Not later than 180 days after the date of the enactment of this Act, the Administrative Conference of the United States shall submit a report to Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal agencies under the provisions of section 504 of title 5, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal agencies and administrative proceedings.

(2) JUDICIAL PROCEEDINGS—Not later than 180 days after the date of the enactment of this Act, the Department of Justice shall submit a report to Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal districts under the provisions of section 2412 of title 28, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal judicial proceedings.

(h) EFFECTIVE DATE—The provisions of this Act and the amendments made by this Act shall take effect 30 days after the date of enactment of this Act and shall apply only to an administrative complaint filed with a Federal agency or a civil action filed
in a United States court on or after such date.

Mr. HUTCHINSON. Mr. President, I rise today, with my colleague Senator FEINGOLD, to introduce the Equal Access to Justice (EAJA) Reform Amendment because I’m very sincere hope that the 107th Congress will work in a bi-partisan manner to provide small business owners and individuals who prevail in court against the federal government with automatic reimbursement for their legal expenses—thereby fulfilling the true intent of EAJA when passed in 1980.

EAJA’s initial premise was to reduce the vast disparity in resources and expertise between small business owners or individuals and federal agencies and to encourage the government to ensure that the claims it pursues are worthy of its efforts. Twenty years ago, former Senator Gaylord Nelson, the author of the original, bi-partisan EAJA bill, clearly explained EAJA’s intent when he stated, “All I can say is the taxpayer is injured, and if the taxpayer was correct, and that is the finding, then we ought to make the taxpayer whole.” I commend Senator Nelson. His steadfast commitment to our nation’s businesses as Chairman of the Senate Small Business Committee is worthy of admiration. As a result of a political compromise, however, the final version of EAJA does not provide for an automatic award of attorneys’ fees. Rather, it provides for an award of attorneys’ fees only when an agency or a court determines that the government’s position was not “substantially justified” or that “special circumstances” exist which would make an award unjust.

Agencies and courts have strayed far from the original intent of EAJA by repeatedly using these provisions to avoid providing attorneys’ fees to small businesses and individuals who have successfully defended themselves. The bill that Senator FEINGOLD and I are introducing today, the Equal Access to Justice Reform Amendments of 2001, would enable to provide that a small business owner or individual prevail against the government will be automatically entitled to recover their attorneys’ fees and expenses incurred in their defense.

Unfortunately, EAJA is not making the taxpayers of this nation whole after they defend themselves against government action. Thus, I ask that my colleagues join Senator FEINGOLD and myself in our effort to make these American taxpayers whole by cosponsoring and supporting the Equal Access to Justice Reform Amendments of 2001.

By Mr. FEINGOLD:
S. 107. A bill to allow modified bloc voting by cooperative associations of milk producers in connection with a referendum on Federal Milk Marketing Order referred to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, I rise to introduce a measure that will begin to restore to many dairy farmers throughout the nation, part of the market power they have lost in recent years.

Mr. President, when dairy farmers across the country voted on a referendum two years ago—perhaps the most significant change in dairy policy in sixty years—they didn’t actually get to vote. Instead, their dairy marketing cooperatives will cast their votes for them.

This procedure is called bloc voting and it is used all the time. Basically, a Cooperative’s Board of Directors decides that, in the interest of time, bloc voting will be implemented for that particular vote. In the interest of time, but not always in the interest of their producer owner-members.

Mr. President, I do think that bloc voting can be a useful tool in some circumstances, but I have serious concerns about its use in every circumstance. Farmers in Wisconsin and in other states have told me that they do not agree with their Cooperative’s view on every vote. Yet, they have no way to preserve their right to make their single vote count.

After speaking to farmers and officials at USDA, I have learned that a Cooperative bloc votes, individual members simply have no opportunity to voice opinions separately. That seems unfair when you consider what a monumental issue is at stake. Coops and their members always have identical interests. We shouldn’t ask farmers to ignore that fact.

Mr. President, the Democracy for Dairy Producers Act of 2001 is simple and fair. It provides that a cooperative cannot deny any of its members a ballot if one or two or ten or all of the members chose to vote on their own.

This will in no way slow down the process at USDA; implementation of any rule or regulation would be able to proceed on schedule. Also, I do not expect that this would change the final outcome of any given vote. Coops could still cast votes for their members who do not exercise their right to vote individually. And to the extent that coops represent farmers interest, farmers are always likely to vote along with the coops, but whether they join the coops or not, farmers deserve the right to vote according to their own views.

I urge my colleagues to support the Democracy for Dairy Producers Act, a dairy bill without regional bias.

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. 107
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 “Democracy for Dairy Producers Act of 2001”.

SEC. 2. MODIFIED BLOC VOTING.
(a) IN GENERAL—Excluding paragraph (12) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Market Transition Act of 1996, the cooperative association shall provide to each producer, on behalf of which the cooperative association is expressing approval or disapproval, written notice containing—
(1) a description of the questions presented in the referendum;
(2) a statement of the manner in which the cooperative association intends to cast its vote on behalf of the membership; and
(3) information regarding the procedures by which a producer may cast an individual ballot.

(b) TABULATION OF BALLOTS.—At the time at which ballots from a vote under subsection (a) are tabulated by the Secretary of Agriculture, the Secretary shall adjust the vote of a cooperative association to reflect individual votes submitted by producers that are members of, stockholders in, or under contract with, the cooperative association.

By Mr. FEINGOLD:
S. 108. A bill to reduce the number of executive branch political appointees; to the Committee on Governmental Affairs.

Mr. FEINGOLD. Mr. President, I am pleased to reintroduce legislation to reduce the number of presidential political appointees. Specifically, the bill caps the number of political appointees at 2,000. The most recent Congressional Budget Office (CBO) estimates of this measure is that it would save $362 million over the next 5 years, and $872 million over the next 10 years.

This bill is based on the recommendations of a number of distinguished panels, including most recently, the Twentieth Century Fund Task Force on the Presidential Appointment Process. The task force findings are only the latest in a long line of recommendations that we reduce the number of political appointees in the Executive Branch. For many years, the proposal has been included in CBO’s annual publication Reducing the Deficit: Spending and Revenue Options, and it was one of the central recommendations of the National Commission on the Public Service, chaired by former Federal Reserve Board Chairman Paul Volcker. A measure between 1980 and 1992, the ranks of political appointees grew 17 percent, over three times as fast as the total number of Executive Branch employees and looking back to 1960 their growth is even more dramatic. In his book Thickening Government, author Paul Light reports a startling 430 percent increase in the
number of political appointees and senior executives in Federal government between 1960 and 1992. Mr. President, it is essential that any Administration be able to implement the policies that brought it into office in the first place, responsive to the priorities of the electorate. But as the Volcker Commission noted, the great increase in the number of political appointees in recent years has not made government more effective or responsive to the presidential leadership. Indeed, in their report, the Volcker Commission argued that the growing number of presidential appointees may “actually undermine effective presidential control of the executive branch.” The report went on to note that the large number of presidential appointees simply cannot be managed effectively by any President or White House. The Commission argued that this lack of control and political focus “may actually dilute the President’s ability to prepare and force a coherent, coordinated program and to hold cabinet secretaries accountable.”

Adding organizational layers of political appointees can also restrict access to important resources, while doing nothing to reduce bureaucratic impediments. In commenting on this problem, author Light noted, “As this sediment has thickened over the decades, presidents have grown increasingly distant from the lines of government, and the front lines from them.” Light added that “Presidential leadership, therefore, may reside in stripping government of the barriers to doing its job effectively.”

The Volcker Commission also asserted that this thickening barrier of temporary appointees between the President and career officials can undermine development of a proficient civil service. Individuals from remaining in government service or even pursuing a career in government in the first place.

Mr. President, former Attorney General Elliot Richardson put it well when he noted:

But a White House personnel assistant sees the position of deputy assistant secretary as a fourth-echelon slot. In his eyes that makes it an ideal reward for a fourth-echelon political type - a campaign advance man, or a regional political organizer. For a senior civil servant, it’s lonesome to see a position one has spent 20 or 30 years preparing for preempted by an outsider who doesn’t know the difference between an audit exception and an аккумуляторный батарея. In general, there is an increasingly lengthy process of filling these thousands of positions. As the Task Force reported, President Bush and President Clinton were into their presidencies for many months before their leadership teams were fully in place. The Task Force noted that “on average, appointees in both administrations were confirmed more than eight months after the inauguration—sixth of an entire presidential term.” By contrast, the report noted that in the presidential transition of 1960, “KENNEDY appointees were confirmed, on average, two and a half months after the inauguration.”

In addition to leaving vacancies among key leadership positions in government, the appointment process delays can have a deleterious effect on potential appointees. The Twentieth Century Fund Task Force reported that appointees can “wait for months on end in a limbo of uncertainty and awkward transition from the private to the public sphere.”

Mr. President, as we reduce the number of government employees, streamlining agencies, and make government more responsive, we should also rightsize the number of political appointees, preserving a sufficient number to implement the policies of any Administration without burdening the Federal budget with unnecessary, possibly counterproductive political jobs.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD immediately following my remarks. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 109
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 “Dairy Farmer Viability Act.”

SEC. 2. FINDINGS. Congress finds that—

(a) farm-retail price spread (the difference between farm and retail values) for dairy products has doubled since the early 1980s;

(b) the price of raw milk sent to the market by dairy producers has fallen to levels received in 1978; and

(c) the number of family-sized dairy operations has decreased by almost 75 percent in the last 2 decades, with soaring nearly 10 percent of their dairy farmers in recent months.

SEC. 3. ESTABLISHMENT OF COMMISSION. (a) ESTABLISHMENT. There is established a commission to be known as the “Dairy Farmer Viability Commission” (referred to in this Act as the “Commission”).

(b) MEMBERSHIP. (1) COMPOSITION. The Commission shall be composed of 15 members appointed by the Secretary.

(2) PROHIBITION ON FEDERAL GOVERNMENT EMPLOYMENT. A member of the Commission appointed under paragraph (1) shall not be an employee or former employee of the Federal Government.

(3) DATE OF APPOINTMENTS. The appointment of a member of the Commission shall be made as soon as practicable after the date of enactment of this Act.

(c) TERM; VACANCIES. (1) TERM. A member shall be appointed for the term of the Commission.

(2) VACANCIES. A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.
(d) Initial Meeting.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(e) Meetings.—The Commission shall meet at the call of the Chairperson.

(f) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) Chairperson and Vice Chairperson.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

SEC. 4. POWERS.

(a) Study.—The Commission shall conduct a study on matters relating to improving the viability of dairy farming.

(b) Recommendations.—The Commission shall develop recommendations to improve the viability of dairy farming after considering, with respect to dairy industry—

(1) farm prices;

(2) competition;

(3) leverage;

(4) stability; and

(5) concentration in the marketplace.

(c) Report.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the President and Congress a report that contains—

(1) a detailed statement of the findings and conclusions of the Commission; and

(2) a listing of the needs of the Commission for such legislation and administrative actions as the Commission considers appropriate.

SEC. 5. FUNDING.

(a) Hearings.—The Commission may hold hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) Information from Federal Agencies.—

(1) In General.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this Act.

(2) Provision of Information.—On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(c) Audit Services.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(d) Commission May Accept, Use, and Dispose of Gifts or Donations of Services or Property.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) Compensation of Members.—A member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(b) Travel Expenses.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(c) Staff.—

(1) In General.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other personnel as are necessary to enable the Commission to perform the duties of the Commission.

(2) Confirmation of Executive Director.—The employment of an executive director shall be subject to confirmation by the Commission.

(3) Compensation.—

(A) In General.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) Maximum Rate of Pay.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) Detail of Federal Government Employees.—

(1) In General.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(2) Civil Service Status.—The detail of the employees shall be without interruption or loss of civil service status or privilege.

(e) Procurement of Temporary and Intermittent Services.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the amount of funds for administrative expenses for the fiscal year.

SEC. 7. TERMINATION OF COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits the report of the Commission under section 4(b).

By Mr. FEINGOLD:

S. 110. A bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress; to the Committee on Governmental Affairs.

ELIMINATING THE AUTOMATIC PAY RAISE FOR CONGRESS

Mr. FEINGOLD. Mr. President, I am pleased to re-introduce legislation that would put an end to automatic cost-of-living adjustments for Congressional pay.

As my Colleagues are aware, it is an unusual thing to have the power to raise our own pay. People have that ability. Most of our constituencies do not have that power. And that this power is so unusual is good reason for the Congress to exercise that power openly, and to exercise it subject to regular open debate, amendment, and a vote on the RECORD.

Last year, the Senate initially voted down the conference report on the Legislative Branch Appropriations bill. As I noted during the debate on that bill, by considering the Treasury-Postal appropriations bill that conference report, shielded as it was from amendment, the Senate blocked any opportunity to force an open debate of a $3,800 pay raise for every Member of the Senate and the House of Representatives. This process of pay raises without accountability must end.

The stealth pay raise technique began with a change Congress enacted in the Ethics Reform Act of 1999. In Section 704 of that Act, Members of Congress voted to make themselves entitled to an annual raise equal to half a percentage point less than the employment cost index, one measure of inflation. Many times, Congress has tried to make it impossible even to put that issue on the floor, by providing a down-and-down vote directly for or against the pay raise, nearly perfecting the technique of the stealth pay raise.

The question of how and whether Members of Congress can raise their own pay is one that our Founders considered from the beginning of our Nation. In August of 1789, as part of the package of 12 amendments advocated by James Madison that included what has become our Bill of Rights, the states ratified an amendment to the Constitution providing that Congress could not raise its pay without an intervening election. Almost exactly 211 years ago, on September 9, 1789, the Senate passed that amendment. In late September of 1789, Congress submitted the amendments to the states.

Although the amendment on pay raises languished for two centuries, in the 1980s, a campaign began to ratify it. While I was a member of the Wisconsin state Senate, I was proud to help ratify the amendment. Its approval by the Michigan legislature on May 7, 1992, gave it the needed approval by three-fourths of the states.

The 27th Amendment to the Constitution now states: “No law, varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened.”

I would like to honor an idea that is part of my own practices. In my own case, throughout my 6-year term, I accept only the rate of pay that Senators receive on the date on which I was sworn in as a Senator. And I return to the Treasury any additional income Senators get, whether from a cost-of-living adjustment or a pay raise we vote for ourselves. I don’t take a raise until my bosses, the people of Wisconsin, give me one at the ballot box. That is the spirit of the 27th Amendment. The spirit of the 27th Amendment, that Congress allowed last year, at a minimum, certainly violate the spirit of that amendment.
Mr. President, this practice must end. To address it, I am re-introducing this bill to end the automatic cost-of-living adjustment for Congressional pay. Senators and Congressmen should have to vote up-or-down to raise Congressional pay. My bill would simply require us to vote in the open. We owe our constituents no less.

Mr. President, I ask unanimous consent that the bill be printed in the Record immediately following my remarks.

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

S. 110
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF AUTOMATIC PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) In General.—Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is repealed.

(b) Technical and Conforming Amendments.—Section 601(a)(1) of such Act is amended—

(1) by striking "(a)(1)" and inserting "(a)";

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by striking "as adjusted by paragraph (2) of this subsection" and inserting "as adjusted by law".

(c) Effective Date.—This section shall take effect on February 1, 2003.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 111. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY PROMOTION FAIRNESS ACT

Mr. FEINGOLD. Mr. President, I rise today to introduce a Senate companion to the Dairy Promotion Fairness Act. This legislation provides equity to domestic producers who have been paying into the Promotion Program while importers have gotten a free ride. The National Dairy Promotion and Research Board conducts only generic promotion and general product research, domestic farmers and importers alike benefit from these actions. The Dairy Promotion Fairness Act requires that all dairy product importers contribute to the program.

This bill supports the dairy marketing board’s efforts to educate consumers on the nutritional value of dairy products. It also treats our farmers fairly—by asking them not to bear the entire financial burden for a promotional program that benefits importers and domestic producers alike.

We have put our own producers at a competitive disadvantage for far too long. It’s high time importers paid for their fair share of the program.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the Record, as follows:

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

SECTION 1. DEFINITION OF IMPORTER.

This Act may be cited as the “Dairy Promotion Fairness Act.”

SEC. 2. FUNDING OF DAIRY PROMOTION AND RESEARCH.

(a) Declaration of Policy.—Section 110(b) of the Dairy Promotion Stabilization Act of 1983 (7 U.S.C. 450b(b)) is amended in the first sentence—

(1) by inserting after “commercial use” the following: “and on imported dairy products” and “and inserting “products”;

(b) Definitions.—Section 111 of the Dairy Promotion Stabilization Act of 1983 (7 U.S.C. 450c) is amended—

(1) in subsection (k), by striking “and” at the end;

(2) in subsection (l), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(m) the term ‘imported dairy product’ means any dairy product that is imported into the United States, including dairy products imported into the United States in the form of—

(1) milk and cream and fresh and dried dairy products;

(2) butter and butterfat mixtures;

(3) cheese; and

(4) casein and mixtures; and

(n) the term ‘importer’ means a person that imports an imported dairy product into the United States.”

(c) Contingent Representation of Importers on Board.—Section 113(b) of the Dairy Promotion Stabilization Act of 1983 (7 U.S.C. 450b(b)) is amended—

(1) by inserting “National Dairy Promotion and Research Board,” after “(b);”

(2) by designating the first through ninth sentences as paragraphs (1) through (5) and paragraphs (7) through (10), respectively, and indenting appropriately;

(3) in paragraph (2) (as so designated), by striking “Members” and inserting “Except as provided in paragraph (6), the members;” and

(4) by inserting after paragraph (5) (as so designated) the following:

“(6) Importers.—

(A) In General.—If representation of importers of imported dairy products is required on the Board by another law or a treaty to which the United States is a party, the Secretary shall appoint not more than 2 members who are representatives of importers.

(B) Additional Members; Procedures.—The members appointed under this paragraph—

(1) shall be in addition to the members appointed under paragraph (2); and

(2) shall be appointed from nominations submitted by importers under such procedures as the Secretary determines to be appropriate.”;

(d) Importer Assessment.—Section 113(g) of the Dairy Promotion Stabilization Act of 1983 (7 U.S.C. 450c(g)) is amended—

(1) by inserting “ASSESSMENTS,” after "(g),”

(2) by designating the first through fifth sentences as paragraphs (1) through (5), respectively, and indenting appropriately; and

(3) by adding at the end the following:

“(6) Importers.—

(A) In General.—The order shall provide that each importer of imported dairy products shall pay an assessment to the Board in the manner prescribed by the order.

(B) Rate.—The rate of assessment on imported dairy products shall be determined in the same manner as the rate of assessment per hundredweight or the equivalent of milk.

(C) Value of Products.—For the purpose of determining the assessment on imported dairy products under subparagraph (B), the value to be placed on imported dairy products shall be established by the Secretary in a fair and equitable manner.

By Mr. FEINGOLD (for himself, Mr. KOHL, and Mr. WYDEN):

S. 112. A bill to terminate operation of the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

By Mr. FEINGOLD (for himself, Mr. HARKIN, Mr. WELLSTONE, and Mr. WYDEN):

S. 113. A bill to terminate production under the D5 submarine-launched ballistic missile program and to prohibit the backfit of certain Trident I ballistic missile submarines to carry D5 submarine-launched ballistic missiles; to the Committee on Armed Services.
Both of these systems were designed to protect the United States against an attack by the Soviet Union. Trident submarines, and the deadly submarine-launched ballistic missiles they carry, were designed specifically to attack targets inside the Soviet Union from waters well away from the continental United States. Project ELF was designed to send short one-way messages to ballistic and attack submarines that are submerged in deep waters.

The bill I am introducing today would terminate operations under Project ELF, which is located in Clam Lake, Wisconsin, and Republic, Michigan. I would like to thank the senior Senator from Wisconsin [Mr. KORIN] and the Senator from Oregon [Mr. WYDEN] for cosponsoring this bill.

This bill would terminate operations at Project ELF, while maintaining the infrastructure in Wisconsin and Michigan in the event that a resumption in operations becomes necessary. If enacted, it would save taxpayers nearly $14 million per year.

Project ELF is ineffective and unnecessary in the post-Cold War era. Since ELF cannot transmit detailed messages, it serves as an expensive “beeper” system to tell submarines to come to the surface to receive messages from other sources, and the subs cannot send a return message to ELF in the event of an emergency. It takes ELF four minutes to send a three-letter message to a deeply submerged submarine.

With the end of the Cold War, Project ELF becomes harder and harder to justify. Our submarines no longer need to take that extra precaution against Soviet nuclear forces. They can now surface on a regular basis with less danger of detection or attack. They can also receive more complicated messages through very low frequency (VLF) radio waves or longer messages through satellite systems. It is hard to understand why the taxpayers continue to be asked to pay $14 million a year for what amounts to a beeper system that tells our submarines to come to the surface to receive orders from another, more sophisticated source.

Further, continued operation of this facility is opposed by most residents in my state. The members of the Wisconsin delegation have fought hard for years to close down Project ELF; I have introduced legislation during each Congress since taking office in 1993 to terminate it; and I have even recommended it for closure to the Defense Base Closure and Realignment Commission.

Project ELF has had a turbulent history. Since the idea for ELF was first proposed in 1958, the project has been changed or canceled several times. Residents of Wisconsin have opposed ELF since its inception, but for years we were told that the national security considerations of the Cold War outweighed concerns about the installation in our state. Ironically, this system became fully operational in 1989—the same year the tide of democracy began to sweep across Eastern Europe and the Soviet Union. Now, twelve years later, the hammer and sickle has fallen and the Russian submarine fleet is in disarray. But Project ELF still remains as a constant, expensive reminder to the people of my state that the Department of Defense remains focused on the past.

There also continue to be a number of public health and environmental concerns associated with Project ELF. For almost two decades, we have received increasing evidence about this project’s effects on Wisconsin and Michigan residents. In 1981, a U.S. District Court ordered that ELF be shut down because the Navy paid inadequate attention to the system’s possible health effects and violated the National Environmental Policy Act. Interestingly, that decision was overturned because U.S. national security, at the time, prevailed over public health and environmental concerns.

Even taking into account ELF’s effects on Wisconsin and Michigan residents, it serves as an expensive listening post in a possible link between exposure to extremely low frequency electromagnetic fields and a variety of human health effects and abnormalities in both animal and plant species.

In 1999, after six years of research, the National Institute of Environmental Health Sciences released a report that did not prove conclusively a link between electromagnetic fields and cancer, but the report did not dispute the existence of that link.

In 1999, the Navy, after six years of research, released inconclusive data on this project’s effects on Wisconsin and Michigan residents. In 1981, a U.S. District Court ordered that ELF be shut down because the Navy paid inadequate attention to the system’s possible health effects and violated the National Environmental Policy Act. Interestingly, that decision was overturned because U.S. national security, at the time, prevailed over public health and environmental concerns.

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arsenal of strategic nuclear weapons still have an important role to play in warding off these threats. Their role, however, has diminished dramatically from what it was at the height of the Cold War. Our missile procurement and equipment upgrade decisions should reflect that fact and should reflect the realities of the post-Cold War world.

Our current ballistic missile capability is far superior to that of any other country on the globe. And the capability of the Russian military—the very force against which these missiles were designed to counter—is seriously degraded.

I cannot understand the need for more Trident II missiles and more submarines to carry them at a time when the Governments of the United States and Russia are in negotiations to implement START II and are also discussing a framework for START III. These agreements call for reductions in our nuclear arsenal, not increases. To spend billions of dollars on building more missiles now and on back-fitting two more submarines to carry them in the coming years is short-sighted and could seriously undermine our efforts to negotiate further arms reductions with Russia.

In conclusion, Mr. President, we should reexamine our national defense policy at the earliest possible date. The forthcoming Quadrennial Defense Review presents an excellent opportunity to do just that. We should not miss this opportunity to transform our Armed Forces from the structure and strategies that won the Cold War to a fiscally responsible force that is adequately trained and equipped to combat the new challenges of the 21st century and beyond. The legislation I am introducing today is a step in that direction.

Mr. President, I ask unanimous consent that both of these bills be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 112

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

SECTION 1. TERMINATION OF OPERATION OF THE EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM.

(a) TERMINATION REQUIRED.—The Secretary of the Navy shall terminate the operation of the Extremely Low Frequency Communication System of the Navy.

(b) MAINTENANCE OF INFRASTRUCTURE.—The Secretary shall maintain the infrastructure necessary for resuming operation of the Extremely Low Frequency Communication System.

S. 113

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

SECTION 1. TERMINATION OF D5 SUBMARINE-LAUNCHED BALLISTIC MISSILE PROGRAM.

(a) TERMINATION OF PROGRAM.—The Secretary of Defense shall terminate production of D5 submarine-launched ballistic missiles under the D5 submarine-launched ballistic missile program.

(b) PAYMENT OF TERMINATION COSTS.—Funds available on or after the date of the enactment of this Act for obligation for the D5 submarine-launched ballistic missile program may be obligated for production under that program only for payment of the costs associated with the termination of production under this Act.

SEC. 2. PROHIBITION ON D5 TRIDENT II BACKFIT SCHEDULED TO COMMENCE IN 2005 AND 2006.

(a) PROHIBITION ON BACKFIT OF CERTAIN SUBMARINES.—The Secretary of Defense may not carry out the modifications of two Trident I submarines to be deployed with Trident II D5 submarine-launched ballistic missiles that are currently scheduled to commence in 2005 and 2006, respectively.

(b) PROHIBITION ON USE OF FUNDS.—Notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Department of Defense may be obligated or expended for purposes of carrying out the modifications of Trident I submarines described in subsection (a).

SEC. 3. TERMINATION OF D5 SUBMARINES.

Nothing in sections 1 and 2 shall be construed to prohibit or otherwise affect the availability of funds for the following:

(1) Production of a Trident II D5 submarine-launched ballistic missiles in production on the date of the enactment of this Act.

(2) Maintenance after the date of the enactment of the termination of D5 submarine-launched ballistic missiles in existence on such date, including the missiles described in paragraph (1).

By Mr. FEINGOLD:

S. 114. A bill to terminate the Uniformed Services University of the Health Sciences; to the Committee on Armed Services.

TERMINATING THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Mr. FEINGOLD. Mr. President, I am today re-introducing legislation terminating the Uniformed Services University of the Health Sciences (USUHS), a graduate medical school of the Department of Defense. The measure is one I proposed when I ran for the U.S. Senate, and was part of a larger, 82 point plan to reduce the Federal budget deficit. The most recent estimates of the Congressional Budget Office (CBO) project that terminating the school would save $273 million over the next five years, and when completely phased-out, would generate $450 million in savings over five years.

USUHS was created in 1972 to meet an expected shortage of military medical personnel. Today, however, USUHS accounts for only a small fraction of the military’s new physicians, less than 12 percent in 1994 according to CBO. This contrasts dramatically with the military of D5 submarine program which provided over 80 percent of the military’s new physicians in that year.

Mr. President, what is even more troubling is that USUHS is also the single most costly source of new physicians for the military. CBO reports that between fiscal years 1993 and 1997, each USUHS trained physician costs the military $615,000. By comparison, the scholarship program cost about $125,000 per doctor, with other sources providing new physicians at a cost of $60,000. As CBO has noted, even adjusting for the lengthier service commitment required of USUHS trained physicians, the cost of training them is still higher than that of physicians from other sources, an assessment shared by the Pentagon itself. Indeed, CBO’s estimate of the savings generated by this measure also includes the cost of obtaining physicians from other sources.

The House of Representatives has voted to terminate this program on several occasions, and the Vice President’s National Performance Review cited USUHS as an example of an agency that should be eliminated.

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these specific areas of concern. But before advocates of an increased Defense budget ask taxpayers to foot the bill for hundreds of billions more in spending, they owe it to those taxpayers to trim Defense programs that are not justifiable.

In the face of our staggering national debt, we must prioritize and eliminate programs that can no longer be sustained with limited federal dollars, or where a more cost-effective means of fulfilling those functions can be substituted. The closure of USUHS continues to be debated precisely because it does not appear to pass the higher threshold tests which must be applied to all federal spending programs.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD immediately following my remarks.

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

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 “Uniformed Services University of the Health Sciences Termination and Deficit Reduction Act of 2001”.

SEC. 2. TERMINATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) TERMINATION. —

(1) IN GENERAL. —The Uniformed Services University of the Health Sciences is terminated.

(2) CONFORMING AMENDMENTS. —

(A) Chapter 104 of title 10, United States Code, is repealed.

(B) The table of chapters at the beginning of subtitle A of such title, and at the beginning of part III of such subtitle, are each amended by striking out the item relating to chapter 104.

(b) EFFECTIVE DATES. —

(1) TERMINATION. —The termination of the Uniformed Services University of the Health Sciences under subsection (a)(1) shall take effect on the day after the date of the enactment of this Act.

(2) AMENDMENTS. —The amendments made by subsection (a)(2) shall take effect on the day such amendments are made.

By Mr. FEINGOLD (for himself, Mr. LEAHY, and Mr. JEFFORDS):

S. 115. A bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hardrock minerals mined on federal public lands. I am joined in introducing this legislation by my colleagues from Vermont, the senior Senator (Mr. LEAHY) and the junior Senator (Mr. JEFFORDS).

President Clinton proposes the elimination of the percentage depletion allowance on public lands in his FY 2001 budget. The President’s FY 2001 budget estimated that, under this legislation, income to the federal treasury from the elimination of percentage depletion allowances on public lands would total $410 million over five years, and $823 million over ten years. These savings are calculated as the excess amount of federal revenues above what would be collected if depletion allowances were limited to sunk costs in capital investments. Percentage depletion allowances are contained in the tax code for extracted fuel, minerals, metal and other mined commodities. These allowances have a combined value, according to estimates by the Joint Committee on Taxation, of $4.8 billion.

Mr. President, these percentage depletion allowances were initiated by the Corporation Excise Act of 1909. That’s right, Mr. President, initiated in 1909. The excise tax on a depletion allowance based on the value of the mine was made under a 1912 Treasury Department regulation, but difficulty in applying this accounting principle to mineral production led to the initial definition of the depletion allowance in the Tariff Act of 1913. The Revenue Act of 1926 established percentage depletion much in its present form for oil and gas. The percentage depletion allowance was then extended to metal mines, coal, and other hardrock minerals by the Revenue Act of 1932, and has been adjusted several times since.

Percentage depletion allowances were historically placed in the tax code as a way to reduce the costs of discovery, purchasing, and development of natural resources: all taxpayers, or the users and producers of the resource? For more than a century, the mining industry has been paying next to nothing for the privilege of extracting minerals from public lands and then abandoning its mines. Now those mines are subject to reclamation requirements and the enactment of a program with explicit authority to clean up abandoned mine sites and the resources to do it. My legislation is a first step toward providing the needed authority and resources.

Mr. President, in today’s budget climate we are faced with the question of who should bear the costs of exploration, development, and production of natural resources: all taxpayers, or the users and producers of the resource? Percentage depletion also makes it possible to recover many times the amount of the original investment. There are two methods of calculating a deduction to allow a firm to recover the costs of their capital investment: cost depletion, and percentage depletion. Cost depletion attempts to recover the actual capital investment—the costs of discovery, purchasing, and developing a mineral reserve—over the period during which the reserve produces income. Using cost depletion, a company would deduct a portion of its original capital investment minus any previous deductions, in an amount that is equal to the fraction of the remaining recoverable reserves. Under this method, the total deductions cannot exceed the original capital investment. However, with percentage depletion, the deduction for recovery of a company’s investment is a fixed percentage of “gross income”—namely, sales revenue—from the sale of the mineral. Under this method, total deductions typically exceed, let me be clear on that point, Mr. President, exceed the capital that the company invested.

The rates for percentage depletion are significant. A portion of the U.S. Code contains depletion allowances for more than 70 metals and minerals, at rates ranging from 10 percent to 22 percent. In addition to repealing the percentage depletion allowance, Section 613 of the Act repeals: first, the mineral exploration deduction; second, the deduction for production of hardrock minerals on public lands; and third, the interest bearing fund in the Treasury to be used to clean up abandoned hardrock mines in states that are subject to the 1872 Mining Law. The Mineral Policy Center estimates that there are 557,650 hardrock abandoned mine sites nationwide and the cost of cleaning them up will range from $32.7 billion to $71.5 billion.

There are currently no comprehensive federal or state programs to address the need to clean up old mine sites. Reclamations requires the enactment of a program with explicit authority to clean up abandoned mine sites and the resources to do it. My legislation is a first step toward providing the needed authority and resources.

Mr. President, the measure I am introducing is fairly straightforward. It eliminates the percentage depletion allowance for hardrock minerals mined on public lands while continuing to allow companies to recover reasonable cost depletion.

Though at one time there may have been an appropriate role for a government-driven incentive for enhanced mineral production, there is now sufficient reason to adopt a more reasonable depletion allowance that is consistent with those given to other businesses.

Mr. President, the time has come for the Federal Government to get out of the business of subsidizing business. We can no longer afford its costs in dollars or its cost to the health of our citizens.
This legislation is one step toward the goal of ending these corporate welfare subsidies. I ask unanimous consent that a copy of the legislation be printed in the Record.

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

S. 115

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

SEC. 1. SHORT TITLE.

This Act may be cited as the ‘‘Elimination of Double Subsidies for the Hardrock Mining Industry Act of 2001’’.

SEC. 2. REPEAL OF PERCENTAGE DEPLETION ALLOWANCE FOR CERTAIN HARDROCK MINES.

(a) In General.—Section 613(a) of the Internal Revenue Code of 1986 (relating to percentage depletion) is amended by inserting ‘‘(other than hardrock mines located on lands subject to the general mining laws or on lands patented under the general mining laws)’’ after ‘‘—In the case of the mines’’.

(b) General Mining Laws Defined.—Section 613 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

‘‘(f) General Mining Laws.—For purposes of subsection (a), the term ‘general mining laws’ means those Acts which generally comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.’’

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 3. ABANDONED MINE RECLAMATION FUND.

(a) In General.—Subchapter A of chapter 96 of the Internal Revenue Code of 1986 (relating to establishment of trust funds) is amended by adding at the end the following:

‘‘Sec. 9511. Abandoned Mine Reclamation Trust Fund.’’

By Mr. FEINGOLD:

S. 116. A bill to amend the Reclamation Reform Act of 1982 to clarify the payment of satisfaction of the debt owed by irrigators to the federal government their allocated share of the costs of constructing these projects in the west which provide water for irrigation. Irrigators, and other project beneficiaries, are required under the law to repay to the federal government their allocated share of the costs of constructing these projects.

However, as a result of the subsidized financing provided by the federal government, some of the beneficiaries of federal water projects repay considerably less than their full share of these costs. According to the 1996 GAO report, irrigators generally receive the largest amount of federal financial assistance. Since the initiation of the irrigation program in 1902, construction costs associated with irrigation have been repaid without interest. The federal government has spent $21.8 billion to construct 133 water projects in the west which provide water for irrigation. Irrigators, and other project beneficiaries, are required under the law to repay to the federal government their allocated share of the costs of constructing these projects.

There are several reasons why irrigators continue to receive such significant subsidies. Under the Reclamation Reform Act of 1982, Congress acted to expand the size of the farms that could receive subsidized water from 160 acres to 960 acres. The RRA of 1982 expressly prohibits farms that exceed 960 acres in size from receiving federally-subsidized water. These restrictions were added to the Reclamation law to close loopholes through which federal subsidies were flowing to large agribusinesses rather than the small family farmers that Reclamation projects were designed to serve. Agribusinesses were expected to pay full cost for all water received on land in excess of their 960 acre entitlement. Despite the express mandate of Congress, regulations promulgated under the Reclamation Reform Act of 1982 have failed to keep big agricultural water users from receiving federal subsidies. The General Accounting Office and the Inspector General of the Department of the Interior continue to find that the acreage limits established in law are circumvented through the creation of arrangements such as farming trusts. These trusts, which in total acreage are comprised of smaller units that are not subject to the reclamation acreage cap. These smaller units are farmed under a single management agreement often through a combination of leasing and ownership.
In conclusion, Mr. President, it is in order of need of reform, and that Congress should act. Large agribusinesses should not be able to continue to soak the taxpayers, and should pay their fair share. We should act to close these loopholes and increase the return to the treasury for all federal irrigation water borrowers.

I ask unanimous consent that the text of the measure be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 116

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 “Irrigation Subsidy Reduction Act of 2001”.

SEC. 2. FINDINGS.

(a) Congress finds that—

(1) the Federal reclamation program has been in existence for over 90 years, with an estimated taxpayer investment of over $70,000,000,000;

(2) the program has had and continues to have an enormous effect on the water resources and aquatic environments of the western States;

(3) irrigation water made available from Federal water projects in the West is a very valuable resource for which there are innumerable and conflicting policies of the Federal Government in this area are already well known: we must eliminate practices that are inconsistent with the Government’s environmental, consumer and taxpayer goals;

(4) the justification for providing water at less than full cost was to benefit and promote the development of small family farms and exclude large corporate farms, but that purpose has been frustrated over the years due to inadequate implementation of subsidy and acreage limits;

(5) below-cost water prices tend to encourage excessive use of scarce water supplies in the arid regions of the West, and reasonable price increases to the wealthiest western farmers would provide an economic incentive for greater water conservation;

(6) the Federal Government has increasingly applied eligibility tests based on income for Federal entitlement and subsidy programs, measures that are consistent with the historic approach of the reclamation program to exclude large corporate farms that seek to limit water subsidies to smaller farms; and

(7) including a means test based on gross income in the reclamation program will increase the effectiveness of the congressionally mandated family farm goals of the Federal reclamation laws.

SEC. 3. AMENDMENTS.

(1) §202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb) is amended—

(A) by redesignating paragraphs (7), (8), (9), (10), and (11) as paragraphs (9), (10), (11), (12), and (13), respectively;

(B) in paragraph (6), by striking “owned or operated under a lease which” and inserting “owned, leased, or operated by an individual or legal entity”;

(C) in paragraph (7), by striking paragraph (7) and inserting—

“7. LEGAL ENTITY.—The term ‘legal entity’ includes a corporation, association, partnership, trust, joint tenancy, or tenancy in common, or any other entity that owns, leases, or operates any farm operation for the benefit of more than 1 individual or any form of agreement or arrangement.

(8) OPERATOR.—

(A) IN GENERAL.—The term ‘operator’ means an individual or legal entity that operates a single farm operation on a parcel of land, or leases a portion of land from another landowner under any form of agreement or arrangement (or agreements or arrangements); and
“(ii) if the individual or legal entity—

‘‘(I) is an employee of an individual or legal entity, includes the individual or legal entity; or

‘‘(II) is an entity that controls, is controlled by, or is under common control with another legal entity, includes each such other legal entity.

‘‘(B) OPERATION OF A FARM OPERATION.—For the purposes of subparagraph (A), an individual or legal entity shall be considered to operate a farm operation if the individual or legal entity is the person that performs the greatest proportion of the decisionmaking for and supervision of the agricultural enterprise on land served with irrigation water. “

and

(4) by adding at the end the following:

‘‘(14) SINGLE FARM OPERATION.—

(A) IN GENERAL.—The term ‘single farm operation’ means the total acreage of land served with irrigation water for which an individual or legal entity is the operator.

(B) RULES FOR DETERMINING WHETHER SEPARATE PARCELS OPERATE AS A SINGLE FARM OPERATION.—

‘‘(i) EQUIPMENT- AND LABOR-SHARING ACTIVITIES.—The conduct of equipment- and labor-sharing activities or the separate parcels owned by separate individuals or legal entities shall not by itself serve as a basis for concluding that the farming operations of the individuals or legal entities constitute a single farm operation.

‘‘(ii) PERFORMANCE OF CERTAIN SERVICES.—The performance by an individual or legal entity on other parcels of land of certain agricultural services, such as planting, cultivating, harvesting, or providing transportation, shall be considered as the performance of a single farm operation only if the services are performed on parcels of land for which the responsible individual or legal entity is the owner, lessee, or operator.

‘‘(2) IDENTIFICATION OF OWNERS, LESSEES, AND OPERATORS AND OF SINGLE FARM OPERATIONS.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended by inserting after section 210 the following:

‘‘SEC. 210A. IDENTIFICATION OF OWNERS, LESSEES, AND OPERATORS OF AND SINGLE FARM OPERATIONS.—

(a) IN GENERAL.—Subject to subsection (b), for each parcel of land to which irrigation water is delivered or proposed to be delivered, the Secretary shall identify single individual or legal entity as the owner, lessee, or operator.

(b) SHARED DECISIONMAKING AND SUPERVISION.—To the extent that person determines that the single individual or legal entity is the owner, lessee, or other individual that performs the greatest proportion of decisionmaking for and supervision of the agricultural enterprise on a parcel of land—

(1) all individuals and legal entities that own, lease, or perform a proportion of decisionmaking that is equal among themselves but greater than the proportion performed by any other individual or legal entity shall be considered jointly to be the owner, lessee, or operator; and

(2) all parcels of land of which any such individual or legal entity is the owner, lessee, or operator shall be considered to be part of the single farm operation of the owner, lessee, or operator identified under subsection (a).

(c) PRICING.—Section 205 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ee) is amended by adding at the end the following:

‘‘(d) SINGLE FARM OPERATIONS GENERATING MORE THAN $500,000—

(1) IN GENERAL.—Notwithstanding subsections (a), (b), and (c), in the case of—

(A) a qualified recipient that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year; or

(‘‘B) a limited recipient that received irrigation water on or before October 1, 1981, and that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year;

irrigation water may be delivered to the single farm operation of the qualified recipient or limited recipient at less than full cost to a number of acres that does not exceed the number of acres determined under paragraph (2).

(2) MAXIMUM NUMBER OF ACRES TO WHICH IRRIGATION WATER MAY BE DELIVERED AT LESS THAN FULL COST—

If the number of acres determined under this subparagraph is the number equal to the number of acres of the single farm operation multiplied by a fraction, the numerator of which is $500,000 and the denominator of which is the amount of gross farm income reported by the qualified recipient or limited recipient in the most recent taxable year.

(3) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—The $500,000 amount under paragraphs (1) and (2) for any taxable year beginning in a calendar year after 2000 shall be equal to the product of—

(1) $500,000, multiplied by

(2) the inflation adjustment factor for the taxable year.

(B) INFLATION ADJUSTMENT FACTOR.—

The term ‘inflation adjustment factor’ means, with respect to any calendar year, a fraction, the numerator of which is the GDP implicit price deflator for 2000. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.

(4) by adding at the end the following:

‘‘(B) RULES FOR DETERMINING WHETHER SEPARATE PARCELS OPERATE AS A SINGLE FARM OPERATION.—

The term ‘farm operation’, when used in this title, includes a pasture or range operation. The term ‘single farm operation of the qualified recipient or limited recipient’ means, with respect to any calendar year, a fraction, the numerator of which is the amount of gross farm income reported by the qualified recipient or limited recipient in the most recent taxable year.

(3) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—The $500,000 amount under paragraphs (1) and (2) for any taxable year beginning in a calendar year after 2000 shall be equal to the product of—

(1) $500,000, multiplied by

(2) the inflation adjustment factor for the taxable year.

(B) INFLATION ADJUSTMENT FACTOR.—

The term ‘inflation adjustment factor’ means, with respect to any calendar year, a fraction, the numerator of which is the GDP implicit price deflator for 2000. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.

(4) by adding at the end the following:

‘‘(c) REGULATIONS; DATA COLLECTION; PENALTIES.—

‘‘(1) REGULATIONS; DATA COLLECTION.—The Secretary and by adding the at the end the following:

(2) PENALTIES.—Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation issued under this Act.

(2) INTEREST.—Section 224(i) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(i)) is amended by striking the last sentence and inserting the following: “The interest rate applicable to underpayments shall be equal to the rate applicable to expenditures under section 202(c).”.

(5) REPORTING.—Section 228 of the Reclamation Reform Act of 1982 (43 U.S.C. 390eez) is amended by inserting “operator” or ‘‘contracting entity’’ each place it appears.

(b) MEMORANDUM OF UNDERSTANDING.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended—

(1) by redesignating sections 229 and 230 as sections 230 and 231; and

(2) by inserting after section 228 the following:

‘‘SEC. 229. MEMORANDUM OF UNDERSTANDING.—

‘‘The Secretary, the Secretary of the Treasury, and the Secretary of Agriculture shall enter into a memorandum of understanding or other appropriate instrument to permit the Secretary, notwithstanding section 603 of the Internal Revenue Code of 1986, to have access to and use of available information collected or maintained by the Department of the Treasury and the Department of Agriculture to enforce the ownership and pricing limitations of Federal reclamation law.”.

By Mr. FEINGOLD (for himself and Mr. JEFFORDS):

S. 117. A bill to prohibit products that contain dry ultra-filtered milk products or casein from being labeled as domestic natural cheese, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

QUALITY CHEESE ACT

Mr. FEINGOLD. Mr. President, I am pleased to introduce the Quality Cheese Act of 2000. This legislation will protect the consumer, save taxpayer dollars and provide support to America’s dairy farmers, who have taken a beating in the marketplace in recent years.

When Wisconsin consumers have the choice, they will choose natural Wisconsin cheese, but the Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA) may change current law, and consumers won’t know whether cheese is really all natural.

If the federal government creates a loophole for imitation cheese ingredients to be used in U.S. cheese vats, cheese bearing the labels “domestic” and “natural” will no longer be truly accurate.

If USDA and FDA allow a change in federal rules, imitation milk proteins known as milk protein concentrate or casein, could be used to make cheese in
place of the wholesome natural milk produced by cows in Wisconsin or other part of the U.S.

Mr. President, I am deeply concerned by recent efforts to change America's natural cheese standard. This effort to allow milk protein concentrate and casein from cows in other countries to be used in American cheese products seems to be based on a misperception of the way in which the cheese industry works.

Recent proposals to change our natural cheese standard have been based on the idea that other countries produce milk proteins that are produced in lower quality standards. This is simply not true.

Our dairy farmers have invested heavily in processes that make the best quality cheese ingredients, and I am concerned that these efforts to change the law will be penalized them for those efforts by allowing lower quality ingredients to flood the U.S. market.

Over the past decade, cheese consumption has risen at a strong pace due to promotional and marketing efforts and investments by dairy farmers across the country. Year after year, per capita cheese consumption has risen at a steady rate.

Back in the 1980s, when I served in the Wisconsin State Senate, cheese consumption topped 20 pounds per person. During the 1990s consumption increased by over 25 percent, and passed 25 pounds per person. Last year we saw an even more dramatic increase when per capita cheese consumption rose an amazing 1.5 pounds to reach 29.8 pounds.

This one-year increase amounts to the largest expansion since 1982! I am proud to say that my home state of Wisconsin, America’s dairyland, was one of the main engines behind this growth. After all, when consumers see the label “Wisconsin Cheese,” they know that it is synonymous with quality.

Over the past two decades consumers have increased their cheese consumption due to their understanding, and taste for the quality natural cheese produced by America’s dairy industry.

Recent proposals to change our natural cheese standard could decrease consumption of natural cheese. These declines could result from concerns about the origin of casein and other forms of dry UF milk.

The majority of dry ultra-filtered milk originates from countries with State Trading Enterprises. Many of these countries subsidize their dairy exports through these trading mechanisms, and have quality standards that are well below those of the United States.

While it is difficult to obtain specific numbers about the amount of dry UF milk produced in foreign countries, I have heard disturbing stories about the conditions under which the casein and milk proteins are sometimes produced.

For the most part, dry UF milk is not produced in the US. In fact, it is, for the most part, produced in countries where sanitary standards are well below those of the United States.

These products are sold on the international market, and under the proposed rule they could be labeled as natural cheese. This cheap, low quality dry UF milk tends to leave cheese greasy and increases separation problems.

The addition of this kind of milk will certainly leave the wholesome reputation of “natural cheese” significantly tarnished in the eyes of the consumer. This change would seriously compromise decades of work by America’s dairy farmers to build up domestic cheese consumption levels. It is simply not fair to America’s farmers!

Mr. President, consumers have a right to know if the cheese they buy is unnatural. And by allowing unnatural dry UF milk into cheese, we are denying consumers the entire picture.

This legislation will paint the entire picture for the consumer, and allow them to select natural cheese made from truly natural ingredients.

Allowing dry Ultra-Filtered milk into cheeses will have a significant adverse impact on dairy producers throughout the United States. Some estimate that the annual effect of the change on the dairy farm sector of the economy could be more than $100 million.

The proposed change to our natural cheese standard would also harm the American taxpayer.

If we allow dry UF milk to be used in cheese we will effectively permit unrestricted importation of these ingredients into the United States. Because there are no tariffs and quotas on these ingredients, these heavily subsidized products will displace natural domestic dairy ingredients.

These unnatural domestic dairy products will enter our domestic cheese market and may further depress dairy prices paid to American dairy producers.

Low dairy prices result in increased costs to the dairy price support program. So, at the same time that U.S. dairy farmers are receiving lower prices, the U.S. taxpayer will be paying more for the dairy price support program.

Mr. President, this change does not benefit the dairy farmer, consumer or taxpayer. Who then is it good for?

The obvious answer is nobody. America’s farmers have invested a tremendous amount of time and effort to create the best cheese industry in the world. They should not be penalized for their efforts.

This legislation addresses the concerns of farmers, consumers and taxpayers by prohibiting dry ultra-filtered milk from being included in America’s natural cheese standard.

Congress must shut this door on any buckled to stack the deck against America’s dairy farmers. And we must pass my legislation that prevents a loophole that would allow changes that hurt the consumer, taxpayer and dairy farmer.

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. 117

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 “Quality Cheese Act of 2001”.

SECTION 2. NATURAL CHEESE STANDARD.

(a) FINDINGS.—Congress finds that—

(1)(A) any change in domestic natural cheese standards to allow dry ultra-filtered milk products or casein to be labeled as domestic natural cheese would result in increased costs to the dairy price support program; and

(B) that change would be unfair to taxpayers, who would be forced to pay more program costs;

(2) any change in domestic natural cheese standards to allow dry ultra-filtered milk products or casein to be labeled as domestic natural cheese would cause dairy products containing dry ultra-filtered milk or casein to become vulnerable to contamination and would compromise the sanitation, hydrosanitary, and phytosanitary standards of the United States dairy industry; and

(4) changing the labeling standard for domestic natural cheese would be misleading to the consumer.

(b) Prohibition.—Section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) is amended—

(1) by striking “Whenever” and inserting “(a) Whenever”;

and (2) by adding at the end the following:

“(b) The Commissioner may not use any Federal funds to amend section 133.3 of title 21, Code of Federal Regulations (or any corresponding similar regulation or ruling), to include dry ultra-filtered milk or casein in the definition of the term ‘milk’ or ‘nonfat milk’, as specified in the standards of identity for cheese and cheese products published at part 133 of title 21, Code of Federal Regulations (or any corresponding similar regulation or ruling).”.

By Mrs. FEINSTEIN:

S. 118. A bill to strengthen the penalties for violations of plant quarantine laws; to the Committee on Agriculture, Nutrition, and Forestry.

FRUIT, VEGETABLE, AND PLANT SMUGGLING PREVENTION ACT OF 2001

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to strengthen the penalties for organized smuggling of fruits, plants, and vegetables into the United States. A felony statute for agriculture product smugglers needed to reflect the serious impact these crimes have on our farmers and the entire agriculture industry.

Recent breaches of the agriculture safeguarding system have proven the need for strong criminal penalties for organized smuggling and exotic fruit fly infestations have decimated California and Florida; the Asian longhorn beetle has been found in New

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York and Illinois; the Asian gypsy moth has been introduced in North Carolina and Oregon; and plum moth from Western Europe has devastated peach production in Pennsylvania.

This widespread invasion of foreign species has necessitated an operation to respond. The consequences of failing to adequately combat agriculture smuggling are clear.

Until recently, a 72 square mile area of San Diego was under quarantine due to an infestation of Mexican Fruit Flies. The quarantine affected 1.47 million growers of at least 20 specialty crops. The Department of Agriculture has encouraged California producers to grow specialty fruits and vegetables in an effort to reduce the risk of exotic pest introduction from smuggled fruit. Yet, no pre or post harvest treatment for many of these crops has been provided by the USDA. As a result of 2 fruit flies, roughly 150 growers lost virtually their entire harvest—estimated more than $3 million.

PROBLEMS WITH EXISTING LAWS

The current system that charges low fines and encourages few prosecutions is not a meaningful deterrent for violators. The USDA can assess a maximum fine of $9,000 for passenger and cargo violations. For an illegal shipper, this is simply a minor cost of doing business and not an effective deterrent.

In addition, the lack of serious penalties for such crimes has resulted in a reduced number of criminal investigations, violators prosecuted, and sentences given to those convicted.

The Office of the Inspector General (OIG) of the USDA, the law enforcement arm of the Department, has placed a low priority on agriculture smuggling violations because they are only misdemeanors and the OIG is forced to devote the bulk of its resources to felony violations. Of the 4,400 investigations completed since October 1, 1994, fewer than 50 involved smuggling.

The sentences given to the relatively few convicted smugglers is also affected by the attitude that this is not a serious crime.

In the State of Washington, two people were caught smuggling agricultural products into the country on numerous occasions. Their third arrest came after 400 pounds of illegal and infested fruit was found in the walls of their stately mansion. Despite their repeated convictions, the smugglers received only two days of jail time and a fine of $25,000, or both. Repeat violators would face 10 years of jail time and/or a fine of $50,000.

The legislation would also make smuggling lesser amounts of products a misdemeanor crime punishable by one year in jail and/or a $1,000 fine. Subsequent violations would result in three years of jail time and/or a fine of $10,000.

These penalties will provide law enforcement with the needed tools to investigate, arrest, and prosecute individuals and organizations engaged in the organized smuggling of agriculture products.

PROPERTY FORFEITURES

Another inadequacy in current law is the lack of a specific forfeiture provision for agricultural product smuggling. I have been told of cases at the San Diego border in which a person has been caught smuggling fruits or vegetables across the border. After receiving a slap on the wrist from the judicial system, his truck was returned to him, and he was allowed to return to his criminal occupation with the tools of his trade intact. It is astonishing to me that, not only is the government incapable of punishing illegal traffickers of agriculture products, but we are unable to take even modest steps to prevent recurrences of the same crime.

According to this legislation, anyone convicted of violating the law would forfeit any property used to commit or facilitate the violation. They would also forfeit any money acquired through a violation of the law. The proceeds of the sale of forfeited property would be used to reimburse the costs of the prosecution. Any additional funds would go towards the USDA’s interdiction efforts.

I believe that Congress must send a message to our farmers and growers that the federal government is committed to protecting the agriculture sector from invasive species. We can do this by passing this legislation as quickly as possible.

Mr. President, I ask unanimous consent that the bill be printed in the CONGRESSIONAL RECORD.

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

S. 138
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

SECTION 1. SHORT TITLE

This Act may be cited as the “Fruit, Vegetable, and Plant Smuggling Prevention Act of 2001”.

SEC. 2. DEFINITIONS

In this Act:

(1) PLANT QUARANTINE LAW.—The term “plant quarantine law” means any of the following provisions of law:

(A) Subsections (a) through (e) of section 192 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 1651 et seq.).

(B) Section 1773 of the Food Security Act of 1985 (7 U.S.C. 1867).

(C) The Golden Nematode Act (7 U.S.C. 150 et seq.).

(D) The Federal Plant Pest Act (7 U.S.C. 159aa et seq.).


(G) The Act of August 20, 1912 (commonly known as the “Plant Quarantine Act”) (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.).

(H) The Halogenated Glomeratus Control Act (7 U.S.C. 1651 et seq.).


(2) FELONIES.—(A) In General.—Subject to subparagraphs (B) and (C), a person shall be imprisoned not more than 5 years, fined not more than $25,000, or both, in the case of a violation of a plant quarantine law involving—

(i) plant pests;

(ii) more than 50 pounds of plants;

(iii) more than 5 pounds of plant products;

(iv) more than 50 pounds of noxious weeds;

(v) possession with intent to distribute or sell items described in clause (i), (ii), (iii), or (iv), knowing the items have been involved in a violation of a plant quarantine law;

(vi) forging, counterfeiting, or without authority from the Secretary, using, altering, defacing, or destroying a certificate, permit, or other document provided under a plant quarantine law.

(B) MULTIPLE VIOLATIONS.—On the second and any subsequent conviction of a person of a violation of a plant quarantine law described in subparagraph (A), the person shall be imprisoned not more than 10 years or fined not more than $50,000, or both.

(C) INTENT TO HARM AGRICULTURE OF UNITED STATES.—In the case of a knowing movement in violation of a plant quarantine law by a person of a plant, plant product, biological control organism, plant article, or means of conveyance into, out of, or within the United States, with the intent to harm the agriculture of the United States by introduction into the United States of a plant pest or noxious weed within the United States, the person shall be imprisoned not less than 10 nor more than 20 years, fined not more than $500,000, or both.

(3) MISDEMEANORS.—(A) IN GENERAL.—Subject to subparagraph (B), a person shall be imprisoned not more than 1 year, fined not more than $1,000, or both, in the case of a violation of a plant quarantine law involving—

(i) 50 congras or less of plant pests; or

(ii) 5 pounds or less of plant products; or

(iii) 50 pounds or less of noxious weeds.

(B) MULTIPLE VIOLATIONS.—On the second and any subsequent conviction of a person of a violation of a plant quarantine law described in subparagraph (A), the person shall be imprisoned not more than 3 years, fined not more than $10,000, or both.

(C) CRIMINAL FORFEITURE.—(1) IN GENERAL.—In imposing a sentence on a person convicted of a violation of a plant quarantine law, the court shall order that the person forfeit to the United States any property owned or possessed by the person and used, or intended to be used, to violate a plant quarantine law.

(D) PROCEEDS.—In making a determination of the appropriate amount to be ordered forfeited, the court shall take into consideration—

(i) the total value of the property taken in or used to violate the plant quarantine law;

(ii) the value to the United States of the property to which the order of forfeiture relates;

(iii) the value of the property to the defendant;

(iv) the amount of the fine imposed on the defendant; and

(v) such other factors as justice may require.

(E) FORFEITURE IN REM.—In the case of a person who—

(i) is adjudicated guilty of a violation of a plant quarantine law;

(ii) is sentenced to a term of imprisonment or fined under this title; and

(iii) fails to pay the fine imposed under this title,

the court shall order the property described in this subsection to be forfeited to the United States.

(F) USE OF FORFEITED PROPERTY.—The proceeds of a forfeiture made under this section shall be used to defray the costs of the prosecution and to reimburse the United States for any expenses paid or incurred by the Secretary in the conduct of an investigation or prosecution relating to the violation of a plant quarantine law.

(G) FORWARDING OF FORFEITED PROPERTY.—The Secretary of Agriculture shall forward any property to the United States as ordered by the court under this section.

(H) FORWARDING OF FORFEITED PROPERTY.—The United States shall make available any property to the United States as ordered by the court under this section.

(I) FORWARDING OF FORFEITED PROPERTY.—The United States shall not make available any property to the United States as ordered by the court under this section.
the violation (other than a misdemeanor); and
  (B) any property, real or personal, constituting, derived from, or traceable to any proceeding relating to the forfeiture shall be subject to the procedures of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 883), other than subsections (d) and (q).

(3) PROCEEDURES.—The proceeds from the sale of any property, real or personal, and any funds forfeited, under this subsection shall be used—
  (A) first, to reimburse the Department of Justice, the United States Postal Service, and the Department of the Treasury for any costs incurred by the Departments and the Service to initiate and complete the forfeiture proceeding;
  (B) second, to reimburse the Office of Inspector General of the Department of Agriculture for any costs incurred by the Office in the law enforcement effort resulting in the forfeiture;
  (C) third, to reimburse any Federal or State law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and
  (D) fourth, by the Secretary to carry out the functions of the Secretary under a plant quarantine law.

(c) CIVIL PENALTIES.—

(1) IN GENERAL.—A person who violates a plant quarantine law, or that forges, counterfeits, or defaces a certificate, permit, or other document provided under a plant quarantine law, or that forges, countersigns, or alters, destroys, or destroys a certificate, permit, or other document provided under a plant quarantine law may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary that does not exceed the greater of—
  (A) $50,000 in the case of an individual (except that the civil penalty may not exceed $1,000 in the case of an initial violation of any of the provisions of subsection (a) or (b) of section 1671 of title 7), or $250,000 in the case of any other person for each violation, except the amount of gain, or 
  (B) the gross gain or gross loss for a violation of paragraph (2) of section 1671 of title 7 divided by the number of persons involved in the violation, or 

(B) twice the gross gain or gross loss for a violation of paragraph (2) of section 1671 of title 7 divided by the number of persons involved in the violation, or 

(2) PROCEDURES.—The Secretary may compromise, modify, or remit, with or without conditions, a civil penalty that may be assessed under this subsection.

(3) SETTLEMENT OF CIVIL PENALTIES.—The Secretary may compromise, modify, or remit, with or without conditions, a civil penalty that may be assessed under this subsection.

(4) PENALTY OF ORDERS.—
  (A) IN GENERAL.—An order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code.
  (B) ACCELERATORY.—The validity of an order of the Secretary may not be reviewed in an action to collect the civil penalty.

(c) INTEREST.—A civil penalty not paid in full when due under an order assessing the civil penalty shall (after the due date) accrue interest until paid at the rate of interest applicable to judgments of the courts of the United States.

(5) GUIDELINES FOR CIVIL PENALTIES.—The Secretary shall coordinate with the Attorney General to determine under what circumstances the Secretary may issue a civil penalty or suitable notice of warning in lieu of prosecution by the Attorney General of a violation of a plant quarantine law.

(d) CIVIL FORFEITURE.—

(1) IN GENERAL.—There shall be subject to forfeiture to the United States any property, real or personal—
  (A) used to commit or to facilitate the commission of a violation (other than a misdemeanor) described in subsection (a); or
  (B) constituting, derived from, or traceable to proceeds of a violation described in subsection (a).

(2) PROCEDURES.—
  (A) IN GENERAL.—Subject to subparagraph (B), the procedures of chapter 46 of title 18, United States Code, relating to civil forfeitures shall apply to a seizure or forfeiture under this subsection, to the extent that the procedures are applicable and consistent with this subsection.
  (B) PERFORMANCE OF DUTIES.—Duties imposed on the Secretary of the Treasury under chapter 46 of title 18, United States Code, shall be performed with respect to seizures and forfeitures under this subsection by officers, agents, and employees, and other persons designated by the Secretary of Agriculture.

(e) LIABILITY FOR ACTS OF AN AGENT.—For the purposes of a plant quarantine law, the act, omission, or failure of an officer, agent, or person acting for or employed by any other person within the scope of employment of the United States, or person shall be considered to be the act, omission, or failure of the other person.

By Ms. SNOWE (for herself and Mr. CHAFEE):

S. 119. A bill to provide States with funds to support State, regional, and local school construction; to the Committee on Health, Education, Labor, and Pensions.

BUILDING, RENOVATING, AND CONSTRUCTING KIDS' SCHOOLS ACT

Ms. SNOWE. Mr. President, I rise today with my friend and colleague, Senator CHAFEE, to introduce the Building, Renovating, Improving, and Constructing Kids' Schools (BRICKS) Act—legislation that would address our nation’s burgeoning need for K-12 school construction, renovation, and repair.

The legislation—which is endorsed by the National Education Association and National PTA, and the National Association of State Boards of Education—would accomplish this in a fiscally-responsible manner while seeking to fund the middle ground between those who support a very direct, active federal role in school construction, and those who are concerned about an expanded federal role in what has been—and remains—a state and local responsibility.

Mr. President, the condition of many of our nation’s existing public schools is abysmal even as the need for additional schools and classroom space grows. Specifically according to reports issued by the General Accounting Office in 1995 and 1996, fully one-third of all public schools need extensive repair or replacement.

As further evidence of this problem, a recent brief prepared by the National Center for Education Statistics (NCES) in 1999 stated that the average public school in America is 42 years old, with school buildings beginning rapid deterioration after 40 years. In addition, the NCES brief found that 29 percent of all public schools are in the “oldest condition,” which means that they were build prior to 1970 and have either never been renovated or were renovated prior to 1980.

Not only are our nation’s schools in need of repair and renovation, but there is a growing demand for additional schools and classrooms due to an ongoing surge in student enrollment. Specifically, according to the NCES, at least 2,400 new public schools will need to be built by the year 2003 to accommodate our nation’s burgeoning school rolls, which will grow from a record 52.7 million children today to 54.3 million by 2008.

No less to say, the cost of addressing our nation’s need for school renovations and construction is enormous. In fact, according to the General Accounting Office (GAO), it will cost $112 billion just to bring our nation’s schools into good overall condition, and a recent report by the NEA identified $322 billion in unmet school modernization needs. Nowhere is this cost better understood than in my home state of Maine, where a 1996 study by the Maine Department of Education and the State Board of Education determined that the cost of addressing the state’s school building and construction needs stood at $637 million.

Mr. President, we simply cannot allow our nation’s schools to fall into disrepair or become obsolete with children sitting in classrooms that have leaky ceilings or rotting walls. We cannot ignore the need for new schools as the record number of children enrolled in K-12 schools continues to grow.

Accordingly, because the cost of repairing and building these facilities may prove to be more than many state and local governments can bear in a short period of time, I believe the federal government can and should assist Maine and other states and local governments in addressing this growing national crisis.

Admittedly, not all members support strong federal intervention in what has been historically a state and local responsibility. In fact, many argue with merit that the best form of federal assistance for school construction or other local educational needs would be for the federal government to fulfill its commitment to fund a portion of the cost of special education. This long-standing commitment was made when the Individuals with Disabilities Education (IDEA) Act was signed into law
Mr. President, by providing low-interest loans to states and local governments to support school construction, I believe that our bill represents a fiscally-responsible, centrist solution to a national problem.

Those who support a direct, active federal role in school construction, our bill provides substantial federal assistance by dedicating $20 billion to leverage a significant amount of new school construction bonds. For those who are concerned about the federal government becoming engaged in an historically state and local responsibility—and thereby stepping on local control—my bill directs that the monies provided to states will be repaid, and that no onerous applications or demands are placed on states to receive their share of these monies.

Mr. President, I urge that my colleagues support the “BRICKS Act”—legislation that is intended to bridge the gap between competing philosophies on the federal role in construction. Ultimately, if we work together, we can make a tangible difference in the condition of America’s schools without turning it into a partisan or ideological battle that is better suited to sound bites than actual solutions.

Thank you, Mr. President. I ask unanimous consent that the letters of support from the NEA, PTA, NASBE, and Jim Rier, the Chairman of the Maine State Board of Education, be printed in the RECORD.

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


Sen. OLYMPIA SNOWE, U.S. Senate, Washington, DC.

DEAR SENATOR SNOWE: On behalf of the National Education Association’s (NEA) 3.5 million members, we wish to thank you for your leadership in introducing a revised version of the Building, Renovating, Improving, and Constructing Kids’ Schools (BRICKS) Act.

As you known, our nation’s schools are in desperate need of repair and renovation. Too many students attend classes in overcrowded buildings with leaky roofs, faulty wiring, and outdated plumbing. A recently-released NEA study documents more than $300 billion in needed repairs and improvements. And in many cases zero interest—school modernization loans to states and schools. According to a preliminary Department of Education analysis, the BRICKS Act would provide schools with a benefit of $465 for each $1,000 in bonds.

We are pleased that the BRICKS Act would allow up to 50 percent of federal funds to be used for payment of construction costs or the principal portion of loans, as well as the interest costs. We also appreciate the provision allowing those states with laws that prohibit borrowers from paying interest costs on school bonds to use 100 percent of their BRICKS loans for state revolving loan
funds or other state administered school modernization programs. NEA believes it is essential to enact meaningful school modernization assistance this year. We thank you for your leadership in this area and look forward to continuing to work with you toward passage of bipartisan school modernization legislation.

Sincerely,

MARY ELIZABETH THASLEY,
Director of Government Relations.

NATIONAL PTA®
Chicago, IL, July 7, 2000.
Hon. LINCOLN D. CHAFEE,
U.S. Senate, Providence, RI.

Hon. OLYMPIA J. SNOWE,
U.S. Senate, Washington, DC.

DEAR SENATORS CHAFEE AND SNOWE: On behalf of the parents, students, teachers, and other child advocates who are members of the National PTA, I am writing to support the Building, Renovating, Improving, and Constructing Kids’ Schools (BRICKS) Act, which you plan to introduce next week.

We thank you for your leadership in proposing this initiative, which acknowledges the federal government’s responsibility to help schools repair and renovate their facilities. As you are aware, the U.S. General Accounting Office has estimated that the cost of fixing the structural problems in schools across the nation will cost more than $112 billion. If new schools are built to accommodate over-growth of student bodies, technological, wiring, and infrastructure needs are added in, this estimate would exceed $200 billion dollars.

This is a problem that schools cannot address without a partnership with the federal government, and National PTA supports a variety of strategies to address this growing crisis. In addition to endorsing the BRICKS bill, National PTA is supporting the Public School Repair and Renovation Act, which would provide tax credits to pay the interest on school modernization bonds and create a grant and loan program for emergency repairs in high-need districts; and also the America’s Better Classrooms Act, which would provide $22 billion over two years in zero interest school construction and modernization bonds.

Although $2 billion, nearly $20 billion would be available over 15 years to provide low interest loans, and in many cases zero interest, loans to States for interest payments on their school modernization bonds. We are pleased that the proposal will allow increased flexibility in using the federal funds for interest payments, as well as for other state-administered programs that assist state entities or local governments pay for the construction or repair of schools.

National PTA is committed to helping enact federal school modernization legislation proposed this Congress. We believe the BRICKS Act should be promoted as one of the ways the federal government can assist schools, and we commend your leadership in this area. We look forward to continuing to work with you toward formulation and passage of bipartisan school modernization legislation.

Sincerely,

VICKY RAPFIL,
Vice President for Legislation.

NATIONAL ASSOCIATION OF STATE
BOARDS OF EDUCATION,
Hon. OLYMPIA J. SNOWE,
U.S. Senate, Washington, DC.

DEAR SENATOR SNOWE: The National Association of State Boards of Education (NASSBE) represents state and territorial boards of education. Our principal objectives are to strengthen state leadership in education policy-making, promote excellence in the education of all students, advocate equality of access to educational opportunity, and assure responsible governance of public education.

We are writing to applaud your efforts to provide federal assistance to states for school construction. The deteriorating condition of America’s school infrastructure has reached crisis proportions. At least one-third of all U.S. schools are in need of extensive repairs or replacement. This means at least one major building deficiency such as cracked foundations, leaky roofs, or crumbling walls. We cannot expect our children to learn much less excel in such decrepit and unsafe environments.

The more than $112 billion needed to renovate and/or repair existing school facilities has simply overwhelmed state and local resources. This national problem demands federal attention and we are encouraged that your office is attempting to address this need by proposing a $20 billion federal loan program.

Your legislation, the Building, Renovating, Improving, and Constructing Kids’ Schools Act (BRICKS), will leverage new school construction expenditures at the state and local levels and provides flexibility to integrate this new building activity with solutions that states have already undertaken, such as re-fooding schools, to enhance the financing of school construction.

We appreciate if on July 19th if you will hold hearings on this critical issue. We look forward to continuing to work with your office to foster a partnership between federal, state and local entities to improve the learning conditions of American children.

Sincerely,

MARY ELIZABETH TEASLEY,
Director of Government Relations.

BRENDA LILIENTHAL WELBUR, Executive Director.

STATE BOARD OF EDUCATION,
Sen. OLYMPIA J. SNOWE,
U.S. Senate, Washington, DC.

DEAR SENATOR SNOWE: The age and condition of our nation’s public schools are an expanding crisis and should be of great concern to all. Decades of neglect, unfunded maintenance and repair, and increases in municipal budgets, shifting populations, technology requirements, and programmatic changes have combined to weaken the infrastructure of our schools. As you are well aware, a 1996 GAO report estimated that just repairing existing school facilities would cost $112 billion. In addition, building new facilities to meet the demands of program and increased enrollments could cost another $73 billion. We have allowed the condition of our schools to deteriorate to a point that is now critical implications for the health and safety of our students and staff who occupy those buildings.

A number of states have launched major efforts to address the critical needs of their school districts. Maine’s innovative and comprehensive school facilities program, created to aid local units in the upgrade and renovation of existing buildings, and the Governor’s Office of Policy and Resources to aggressively address those needs, our concern grows.

As Chairman of the Maine State Board of Education, I am available and would be pleased to participate in any appropriate to outline Maine’s innovative and comprehensive school facilities program.
and to elaborate on how federal assistance could best complement state and local efforts to address our school construction needs.

It was an honor to meet you in March during NASBE’s Legislative Conference. I look forward to working with you in support of a federal partnership with state and local school districts to ensure a safe, healthy, and effective learning environment for all.

Sincerely,

JAMES E. RIER, Jr., Chair, Maine State Board of Education.

By Mrs. FEINSTEIN:

S. 120. A bill to establish a demonstration project to increase teacher salaries and provide benefits for teachers who enter into contracts with local educational agencies to serve as master teachers; to the Committee on Health, Education, Labor, and Pensions.

MASTER TEACHER BILL

Mrs. FEINSTEIN. Mr. President, today I am introducing a bill to create a demonstration grant program to help school districts create master teacher positions.

The bill authorizes $100 million for a five-year demonstration program under which the Secretary of Education would award competitive grants to school districts to create master teacher positions. Federal funds would be equally matched by states and local governments so that $200 million total would be available. Under the bill, 6,600 master teacher positions could be created if each master teacher were paid $30,000 on top of the current average teacher’s salary.

As defined in this bill, a master teacher is one who is credentialed; has at least five years of teaching experience; is judged to be an excellent teacher by administrators and teachers who are knowledgeable about the individual’s performance; is currently teaching; and enters into a contract, and agrees to serve at least five more years.

The master teacher would help other teachers to improve instruction, strengthen other teachers’ skills, mentor less experienced teachers, develop curriculum, and provide other professional development.

The goal of this bill is for districts to pay each master teacher up to $30,000 on top of his or her regular salary. Nationally, the average teacher salary is $40,574. In California, it is $45,317. School principals receive $76,768 on average nationally and $72,805 in California. School superintendents nationally earn $106,122 and in California, $102,054. The purpose of the master teacher concept in this bill is to pay teachers a salary closer to that of an administrator to keep good teachers in teaching.

The bill requires State and/or local districts to match federal funds dollar for dollar. It requires the U.S. Department of Education to give priority to school districts with a high proportion of economically disadvantaged students and to ensure that grants are awarded to a wide range of districts in terms of the size and location of the school district, the ethnic and economic composition of students, and the experience of the districts’ teachers.

There are several reasons we need this bill. Beginning teachers face overwhelming challenges in their first year, but in the real world, they get little guidance or support, in a year that will have a profound impact on the rest of their professional career. They often feel “out there” and “alone,” thrown into an unfamiliar school and classroom with a room full of new faces. By the current sink-or-swim method, new teachers often find themselves ill equipped to deal with the educational and disciplinary tasks of their first year.

A new teacher can get experienced guidance from a master teacher who is paired with the new teacher. The master teacher can help new teachers improve instructional methods, and deal with discipline problems. Having this kind of professional support can give these new teachers the skills and confidence to stay in teaching.

Second, such programs can bring more prestige to teaching as a profession, by increasing the teacher’s salary, by rewarding experience, and by giving teachers opportunities to supervise others. A master teacher designation is a way to recognize outstanding ability and performance, and to reward the good teachers. A master teacher position can give teachers a professional goal, a higher level to pursue. A 1996 report by the National Commission for Teaching and America’s Future said that creating new career paths for teachers is one of the best ways to give educators the respect they deserve and to ensure that proven teaching methods spread quickly and broadly.

In one survey of teachers which asked which factors make teachers stay in teaching, 79 percent of teachers said that respect for the teaching profession is needed in order to retain qualified teachers. Eighty percent said that formal mentoring programs for beginning teachers is key (Scholastic/Chief State School Officers’ Teacher Voices Survey, 2000). Over 70 percent of teachers said that more planning time with peers is needed to keep teachers in the classroom. This amendment should help.

Because of the higher pay and enhanced prestige, a master teacher program can help to recruit and retain teachers. Mentor systems provide new teachers with a support network, someone to turn to. Studies indicate higher retention rates among new teachers who participate in mentoring programs. According to Yvonne Gold of California State University-Long Beach, 25 percent of beginning teachers leave the profession within five years and nearly 40 percent leave in the first five years. In the Rochester, New York, system, the retention rate was nearly double the national average five years after establishing a mentoring program.

As Jay Matthews wrote in the May 16, 2000, Washington Post, programs like this “can provide a large boost to the profession’s image for a relatively small amount of money. Such programs can keep good teachers in the classroom, instead of losing them to school administration or industry.

Higher salaries and prestige for master teachers could deter the drain from the classrooms.

Another reason for this bill is that teacher mentoring programs can make teacher performance more accountable. A master teacher can help novice teachers improve their teaching and get better student achievement. ‘‘Teachers cannot be held accountable for knowledge based, client-oriented decisions if they do not have access to knowledge, as well as opportunities for consultation and evaluation of their work,’’ said Adam Urbanski, President of the Rochester, New York, Teachers Association. He went on: ‘‘Unsatisfactory teacher performance often stems from inadequate and incompetent supervision. Administrators often lack the training and the resources to supervise teachers and improve the performance of those who are in serious trouble.’’

Good teachers are key to learning. Lower math test scores have been correlated with the percentage of math teachers on emergency permits and higher math test scores were linked both to the teachers’ qualifications and to their years of teaching experience, according to ‘‘Professional Development for Teachers, 2000.’’

This bill could be very helpful in California where one-fifth of our teachers will leave the profession in three years according to an article in the February 9, 2000, Los Angeles Times.

One-half of our teachers are over age 44.

California will need 300,000 new teachers by 2010. ‘‘More students to teach, smaller classes, and teachers leaving or retiring means that California school districts are now having to hire a record 26,000 new teachers each year,’’ says the report, ‘‘Teaching and California’s Future, 2000.’’ California’s enrollment is growing at three times the national rate. With these kinds of demands, understaffing often leads to under qualified and new teachers entering the classroom. We have to do all we can to attract and retain good teachers.

The true beneficiaries of master teacher programs are the students and that is, of course, my fundamental goal. As stated in Rochester’s teaching manual, the goal is ‘‘to improve student outcomes by developing and maintaining the highest quality of teaching, in order to provide the conditions that do not require them to leave teaching to assume additional responsibilities and leadership roles.’’
I believe this bill can begin to provide teachers the real professional support they need, can attract and retain teachers and can bring to the teaching profession the prestige it deserves.

I urge my colleagues to join us in support of this bill. I ask unanimous consent that this bill be printed in the RECORD.

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

S. 120

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 "Master Teacher Act of 2001".  

SEC. 2. MASTER TEACHER DEMONSTRATION PROJECT.

(a) DEFINITIONS.—In this section:

(1) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given in the term section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2800).

(2) MASTER TEACHER.—The term "master teacher" means a teacher who—

(A) is licensed or credentialed under State law;

(B) has been teaching for at least 5 years in a public or private school or institution of higher education;

(C) is selected upon application, is judged by an excellent teacher, and is recommended by administrators and other teachers who are knowledgeable of the individual's performance;

(D) at the time of submission of such application, is teaching and based in a public school;

(E) assists other teachers in improving instructional strategies, improves the skills of other teachers, performs mentoring, develops curriculum, and offers other professional development; and

(F) enters into a contract with the local educational agency to continue to teach and serve as a master teacher for at least 5 additional years.

(3) SECRETARY.—The term "Secretary" means the Secretary of Education.

(b) ESTABLISHMENT OF DEMONSTRATION PROJECT.

(1) IN GENERAL.—Not later than July 1, 2002, the Secretary shall conduct a demonstration project under which the Secretary shall award competitive grants to local educational agencies to increase teacher salaries and employee benefits for teachers who are knowledgeable of the individual's performance; and

(2) REQUIREMENTS.—In awarding grants under the demonstration project, the Secretary shall—

(A) assure that grants are awarded under the demonstration project to a diversity of local educational agencies in terms of size of school district, location of school district, ethnic and socioeconomic composition of students, and experience of teachers; and

(B) give priority to local educational agencies in school districts that have schools with a high proportion of economically disadvantaged students.

(c) APPLICATIONS.—In order to receive a grant under the demonstration project, a local educational agency shall submit an application to the Secretary that contains—

(1) an assurance that funds received under the grant will be used in accordance with this section; and

(2) a detailed description of how the local educational agency will use the grant funds to pay the salaries and employee benefits for positions designated by the local educational agency as master teacher positions.

(d) MATCHING REQUIREMENT.—The Secretary may not grant to a local educational agency under the demonstration project unless the local educational agency agrees that, with respect to costs to be incurred by the entity for activities for which the grant was awarded, the agency shall provide (directly, through the State, or through a combination thereof) in non-Federal contributions an amount equal to the amount of the grant awarded to the agency.

(e) STUDY AND REPORT.—

(1) IN GENERAL.—Not later than July 1, 2005, the Secretary shall conduct a study and transmit a report to Congress analyzing the results of the demonstration project conducted under this section.

(2) CONTENTS OF REPORT.—The report shall include—

(i) an analysis of the results of the project on—

(A) the recruitment and retention of experienced teachers;

(B) the effect of master teachers on teaching by less experienced teachers;

(C) the impact of mentoring new teachers by master teachers; and

(D) the impact of master teachers on student achievement; and

(ii) recommendations regarding—

(A) continuing or terminating the demonstration project;

(B) establishing a grant program to expand the project to additional local educational agencies and school districts;

(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $100,000,000, for the period of fiscal years 2002 through 2006.

By Mrs. FEINSTEIN (for herself and Mr. GRAHAM):

S. 121. A bill to establish an Office of Children's Services within the Department of Justice to coordinate and implement Government actions involving unaccompanied alien children, and for other purposes; to the Committee on the Judiciary.

UNACCOMPANIED ALIEN CHILD PROTECTION ACT

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to change the way unaccompanied immigrant children are treated while in the custody of the Immigration and Naturalization Service (INS). If enacted, the Unaccompanied Alien Child Protection Act of 2001 would ensure that the federal government addresses the special needs of thousands of unaccompanied alien children who enter the U.S. It will ensure that these children have a fair opportunity to obtain humanitarian relief. Central throughout this legislation are two concepts: The United States government has a fundamental responsibility to protect unaccompanied children in its custody; and in all proceedings and actions, the government's ultimate priority should be to protect the best interests of children.

The Unaccompanied Alien Child Protection Act of 2001 would ensure that children who are apprehended by the INS are treated humanely and appropriately by transferring jurisdiction over their welfare from the INS Detention and Deportation division to a newly created Office of Children's Services within the Department of Justice.

This legislation would also centralize responsibility for the care and custody of unaccompanied children in this new Office of Children's Services. By doing so, it would resolve the conflict of interest inherent in the INS's dual role— that is, the INS retains custody of children and is charged with their care while, at the same time, it seeks their deportation.

Under this bill, the Office of Children's Services would be required to establish clear guidelines and uniformity for detention alternatives such as shelter care, foster care, and other child custody arrangements. This would improve unaccompanied aliens' access to existing options for permanent protection when U.S. immigration and child welfare authorities believe such protection is warranted.

Finally, the Unaccompanied Alien Child Protection Act would provide unaccompanied minors with access to legal counsel, who would ensure that the children appear at all immigration proceedings and assist them as the INS and immigration court consider their cases. The bill would also provide the children with access to a guardian ad litem to ensure that they are properly placed in a safe and caring environment. The guardian ad litem would also work to ensure that each child's best interests are protected throughout the process.

Let me turn for a moment to the issue of access to counsel. Children, even more than adults, have incredible difficulty understanding the complexities of the asylum system without the assistance of competent representation. In reality, most children in INS detention are overlooked and unrepresented. Without legal representation, children are at risk of being returned to their home countries where they may face further human rights abuses.

I am aware of two cases that demonstrate the compelling need for counsel on behalf of these children. The first case involves two 17-year old boys from China, Li and Wang, who were apprehended on an island near Guam and had been in INS custody almost two years. During their detention in Guam, the two boys testified in federal court against the smugglers who brought them to Guam. In their testimony, they described being beaten by the smugglers even before leaving China, and being chained and confined during the trip to Guam. In the spring of 2000, the two boys were brought to a corrections facility in Los Angeles and...
detained in the INS section of that facility. This is where the similarity in their cases end.

Mr. President, while both of the boys would face danger from the smugglers if they returned to China because of their age, one was female and her asylum claim was denied. Ms. Li applied for asylum and was denied. He was not represented by counsel at his hearing. Despite the fact that the INS trial attorney mentioned that Li had testified in federal court on the child’s behalf, her testimony was not included in the record. Unfortunately for Ms. Li, an attorney overheard the hearing, and after speaking with Ms. Li, agreed to appeal her asylum claim. Ms. Li is still being held in a Los Angeles corrections facility. The story is different for Wang. Mr. President, these cases demonstrate a need for legal representation of children, for had he been represented by counsel and if his testimony would have been incorporated into his case, Ms. Li may have won his asylum claim. Instead, a 17-year-old boy unfairly maintained in immigration detention system and our language was forced to unfamiliar with our immigration system while, at the same time, it was required to place children in jail-like facilities. These facilities are highly inappropriate, particularly for children who have already experienced painful trauma in their homelands.

There is currently no provision of federal law providing guidance for the placement of unaccompanied children in immigration detention. Under current law, the INS is responsible for the apprehension, detention, and deportations of unaccompanied children. In 1999, the INS held approximately 4,600 children under the age of 18 in its custody. Some of these children fled human rights abuses or armed conflicts in their homelands, some were victims of child labor, or an immigration judge. It was not until Members of Congress and the local Thai community had intervened, however, that the INS decided to allow the child to remain in the U.S. until the agency could provide proper medical attention and determine what course of action would be in the child’s best interest. Now his case is before a federal district court judge who will determine whether he should be eligible to apply for asylum.

Many of these children came from troubled and war-torn countries around the world, including the Peoples Republic of China, Honduras, Afghanistan, Somalia, Sierra Leone, Colombia, Guatemala, Cuba, former Yugoslavia, and Vietnam. These children are accompanied by unrelated adults. Some came to escape economic deprivation, others to join family members, and still others, were actually part of a major alien smuggling or trafficking ring. The INS was prepared to return the child back to Thailand. It was not until Members of Congress and the local Thai community had intervened, however, that the INS decided to allow the child to remain in the U.S. until the agency could provide proper medical attention and determine what course of action would be in the child’s best interest. Now his case is before a federal district court judge who will determine whether he should be eligible to apply for asylum.
which we handle vulnerable unaccompanied minors. One would think that our country would treat unaccompanied minors with the sensitivity and care their situations demand. Unfortunately, in too many instances, that has not been the case. Too often, these children, who are often treated like criminals, and, under the worst circumstances, like criminals.

Xiao Ling, a young girl from China who spoke no English, was detained by the Berks County Juvenile Detention Center. The INS placed her among children guilty of violent crimes, including rape and murder. Xiao was never guilty of any crime, and yet she slept in a small concrete cell, was subjected to humiliating strip searches, and forced to wear handcuffs. She was forbidden to keep any of her clothes or possessions and, under the policies of the Berks Center, Xiao was not allowed to laugh—not that she had anything to laugh about.

Imagine the fear this child had to endure: thrust into a system she did not understand, given no legal aid, placed in jail that housed juveniles with serious criminal convictions, including murder, car jacking, rape, and drug trafficking. She did not speak English and was unable to speak to any staff who knew her language, and she had to submit to strip searches. It is hard to believe that our country would have allowed this innocent child to be treated in such a horrible manner.

Mr. President, for years children's rights and human rights activists have implored Congress to improve the way our immigration system handles unaccompanied minors—just like the ones whose stories I have just told. I believe my bill would do just that.

We cannot continue to allow children, who come to our country, often traumatized and guilty of no crime, to be held in jails and treated like criminals. We cannot continue to allow children, scared and helpless, to be thrown into a system they do not understand without sufficient legal aid and a guardian to look after their best interests. We must adhere to the principles of our justice system. What kind of message do we send when we deprive children who come to our country seeking refuge of their basic rights and protections?

As a nation that holds our democratic ideals and constitutional rights paramount, how then can we continue to avert our attention from repeated violations of some of the most basic human rights against children who seek no weapon, no weapon except for a gun, which they have been denied an attorney for their immigration proceedings and a social worker would have been appointed as guardian ad litem to ensure that her needs were being met. Sadly, this young girl was given none of these options.

Neither was a 16-year-old boy from Colombia, who fled Colombia to escape a life of violence on the streets of Bogota, where FARC guerrillas attempted to recruit him and the F-2 branch of the government harassed him in its attempt to get rid of street children. Fearing for his life, he fled Colombia for Venezuela where he lived without shelter or sufficient food. In search of a safer life, he sneaked into the machine room of a cargo ship bound for the United States. He was lucky to survive; many other stowaways were thrown overboard when discovered by the ship's crew.

The boy remained on the ship from November 1998 until March 1999, when he arrived in Philadelphia. He was soon turned over to the INS and placed into the same detention center in which the young Chinese girl was held. He, too, was kept with criminal offenders. He did not understand English, which created a myriad of problems because he was unable to understand what was expected of him in the detention center. He was held in an inappropriately punitive environment for six months.

I have one last story to share with you today. Placed on a boat bound for the United States by her very own parents, a 15-year-old girl fled China's rigid family planning laws. Under these laws she was denied citizenship, education and she came to this country alone and desperate. And what did our immigration authorities do when they found her? They held her in a juvenile jail in Portland, Oregon. She was held for eight months and was detained for an additional four months after being granted political asylum. At her asylum hearing, the young girl could not wipe away the tears from her face because her hands were chained to her waist. According to her lawyer, "her only advantage, the only advantage her parents had put her on a boat so she could get a better life over here."

Mr. President, today I introduce the Armed Services Voting Rights Protection Act of 2001.

This important legislation takes a two pronged approach to help address the technical problems that resulted in far too many of the ballots cast by those serving in our nation’s Armed Services being thrown out in the last election.

The first part of the bill would amend the Uniformed and Overseas Citizens Absentee Voting Act of 1986 to help protect the voting rights of our armed services members. This first part is companion language to a bill, H.R. 159, that has been introduced in the 107th Congress by Representative Bob Riley of Alabama.

Specifically, this part of the bill would prohibit a state from determining that an absentee ballot submitted by a uniformed services voter has been improperly cast unless the state finds clear and convincing evidence of fraud. It states that the lack of a witness signature, address, postmark, or other identifying information cannot not be considered clear and convincing evidence of fraud unless there is other evidence or information. Further, it is designed to have no effect on filing deadlines as determined by the states.

The second part of the Armed Services Voting Rights Protection Act directs the United States Postal Service to conduct joint studies with each of the branches of our Armed Services to examine what went wrong during the last election that caused so many of the ballots cast by our nation’s Soldiers, Sailors, Airmen and Marines to be thrown out, often for minor technical reasons. It directs the U.S. Postal Service and the Armed Services to report back to congress within 120 days of the enactment of this Act with recommendations about how to improve the U.S. Post Office's interface with the Armed Services and help prevent a repeat performance where so many overseas military ballots were thrown out. It also directs them to implement the changes that can be done without changing current law and recommend further changes in law that Congress may want to consider. These efforts should also help improve the overall day-to-day relationship between the Armed Services and Post Service.

The need for this bill is clear. While ballots were being counted during the most recent presidential election, an army of trial lawyers was sent out in a coordinated effort to systematically eliminate many of the votes cast by Americans serving in our nation's Armed Services overseas. These efforts to throw out ballots, usually for minor technical reasons, were all too successful.

As a veteran and a member of the Senate Veterans Affairs Committee, I
believe throwing out votes cast by those serving in the Armed Services over technicalities is simply wrong on the most fundamental level. Our nation’s Marines, Sailors, Airmen and Soldiers serve on the front lines in the defense of our great nation and constitute. To toss out many of their ballots, and especially those cast by those serving at the forefront of our defense by being underway at sea or serving in remote hardship posts, is no way to show appreciation for their service.

Many Americans, myself included, are deeply concerned that the last election sent a clear signal to those serving in the Armed Forces that even though they may be putting their very lives on the line in the defense of our nation, and are duty bound to obey orders issued by their Commander in Chief, the President of the United States, there is a good chance that their right to have a voice, through a vote, in the selection of that President that may be eliminated by the most minor of technicalities. This situation is made even worse by the fact that the very technical problems that may disqualify their ballots, like lack of access to postal marks, are often well beyond the control of individual Sailors, Soldiers, Marines and Airmen.

In order to vote, most of our fellow Americans serving in the Armed Services already have to jump through more hoops than the average citizen. We now can do what it takes to make it easier for them to jump through those hoops, rather than use these hoops as a way to trip up their right to vote.

Late last year, our nation witnessed an unprecedented assault on votes cast by our nation’s Sailors, Sailors, Airmen and Marines, and especially those serving overseas. The Armed Services Voting Rights Protection Act would be an important step in making sure that it does not happen again. I urge my colleagues to support this legislation. 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. 122
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.
This Act may be cited as the “Armed Services Voting Rights Protection Act of 2001”.

SEC. 2. STANDARD FOR INVALIDATION OF BALLOTS CAST BY ABSENT UNIFORMED SERVICE VOTERS IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 19730i–1) is amended—
(1) by striking “Each State” and inserting “(a) IN GENERAL.—Each State”; and
(2) by adding at the end the following new subsection:
“(b) STANDARDS FOR INVALIDATION OF CERTAIN BALLOTS.—
(1) IN GENERAL.—A State may not refuse to count a ballot submitted in an election for Federal office by an absent uniformed services voter on the grounds that the ballot was improperly or fraudulently cast unless the State finds clear and convincing evidence of fraud in the preparation or casting of the ballot by the voter.
(2) CLEAR AND CONVINCING EVIDENCE.—For purposes of this subsection, the lack of a witness signature, address, postmark, or other identifying information may not be considered in determining the existence of fraud (absent any other information or evidence).
(3) NO EFFECT ON FILING DEADLINES UNDER STATE LAW.—Nothing in this subsection may be construed to affect the application to ballots submitted by absent uniformed services voters of any ballot submission deadline applicable under State law.
(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to ballots described in section 102(b) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 19730f–6) that are submitted with respect to elections that occur after the date of enactment of this Act.

SEC. 3. STUDY AND REPORT BY THE POSTAL SERVICE ON IMPROVING THE SUBMISSION OF ABSENTEE BALLOTS BY ARMED SERVICES VOTERS IN ELECTIONS FOR FEDERAL OFFICE.

(a) STUDY.—
(1) IN GENERAL.—The Postal Service shall conduct a study to determine each reason for which an absentee ballot of an absent uniformed services voter is found under paragraph (1) of section 109 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 19730i–6) was not counted in the general election for Federal office (as defined in paragraph (3) of such section) held in 2000.
(2) CONSULTATION.—In conducting the study under this subsection, the Postal Service shall consult with the head of the executive department designated under section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 19730f–6), and the Secretary of Defense, Treasury, Transportation, Commerce, and Health and Human Services.
(b) UNPOSTMARKED BALLOTS.—In conducting the study under subsection (a), if the Postal Service finds that a reason for which an absentee ballot was not counted is that the ballot was not postmarked, then the Postal Service shall—
(1) determine the reason that the ballot was not postmarked; and
(2) develop recommendations on ways to ensure that such ballots will be postmarked in the future.
(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the Postal Service shall submit to Congress a report on the study conducted under subsection (a) that contains—
(1) any reason determined under paragraph (1) of subsection (b) and any recommendations developed under paragraph (2) of such subsection; and
(2) such recommendations for legislative or administrative action that the Postal Service determines appropriate.

Mrs. FEINSTEIN (for herself and Mr. VOINOVICH):
S. 123. A bill to amend the Higher Education Act of 1965 to extend loan forgiveness programs to Head Start teachers; to the Committee on Health, Education, Labor, and Pensions.

HEAD START TEACHERS ACT OF 2001

Mrs. FEINSTEIN. Mr. President: I rise today with my colleague from Ohio, Senator Voinovich, to introduce legislation to expand the federal loan forgiveness program to include Head Start teachers.

Head Start is one of the most important federal programs because it has the potential to reach children early in their formative years when their cognitive skills are just developing. We know that poor children disproportionately start school behind their peers—less likely to count to 10 or to recite the alphabet.

Providing low-income children with access to programs that encourage cognitive learning and prepare them to enter school ready to learn is important. Head Start is one example of a Federal program that has the potential to reach every low-income child; to help every eligible child learn to count to ten and begin to recite the alphabet.

Many of our Nation’s youngsters, however, enter elementary school without the basic skills necessary to succeed. Often these children lag behind their peers throughout their academic career.

As taxpayers, we will spend millions on efforts to help these children catch up. Many of these children will never catch up.

Several studies confirm the importance of providing low-income children with the opportunity early on to gain basic cognitive skills:
A study conducted on a preschool program in Chicago showed that for every dollar invested, $8 was saved by society in projected costs. Additionally, 26 percent more children were likely to finish high school and 40 percent were less likely to repeat a grade.

The National Head Start Association found that for every dollar invested in Head Start, at least $2.50 is saved because these children need less remedial education and are less likely to be on welfare programs or involved with the juvenile justice system than non-Head Start peers.

The Rand Corporation found that for every dollar invested in early childhood learning programs, taxpayers save between $4 and $7 later by reducing the need for drug treatment programs, special education programs, and mental health services, and the likelihood of incarceration.

We can save millions by providing low-income children with access to quality preschool where they will gain the necessary cognitive skills to succeed in school and life.

In order to give every child a head start in life, we must continue to recruit qualified teachers to the Head Start field who have demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of the preschool curriculum with a particular focus on cognitive learning. Obtaining and maintaining teachers with such qualifications is the only way to jump-start cognitive learning and to ensure that our youngsters start elementary school ready to learn.

Several recent studies confirm the importance of investing in the education and training of those who work with preschoolers.
Mr. President, I ask unanimous consent that the text of the bill now appear in the RECORD.

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

S. 123

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

SECTION 1. LOAN FORGIVENESS FOR HEAD START TEACHERS.

(a) SHORT TITLE.—This section may be cited as the "Loan Forgiveness for Head Start Teachers Act of 2001." 

(b) HEAD START TEACHERS.—Section 428J of the Higher Education Act of 1965 (20 U.S.C. 1078-10) is amended—

(1) in subsection (b), by amending paragraph (1) to read as follows:

"(1)(A) has been employed—

(i) as a full-time teacher for 5 consecutive complete school years in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; or

(ii) as a Head Start teacher for 5 consecutive complete program years under the Head Start Act; and

(B)(i) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the teacher is employed;

(ii) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and

(iii) if employed as a Head Start teacher, has demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of a preschool curriculum, with a focus on cognitive learning; and

(2) in subsection (g), by adding at the end the following:

"(3) HEAD START.—An individual shall be eligible for loan forgiveness under this section for service described in clause (i) of subsection (b)(1)(A) only if such individual received a baccalaureate or graduate degree on or after the date of enactment of the Loan Forgiveness for Head Start Teachers Act of 2001.; and

(3) by adding at the end the following:

"(1) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated such sums as may be necessary for fiscal year 2007 and succeeding fiscal years to carry out loan repayment under this section for service described in clause (i) of subsection (b)(1)(A) only if such individual received a baccalaureate or graduate degree on or after the date of enactment of the Loan Forgiveness for Head Start Teachers Act of 2001.;

(c) CONFORMING AMENDMENTS.—Section 428J of such Act (20 U.S.C. 1078-10) is amended—

(1) in subsection (c)(1), by inserting "or fifth complete program year" after "fifth complete school year of teaching";

(2) in subsection (f), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(1)(A)(i)";

(3) in subsection (g)(1)(A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(1)(A)(i)";

(4) in subsection (h), by inserting "except as part of the term "program year" before "duration"."
have an associate, bachelor’s, or advanced degree in early childhood education or a related field with teaching experience by 2003. Under Ohio law, by 2007, all Head Start teachers must have at least an associate degree. The more educationally well-qualified head start teachers have a graduate degree. We must do more to help our teachers afford the education that will be used to help educate our children.

Recruiting and retaining Head Start and early childhood teachers continues to be a challenge for Ohio and other states. The Loan Forgiveness for Head Start Teachers Act of 2001 will help communities, schools and other funded Head Start providers to meet the challenge of recruiting and retaining high quality teachers. It is one of the best ways that I know of where we can make a real difference in the lives of our most precious resource—our children.

I am pleased to have been able to work with the National Head Start Association and Ohio Head Start Association, and my colleague Senator Feinstein, on this legislation, and I urge my colleagues to join as co-sponsors of this bill.

By Mr. JOHNSON (for himself, Mr. KENNEDY, Mr. DORGAN, Mr. BINGHAMAN, Mr. FEINGOLD, Mr. LEAHY, Mr. INOUYE, Mr. KERRY, and Mr. DASCHEL)

S. 125. A bill to provide substantial reductions in the price of prescription drugs for Medicare beneficiaries; to the Committee on Finance.

Mr. JOHNSON. Mr. President, I am pleased to introduce the “Prescription Drug Fairness for Seniors Act of 2001”, legislation that addresses the critical issue facing our older Americans—the cost of their prescription drugs. Studies have shown that older Americans spend almost three times as much of their income on health care than those under the age of 65, and more than three-quarters of Americans aged 65 and over are taking prescription drugs. Even more alarming is the fact that seniors and others who buy their own prescription drugs, are forced to pay over twice as much for their drugs as are the drug manufacturers’ most favored customers, such as the federal government and large HMOs.

The “Prescription Drug Fairness for Seniors Act” will protect senior citizens and disabled individuals from drug price discrimination and make prescription drugs available to Medicare beneficiaries at substantially reduced prices. The legislation achieves these goals by allowing wholesalers that serve Medicare beneficiaries to purchase prescription drugs at prices equal to those of the pharmaceutical companies’ most favored customers. Estimated to reduce prescription drug prices for seniors by over 40%, this bill will help those seniors who often times have to make devastating choices between buying food or medications. Choices that no human being should have to make.

Research and development of new drug therapies is an important and necessary tool towards improving a person’s quality of life. But due to the high price tag that often accompanies the necessity of these therapies, many seniors are often left without access to these new therapies, and ultimately, in far too many instances, without access to medication at all. This legislation is an important step towards restoring the access to affordable medications for our Medicare beneficiaries.

While this may not be the magic bullet that meets all of the long term needs of providing Medicare prescription drug coverage, it does provide a mechanism for immediate relief from rising drug costs. Working together, reaching across the aisle, we can use this time of unparalleled prosperity to do the right thing by our seniors. We should do it this year for their sake, and for the sake of the future of Medicare.

I look forward to working on this important issue in the months to come and hope that Congress will work swiftly in a bipartisan manner to enact legislation that will benefit millions of senior citizens and disabled individuals across our nation.

By Mr. CLELAND (for himself, Mr. MILLER, Mr. INOUYE, Mr. TORRICELLI, Mr. BINGHAMAN, and Mr. HARKIN)

S. 126. A bill to authorize the President to present a gold medal on behalf of Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

AUTHORIZING THE PRESIDENT TO PRESENT THE GOLD MEDAL ON BEHALF OF CONGRESS TO FORMER PRESIDENT JIMMY CARTER AND FORMER FIRST LADY ROSALYNN CARTER

Mr. CLELAND. Mr. President, I rise today to introduce a bill that would authorize the President to present a Gold Medal on behalf of Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation. I would like to thank Senators MILLER, INOUYE, TORRICELLI, BINGHAMAN and HARKIN for co-sponsoring this bill and extend an invitation to all our other colleagues to join us in supporting this legislation to award these two great Americans with Congress’ highest honor.

It is widely agreed that President Jimmy Carter and his wife Rosalynn Carter have distinguished records of public service to the American people and to the international community:

(1) both former President Jimmy Carter and his wife Rosalynn Carter have distinguished records of public service to the American people and to the international community;

(2) the peacemaking efforts of President Jimmy Carter as a mediator in the Arab-Israeli dispute culminated in the Camp David Accords signed by Egypt and Israel, which provided the foundation for a settlement of the Middle East dispute that had eluded peacemakers for more than 3 decades;

(3) President Jimmy Carter was instrumental in the passage of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), one of the most significant environmental legislation ever approved by Congress;

(4) in establishing his presidential library, President Jimmy Carter sought to create a center for the service of humanity in areas as diverse as politics, health care, human rights, and democracy;

(5) Jimmy and Rosalynn Carter epitomize the American quality of volunteerism in action through their countless public service activities in their home State of Georgia, the rest of the United States, and throughout the world, including their work for Habitat for Humanity, which helps needy people in the United States and other countries renovate and build homes for themselves; and

Together, Jimmy and Rosalynn Carter have dedicated their lives to promoting national pride and to bettering the quality of

The Congress finds that:

(1) Jimmy and Rosalynn Carter epitomize the American quality of volunteerism in action through their countless public service activities in their home State of Georgia, the rest of the United States, and throughout the world, including their work for Habitat for Humanity, which helps needy people in the United States and other countries renovate and build homes for themselves; and

(2) the peacemaking efforts of President Jimmy Carter as a mediator in the Arab-Israeli dispute culminated in the Camp David Accords signed by Egypt and Israel, which provided the foundation for a settlement of the Middle East dispute that had eluded peacemakers for more than 3 decades;

It is the sense of the Senate that:

(1) the United States and other countries recognize the contributions of President Jimmy Carter and his wife Rosalynn Carter in promoting and advancing the cause of human rights, democracy, and the alleviation of poverty and hunger around the world;

(2) Jimmy and Rosalynn Carter epitomize the American quality of volunteerism in action through their countless public service activities in their home State of Georgia, the rest of the United States, and throughout the world, including their work for Habitat for Humanity, which helps needy people in the United States and other countries renovate and build homes for themselves; and

(3) Jimmy and Rosalynn Carter epitomize the American quality of volunteerism in action through their countless public service activities in their home State of Georgia, the rest of the United States, and throughout the world, including their work for Habitat for Humanity, which helps needy people in the United States and other countries renovate and build homes for themselves; and

It is the sense of the Senate that:

(1) the United States and other countries recognize the contributions of President Jimmy Carter and his wife Rosalynn Carter in promoting and advancing the cause of human rights, democracy, and the alleviation of poverty and hunger around the world;
life in the United States and throughout the world.

SEC. 2. CONGRESSIONAL GOLD MEDAL.
(a) AUTHORIZATION.—The President is authorized to present at the Capitol, on behalf of Congress, a gold medal of appropriate design to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation.
(b) DESKIN AND STRIKING.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the “Secretary”) shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.
(c) PRESENTATION AGREEMENTS FOR PRESENTATION.—Subsection (a) shall not be construed as providing the consent of the House of Representatives or the Senate for the use of any particular part of the Capitol or the grounds of the Capitol for purposes of the presentation referred to in subsection (a).

SEC. 3. DUPLICATE MEDALS.
Under such regulations as the Secretary may prescribe, the Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 at a price sufficient to cover the costs of the medals (including labor, materials, dies, use of facilities, and overhead expenses) and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.
The medals struck under this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. FUNDING AND PROCEEDS OF SALE.
(a) AUTHORIZATION.—There is hereby authorized to be charged against the United States Mint Public Enterprise Fund an amount not to exceed $30,000 to pay for the amount not to exceed $30,000 to pay for the cost of the medals authorized by this Act.
(b) PROCEEDS.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

Mr. MCCAIN (for himself, Mr. CLELAND, MRS. HUTCHISON, and Mr. MUKOWSKI):
S. 127. A bill to give American companies, workers, and American ports the opportunity to compete in the United States cruise market; to the Committee on Commerce, Science, and Transportation.

THE UNITED STATES SHIP CRUISE VESSEL ACT.
Mr. MCCAIN. Mr. President, today Senators HUTCHISON, CLELAND, MARKOSKI, and I are introducing the United States Cruise Vessel Act. The purpose of this bill is to provide increased domestic cruise opportunities for the American cruising public by temporarily reducing barriers to operation in the domestic cruise market. I want to start by thanking Senators HUTCHISON, CLELAND, and MARKOSKI for once again joining me in an effort to rebuild our nation’s cruise ship industry.

While we made great progress in advancing our goals during the last Congress, our efforts were blocked by the special interests of a small group of shipbuilders who prefer the status quo that allows them to dominate the small market for large U.S.-built cruise ships without the fear of competition. The bill that we are introducing today was passed out of the Senate Commerce Committee unanimously during the last Congress. It represents months, if not years, of work by a large cross section of our nation’s maritime industry to reach agreement on how best to jump-start our nation’s fleet of U.S. flagged cruise vessels and provide them the tools they need to compete in the world market.

The measure we are introducing today would allow for the immediate expansion of the domestic fleet by allowing operators to bring existing cruise ships on the U.S. flag as long as they agree to build additional vessels in the United States. The measure would also provide increased opportunities for U.S. mariners to serve at sea. This becomes more critical annually, as we face greater difficulties in meeting our national defense sealift need for qualified merchant mariners. We need to provide more opportunities for U.S. merchant mariners to serve at sea and this measure can lead to those opportunities. Finally, the measure would lead to increased work for our nation’s shipyards and build on the limited construction plans for large cruise ships currently underway.

I want to highlight some of the major provisions of the bill in order to ensure that the legislation we are introducing today is not confused with previous measures that allowed for the operation of foreign flagged vessels in the U.S. domestic market. The bill we are introducing today provides a two-year window of opportunity to encourage the immediate reflagging of large cruise vessels under the United States flag for operation in the domestic cruise trades. The bill would allow the Secretary of Transportation to issue permits for the limited operation of foreign-built cruise vessels in the domestic trades if applications are received within two years of the date of enactment of this legislation.

To be eligible for reflagging and operation in the domestic cruise trades, a cruise vessel must have been delivered after January 1, 1980, and be at least 20,000 gross registered tons, have no fewer than 800 passenger berths, provide a full range of overnight accommodations, dining, and entertainment services, comply with the Safety of Life at Sea requirements for a fixed smoke detection and sprinkler system in the accommodation areas, and be constructed according to internationally accepted construction standards. This will help to ensure that any foreign flag vessels refagged to take advantage of the bill are modern and safe.

To be eligible to enter the domestic market, the vessel must be owned by a citizen of the United States as defined in section 2 of the Shipping Act, 1916 (46 U.S.C. 802) or section 12106(e) of title 46 United States Code.

The bill would assist the U.S. ship repair industry and would require foreign flag vessels that are delivered to the domestic market to have all repair, maintenance, alteration and other work required for operation under the U.S. flag, as well as regular repair and maintenance work, performed in a U.S. shipyard.

Prior to allowing a foreign built vessel to be refagged and utilized in the domestic market, the bill would require the operator of the vessel to enter into a binding contract with U.S. shipyards for the construction of at least one more vessel than the total number of vessels they will operate in the domestic market. This contract must provide for a total number of passenger berths equal to or greater than the number operated in the domestic market by that operator. Additionally, the replacement vessels must be at least 20,000 gross registered tons and have no fewer than 800 passenger berths.

The bill would require the first replacement vessel to be delivered within five years of the date the foreign-built vessel operator is not harmed by the operation of a foreign-built vessel in the domestic market. The Secretary, after reviewing the proposed itineraries of foreign-built vessels in the domestic market, as well as taking into consideration public comments, is required to determine if there will be an adverse impact on the operation of a U.S.-built vessel. The Secretary is required to consider the scope of the vessel’s itineraries, the duration of the cruise, the size of the vessel and the retail per diem of the vessel. If there is a conflict, the operator of a foreign-built vessel must change the vessel’s itinerary in order to remove the conflict to the satisfaction of the Secretary.

The slow and limited growth of the U.S. domestic cruise market demands that we put aside special interests and pass this measure at the first available opportunity. I can assure my colleagues that as Chairman, the Senate Commerce Committee will continue to work with all members interested in the future of a U.S. flagged cruise fleet to further address any concerns with the bill. But I would also ask all members to compare the limited growth of our domestic fleet to the dynamic growth in the international cruise market in hopes that they will realize that without actions soon, the U.S. fleet will be left behind.

To illustrate how the bill we are introducing today will stimulate growth and opportunity within the domestic cruise ship trade with the beneficiaries being U.S. port cities and business, and as I have often said, the millions of American citizens who want to be able to enjoy cruising between U.S. ports, I hope my colleagues will join Senators HUTCHISON, CLELAND, MARKOSKI,
TITLES I—OPERATIONS UNDER CERTIFICATE OF DOCUMENTATION

SEC. 101. DOMESTIC CRUISE VESSEL.
(a) In General.—Notwithstanding the provisions of section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), section 27 of the Act of June 5, 1930, commonly known as the Jones Act, section 27a of that Act, 46 U.S.C. App. 883-1, and section 12106 of title 46, United States Code, the Secretary shall issue a certificate of documentation for an eligible cruise vessel not built in the United States to operate in domestic sailings between ports in the United States if the vessel meets the requirements of this title.

(b) Termination of Authority.—The authority of the Secretary to issue a certificate of documentation under subsection (a) begins on the day after the date of enactment of this Act and terminates on the day that is 24 months after that date.

(c) Application Only Required.—Notwithstanding subsection (b), the Secretary may issue a certificate of documentation for an eligible cruise vessel under section 101(a) more than 24 months after the date of enactment of this Act if—
(1) the Secretary received the application for the certificate of documentation before the end of that 24-month period; and
(2) the vessel otherwise meets the requirements of this title.

(d) Rights under Application Not Transferrable.—The right to receive a certificate of documentation pursuant to an application described in subsection (c) may not be transferred by the applicant to any other person. For purposes of this subsection, the transfer of that right to a successor in interest to the applicant in connection with the reorganization, restructuring, acquisition, or sale of the applicant's business shall not be considered another person.

SEC. 102. REPAIRS REQUIREMENT.
(a) In General.—The Secretary may not issue a certificate of documentation under section 101(a) for an eligible cruise vessel unless the operator establishes to the satisfaction of the Secretary that:
(1) any repair, maintenance, or alteration of the vessel for operation under a certificate of documentation issued under that section will be performed in a United States shipyard; and
(2) any repair, maintenance, or alteration of the vessel will be performed in a United States shipyard.

(b) Waiver.—The Secretary may waive the requirements of subsection (a) if the Secretary determines that the alteration, maintenance, or repair service is not available in the United States or if an emergency dictates that the vessel proceed to a foreign port.

SEC. 103. CONSTRUCTION REQUIREMENT.
(a) Construction Contract Required.—
(1) In General.—Except as provided in paragraph (2), a certificate of documentation shall not be issued under section 101(a) after the delivery date for the first such vessel not later than 60 months after the date on which operations of the vessel for which the certificate of documentation was issued commence, and shall contain any other provisions required by the Secretary for purposes of this subsection. If the contract provides for the construction of only one vessel, it shall be delivered to the applicant not later than 24 months after delivery of the immediately preceding vessel.

(2) Extension of Time Periods for Impossibility of Performance.—If the commencement of construction or the completion of construction is prevented or delayed by circumstances that would be providing a defense of impossibility-of-performance by the shipyard under applicable construction contract law, each time period described in subsection (a) that relates to delivery of a vessel by that shipyard shall be extended for whatever period of time the circumstances on which the defense is predicated continues to exist.

(b) Expiration of Coastwise Endorsement.—The certificate of documentation for an eligible cruise vessel under section 101(a) shall expire 24 months after the delivery date for the replacement vessel for vessels that are eligible cruise vessels. For purposes of this subsection, the term “replacement vessel” or vessels means 1 or more vessels the operator of the eligible cruise vessel is obligated to construct in the United States under the contract described in subsection (a) with respect to the eligible cruise vessel that have at least the same number of passenger berths as the eligible cruise vessel, or they replace.

(c) Reflagging Under Foreign Registry.—Notwithstanding section 101(a) of the Shipping Act, 1916 (46 U.S.C. App. 800), the operator of an eligible cruise vessel is entitled to issue a certificate of documentation with a temporary coastwise endorsement under section 101(a), or a cruise vessel constructed under a contract described in subsection (a) of this section, may place that vessel under foreign registry.

SEC. 104. CERTAIN OPERATIONS PROHIBITED.
Neither an eligible cruise vessel operating in domestic itineraries under a certificate of

and me to help advance this legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.
documentation issued under section 101(a) nor a vessel constructed under a contract described in section 101(a) may—

(1) operate as a ferry;

(2) include a vessel that is to carry both passengers and vehicles or other cargo; or

(3) operate between or among the islands of Hawaii.

SEC. 105. PRIORITIES WITHIN DOMESTIC MARKETS.

(a) NOTIFICATION OF SECRETARY.—

(1) NEW VESSELS.—Any person eligible under section 12202 of title 46, United States Code, to document a vessel under chapter 121 of that title that enters into a contract with a United States shipyard for the construction of that cruise vessel shall—

(A) will be at least 20,000 gross registered tons,

(B) will have no fewer than 800 passenger berths, and

(C) is otherwise eligible for a certificate of documentation and a coastwise trade endorsement, shall notify the Secretary, at such time and in such manner and form as the Secretary may require, of the construction of that vessel not less than 2 full calendar years before the date on which the vessel is intended to commence operations.

(b) RECONSTRUCTION.—The notification requirement of paragraph (1) also applies to any extension that enters into a contract with a United States shipyard for the reconstruction of any vessel, including a vessel that has a certificate of documentation under chapter 121 of title 46, United States Code, will, after reconstruction, be that size and capacity and be eligible for such an endorsement.

(c) PRIORITY TO U.S.-BUILT VESSELS.—The Secretary shall give priority to any cruise vessel described in subsection (a) over any other cruise vessel of comparable operations in a certificate of documentation issued under section 101(a) if the Secretary, after notice and an opportunity for public comment, determines that the employment in the coastwise trade of the vessel issued a certificate of documentation under section 101(a) will adversely affect the coastwise trade business of any person operating a vessel not documented under section 101(a) in the coastwise trade.

(d) FACTORS CONSIDERED.—In determining and assigning priorities, the Secretary shall consider factors determined by the Secretary to be appropriate—

(A) the scope of a vessel’s itinerary, including—

(i) the ports between which it operates; and

(ii) the duration of the cruise;

(B) the time frame within which the vessel will serve a particular itinerary;

(C) the size of the vessel; and

(D) the retail diem of the vessel.

(e) IMPLEMENTATION.—

(1) ITINERARY SUBMISSION REQUIRED.—The Secretary shall require the operator of each vessel issued a certificate of documentation under section 101(a) to submit, in April of each year, a proposed itinerary for that vessel for cruise itineraries for the calendar year beginning 2 months after the date on which the itinerary is required to be submitted.

(2) PUBLICATION AND COMMENT.—

(A) PUBLICATION.—The Secretary shall cause any itinerary submitted under paragraph (1), and any late submission or revision under paragraph (3), to be published in the Federal Register.

(B) COMMENT PERIOD.—The Secretary shall receive and consider comments from the public on the itinerary published under subparagraph (A) for a period of 30 days after the date on which the itinerary is published.

(3) REVISIONS AND LATER SUBMISSIONS.—The Secretary shall permit late submissions and revisions of submissions after the final list of approved itineraries is published under paragraph (4)(C) and before the start date of a requested itinerary.

(4) SCHEDULING.—

(A) ACTION BY SECRETARY.—Within 30 days after the close of the period in which an itinerary published under paragraph (2)(A), the Secretary shall—

(i) review the itineraries submitted to the Secretary for compliance with the priorities established by this section;

(ii) advise affected cruise vessel operators of any specific itinerary that is not available and the reasons it is not available; and

(iii) publish a proposed list of approved itineraries.

(B) OPERATORS’ APPEALS.—The operator of any cruise vessel may appeal the Secretary’s decision under subparagraph (A)(ii) within 30 days after the Secretary advises the operator of the decision.

(C) RESOLUTION OF CONFLICTS.—As soon as practicable after the end of the 30-day period described in subparagraph (B), the Secretary shall—

(i) resolve any appeals and consider new itinerary proposals;

(ii) advise cruise vessel operators who responded under subparagraph (B) of the Secretary’s decision with respect to the appeal or the new itinerary proposal; and

(iii) publish a final list of approved itineraries.

SEC. 106. REPORT.

The Secretary shall issue an annual report on the number of vessels operating under certificate of documentation granted under section 103(b)(4). The Secretary shall also analyze the construction of vessels that were to have been constructed under that vessel.

SEC. 107. ENFORCEMENT.

(a) BREACH OF CONSTRUCTION CONTRACT BY OPERATOR.—The Secretary shall revoke a temporary coastwise endorsement issued under section 101(a)(2) for a vessel if the operator of that vessel commits a serious breach of the construction contract required by section 101(a). The revocation shall take effect at the conclusion of the last voyage on the vessel permitted by section 101(b)(5).

(b) BREACH OF CONSTRUCTION CONTRACT BY SHIPYARD.

(1) IN GENERAL.—If a shipyard commits a serious breach of a construction contract required by section 101(a) or (b) for a vessel, the Secretary may terminate the construction contract required by section 101(a).

(2) NOTICE.—The Secretary shall provide written notice to the shipyard after documenting the breach of contract.

(3) REDEMPTION.—The shipyard may redeem the breach of contract by completing construction of the vessel and paying any damages caused by the breach within 30 days of receipt of notice.

(4) REVOCATION.—If the shipyard fails to redeem the breach of contract, the Secretary may revoke the certificate of documentation granted under section 101(a).

(c) SUBSTANTIAL BREACHES ONLY.—For purposes of subsections (a) and (b), the term “serious breach of contract” means a breach of contract that affects or otherwise modifies the authority of the shipyard or the owner to construct or operate the vessel.

(d) IMPLEMENTATION.

The Secretary shall issue an annual report on the number of vessels operating under certificate of documentation granted under section 103(b)(4). The Secretary shall also analyze the construction of vessels that were to have been constructed under that vessel.

SEC. 108. REPORT.

The Secretary shall issue an annual report on the number of vessels operating under certificate of documentation granted under section 103(b)(4). The Secretary shall also analyze the construction of vessels that were to have been constructed under that vessel.

SEC. 109. DUTIES OF SECRETARY.

(a) NOTIFICATION OF SECRETARY.—The Secretary shall permit late submissions and revisions of submissions after the final list of approved itineraries is published under paragraph (4)(C) and before the start date of a requested itinerary.

(b) SCHEDULING.—The Secretary shall—

(i) review the itineraries submitted to the Secretary for compliance with the priorities established by this section;

(ii) advise affected cruise vessel operators of any specific itinerary that is not available and the reasons it is not available; and

(iii) publish a proposed list of approved itineraries.

(c) OPERATORS’ APPEALS.—The operator of any cruise vessel may appeal the Secretary’s decision under subparagraph (B)(ii) within 30 days after the Secretary advises the operator of the decision.

(d) RESOLUTION OF CONFLICTS.—As soon as practicable after the end of the 30-day period described in subparagraph (B), the Secretary shall—

(i) resolve any appeals and consider new itinerary proposals;

(ii) advise cruise vessel operators who responded under subparagraph (B) of the Secretary’s decision with respect to the appeal or the new itinerary proposal; and

(iii) publish a final list of approved itineraries.

SEC. 110. REPORT.

The Secretary shall issue an annual report on the number of vessels operating under certificate of documentation granted under section 103(b)(4). The Secretary shall also analyze the construction of vessels that were to have been constructed under that vessel.

SEC. 111. ENFORCEMENT.

(a) BREACH OF CONSTRUCTION CONTRACT BY OPERATOR.—The Secretary shall revoke a temporary coastwise endorsement issued under section 101(a)(2) for a vessel if the operator of that vessel commits a serious breach of the construction contract required by section 101(a). The revocation shall take effect at the conclusion of the last voyage on the vessel permitted by section 101(b)(5).

(b) BREACH OF CONSTRUCTION CONTRACT BY SHIPYARD.

(1) IN GENERAL.—If a shipyard commits a serious breach of a construction contract required by section 101(a) or (b) for a vessel, the Secretary may terminate the construction contract required by section 101(a).

(2) NOTICE.—The Secretary shall provide written notice to the shipyard after documenting the breach of contract.

(3) REDEMPTION.—The shipyard may redeem the breach of contract by completing construction of the vessel and paying any damages caused by the breach within 30 days of receipt of notice.

(4) REVOCATION.—If the shipyard fails to redeem the breach of contract, the Secretary may revoke the certificate of documentation granted under section 101(a).

(c) SUBSTANTIAL BREACHES ONLY.—For purposes of subsections (a) and (b), the term “serious breach of contract” means a breach of contract that affects or otherwise modifies the authority of the shipyard or the owner to construct or operate the vessel.

(d) IMPLEMENTATION.

The Secretary shall issue an annual report on the number of vessels operating under certificate of documentation granted under section 103(b)(4). The Secretary shall also analyze the construction of vessels that were to have been constructed under that vessel.
they are entitled to under any existing or future law. Furthermore, these special pension payments will not be subject to any attachment, execution, levy, tax lien or detention under any process. I believe this measure would provide a needed increase in income for many parents who have lost children in service to our country.

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. 129

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 “Gold Star Parents Annuity Act”.

SEC. 2. SPECIAL PENSION FOR GOLD STAR PAR-
ENTS.

(a) In General.—(1) Chapter 15 of title 38, United States Code, is amended by adding at the end the following new subchapter:

“SUBCHAPTER V—SPECIAL PENSION FOR GOLD STAR PARENTS

§ 1571. Gold star parents

“(a) The Secretary shall pay monthly to each person who has received a Gold Star lapel button under section 1126 of title 10 as a parent of a person who died in a manner described in subsection (a) of that section a special pension in an amount determined under subsection (b).

“(b) The amount of special pension payable under this section with respect to the death of any person shall be $125 per month. In any case in which there is more than one parent eligible for special pension under this section with respect to the death of a person, the Secretary shall divide the payment equally among those eligible parents.

“(c) The receipt of special pension under this section shall not deprive any person of any other pension or other benefit, right, or privilege to which such person is or may hereafter be entitled under any existing or subsequent law. Special pension under this section shall be paid in addition to all other payments under laws of the United States.

“(d) Special pension under this section shall not be subject to any attachment, execution, levy, tax lien, or detention under any process whatever.

“(e) For purposes of this section, the term ‘parent’ has the meaning provided in section 1126(d)(2) of title 10.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

“SUBCHAPTER V—SPECIAL PENSION FOR GOLD STAR PARENTS

§ 1571. Gold star parents

(b) Effective Date.—Section 1571 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 2001.

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

S. 131.—A bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes; to the Committee on Veterans’ Affairs.

VETERANS’ HIGHER EDUCATION OPPORTUNITIES ACT

Mr. JOHNSON. Mr. President, I am pleased today to join Senator SUSAN COLLINS (R-ME) in introducing the Veterans’ Higher Education Opportunities Act. Last year, Senator COLLINS and I introduced similar legislation, S. 2419, that received broad, bipartisan support in Congress and among the veterans and higher education communities.

The legislation remains the same: to modernize the Montgomery GI Bill and help veterans achieve their goals of higher education.

The 1944 GI Bill of Rights is one of the most important pieces of legislation ever passed by Congress. No program has been more successful in increasing educational opportunities for our country’s veterans while also providing a valuable incentive for the best and brightest to make a career out of military service. This bill has allowed eight million veterans to finish high school and 2.3 million service members to attend college.

Unfortunately, the current GI Bill can no longer deliver these results and falls in its promise to veterans, new recruits and the men and women of the armed services. The Veterans’ Higher Education Opportunities Act will modernize the GI Bill and ensure its viability as education costs continue to increase.

Over 96 percent of recruits currently sign up for the Montgomery GI Bill and pay $1,200 out of their first year’s pay to guarantee eligibility. But only one-half of the personnel use any of the current Montgomery GI Bill benefits. This is evidence that the current GI Bill simply does not meet their needs. The main reason why military personnel no longer use the GI Bill is because GI Bill benefits have not kept pace with increased costs of education.

There is consensus among national higher education and veterans associations that at a minimum, the GI Bill should pay the costs of attending the average four-year public institution as a commuter student. The current Montgomery GI Bill benefit pays a little more than half of that cost.

The Veterans’ Higher Education Opportunities Act creates that benchmark by indexing the GI Bill to the costs of attending the average four-year public institution as a commuter student. This benchmark cost will be updated annually by the College Board in order for the GI Bill to keep pace with increased costs of education.

The Veterans’ Higher Education Opportunities Act is truly a bipartisan effort to address recruitment and retention in the armed forces. In addition, the Veterans’ Higher Education Opportunities Act has the overwhelming support of the Partnership for Veterans’ Education—a coalition of the nation’s leading veterans groups and higher education organizations including the VFW, the American Council on Education, the Non Commissioned Officers Association, the American Association of State Universities and Land Grant Colleges, and The Retired Officers Association.

As the parent of a son who serves in the Army, these military “quality of life” issues are of particular concern to me. Making the GI Bill pay for viable educational opportunity makes as much sense today as it did following World War II. In fact, a study conducted on beneficiaries of the original GI Bill shows that the cost to benefit ratio of the GI Bill was an astounding 12.5 to 1. That means that our nation gained more than $12.50 in benefits for every dollar invested in college or graduate education for veterans.

Congress and the President took an important step last year toward improving the Montgomery GI Bill by passing into law the Veterans Benefits and Health Care Improvement Act of 2000. This law increases the monthly education benefit to $650 and increases educational benefits of veterans survivors and dependents. These changes are long overdue, and the next step in restoring the effectiveness of the Montgomery GI Bill is through the Veterans’ Higher Education Opportunities Act and the creation of a true benchmark for veterans educational benefits.

The very modest cost of improving the GI Bill will help our military and our society. I look forward to working with incoming Veterans Administration Secretary Anthony Principi, Senator COLLINS and my colleagues in the Senate, and interested members of the House of Representatives on passage of the Veterans’ Higher Education Opportunities Act.

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

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

S. 131

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 “Veterans’ Higher Education Opportunities Act of 2001”.

SEC. 2. MODIFICATION OF ANNUAL DETERMINATION OF BASIC BENEFIT OF ACTIVE DUTY EDUCATION ASSISTANCE UNDER THE MONTGOMERY GI BILL.

(a) Basic Benefit.—Section 3015 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking “of $528 (as increased from time to time under subsection (h))” and inserting “equal to the average monthly costs of tuition and expenses for commuter students at public institutions of higher education that award baccalaureate degrees (as determined under subsection (h))”; and

(2) in subsection (b)(1) by striking “of $528 (as increased from time to time under subsection (h))” and inserting “equal to 75 percent of the average monthly costs of tuition and expenses for commuter students at public institutions of higher education that award baccalaureate degrees (as determined under subsection (h))”.

(b) Determination of Average Monthly Costs.—Subsection (h) of that section is amended to read as follows:

“(h)(1) Not later than September 30 of each year, the Secretary shall determine the average monthly costs of tuition and expenses for commuter students at public institutions
of higher education that award baccalaureate degrees for purposes of subsections (a)(1) and (b)(1) for the succeeding fiscal year. The Secretary shall determine such costs of instruction obtained from the College Board or information provided annually by the College Board in its annual survey of institutions of higher education.

"(2) In making such determination, the Secretary shall take into account the following:

(A) Tuition and fees.

(B) The cost of books and supplies.

(C) The cost of board.

(D) Transportation costs.

(E) Other nonfixed educational expenses.

"(3) In determining the costs of tuition and expenses under paragraph (1), the Secretary shall make the determination required by subsection (c) of section 101 of the National Housing Act (84 Stat. 1021)."

"(c) STYLISTIC AMENDMENT.―Subsection (h) of section 3015 of title 38, United States Code (as amended by subsection (b) of this section), and such determination shall go into effect, for fiscal year beginning in that year.

"(4) Not later than September 30 each year, the Secretary shall publish in the Federal Register the average monthly costs of tuition and expenses as determined under paragraph (1) in that year.

"(5) For purposes of this section, the term ‘institution of higher education’ has the meaning given that term in section 101 of the Higher Education Act of 1965 (2 U.S.C. 1001)."

"(6) EFFECTIVE DATE.―(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on October 1 of that year and apply with respect to basic educational assistance allowances payable under this section for the fiscal year beginning in that year.

"(2) The Secretary of Veterans Affairs shall make such regulations as may be required by subsection (h) of section 3015 of title 38, United States Code (as amended by subsection (b) of this section), and such determination shall go into effect, for fiscal year 2002.

Ms. COLLINS. Mr. President, I am delighted to join with my friend and colleague, Senator JOHNSON, in introducing the Veterans’ Higher Education Opportunities Act of 2001. This legislation, which is an updated version of the measure introduced in the 106th Congress, will provide our veterans with expanded educational opportunities at a reasonable cost. Endorsed by the Partnership for Veterans Education, a broad coalition including over 40 veterans service organizations and education associations, our legislation provides a new model for today’s G.I. Bill that is logical, fair, and worthy of a nation that values both higher education and our veterans.

The original G.I. Bill was enacted in 1944. As a result of this initiative, 7.8 million World War II veterans were able to take advantage of post-service education and training opportunities, including more than 2 million veterans who went on to college. My own father was among those veterans who served bravely in World War II and then came back home to resume his education with assistance from the G.I. Bill.

Since that time, the G.I. Bill has seen a number of changes but has continued to assist U.S. veterans in taking advantage of the educational opportunities they put on hold in order to serve their country. New laws were enacted to provide educational assistance to those who served in Korea and Vietnam, as well as to those who served during the period in between. Since the change to an all-volunteer service, additional adjustments to these programs were made, leading up to the enactment of the Montgomery G.I. Bill in 1985.

The Montgomery G.I. Bill has served our country well over the past 15 years. However, the value of the educational benefits under this program has greatly eroded over time due to inflation and the escalating cost of higher education. Military recruiters indicate that the program’s benefits no longer serve as a strong incentive to join the military; nor do they serve as a retention tool valuable enough to persuade men and women to stay in the military and defer the full or part-time pursuit of their higher education until a later date. Perhaps most important, the program is losing its value as a means to help our men and women relocate and re-adjust to a civilian life after military service.

This point really hit home for me when I met last year with representatives of the Maine State Approving Agency to discuss the impact of improvements to the basic benefit program of the Montgomery G.I. Bill. They told me of the ever-increasing difficulties that service members are facing in using the G.I. Bill’s benefits for education and training.

For example, the Maine representatives told me that the majority of today’s veterans are married and have children. Yet, the Montgomery G.I. Bill often does not cover the cost of tuition to attend a public institution, let alone the other costs associated with the pursuit of higher education and those required to help support a family.

The basic benefit program of the Vietnam era G.I. Bill provided $493 per month in 1981 to a veteran with a spouse and two children. Before the reforms last year, a veteran in identical circumstances received only $43 more, a mere 8% increase over a time period where inflation has nearly doubled, and a dollar buys only half of what it once purchased. In constant dollars, the amount was the second-lowest level of assistance ever extended under the G.I. Bill to those who served in the defense of our country.

While we made progress last year in increasing stipend levels under the G.I. Bill, the $1025, producing a new total benefit of $23,400. However, the value of the educational benefit assistance it provides has woefully under-funded and does not provide the financial support necessary for our veterans to meet their educational goals. The legislation that we are proposing would fulfill the promise made to our nation’s veterans, help with recruiting and retention of men and women in our military, and reflect current costs of higher education.

Moreover, the increase failed to address the escalating cost of higher education. With the current cost of higher education. Now is the time to take action to make improvements to the basic benefit program of the Montgomery G.I. Bill. I urge all members of the Senate to join Senator JOHNSON and myself in support of the Veterans’ Higher Education Opportunities Act.

Mr. JOHNSON (for himself, Mr. INOUYE, Mr. KENNEDY, Mr. BAUCUS, Mr. REID, Mr. DORGAN, Mr. DASCHLE, Ms. SNOWE and Mr. CONRAD) S. 132. A bill to amend the Interstate Revenue Code of 1986 to provide that housing assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 be treated for purposes of the low-income housing credit in the same manner as comparable assistance; to the Committee on Finance.

LOW INCOME HOUSING TAX CREDITS

Mr. JOHNSON. Mr. President, I urge all members of the Senate to join Senator JOHNSON and myself in support of the Native American Housing Assistance and Self-Determination Act (NAHASDA) was signed into law, separating Indian housing from public housing and providing block grants to tribes and their tribally designated housing authorities. Prior to passage of NAHASDA, Indian tribes receiving HOME block grants were able to use those funds to leverage the Low Income Housing Tax Credits distributed by states on a competitive basis. Unfortunately, unlike HOME funds, block
grants to tribes under the new NAHASDA are defined as federal funds and cannot be used for accessing LIHTC.

The fact that tribes cannot use their new block grant funds to access a program (LIHTC) which they formerly could access as an unintended consequence of taking Indian Housing out of Public Housing at HUD and setting up the otherwise productive and much needed NAHASDA system. The legislation I am introducing today is limited in scope and defines NAHASDA funds, restoring tribal eligibility for the LIHTC by putting NAHASDA funds on the same footing as HOME funds. With this technical correction, there would be no change to the LIHTC programs—tribes would compete for LIHTC with all other entities at the state level, just as they did prior to NAHASDA.

This technical corrections legislation is a minor but much needed fix to a valuable program that will restore equity to housing development across the country. The South Dakota Housing Development Authority has enthusiastically endorsed this legislation out of concern for equitable treatment of every constituent of our state and to reinforce the proven success of the LIHTC program for housing development in rural and lower income communities.

I have joined many of my colleagues in past efforts to preserve and increase the Low-Income Housing Tax Credit program which benefits every state, and I ask my colleagues to recognize the importance of maintaining fairness in access to this program emphasized through this legislation and encourage my colleagues to support passage of this vital legislation.

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. 132

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 “Low Income Housing Tax Credit for Native Americans Act”.

SEC. 2. CERTAIN NATIVE AMERICAN HOUSING ASSISTANCE DISREGARDED IN DETERMINING WHETHER BUILDING IS FEDERALLY SUBSIDIZED FOR PURPOSES OF THE LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Subparagraph (E) of section 42(d)(3)(E) of the Internal Revenue Code of 1986 (relating to determination of whether building is federally subsidized) is amended—

(1) in clause (1), by inserting “or the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4181 et seq.) (as in effect on the date of the enactment of the Low Income Housing Tax Credit for Native Americans Act)” after “this subparagraph”;

(2) in the subparagraph heading, by inserting “or Native American Housing Assistance” after “Assistance”;

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. BAUCUS.

S. 133. A bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes; to the Committee on Finance.

EMPLOYEE EDUCATIONAL ASSISTANCE ACT

Mr. BAUCUS. Mr. President, I rise today to introduce legislation to make permanent a temporary tax code provision that permits employers to pay for their employees’ college tuition costs without the employee having to pay tax on the amount of the assistance. Senator GRASSLEY joins me as an original co-sponsor of the legislation.

Since its inception in 1979, section 127 of the tax code has enabled thousands of employers to promote continuing education among their employees and enabled millions of workers to improve their job skills without incurring additional taxes.

Under current law, an employer may provide up to $5,250 per year in tuition assistance to its employees without having to report as income the employee’s on-the-job pay. This simple rule applies regardless of whether the classes undertaken are necessary to maintain an employee’s job or to qualify for a new job. Without section 127, only those who have skills necessary to their employment’s current job can be subsidized without additional taxes.

Section 127 has increased upward mobility for workers in an efficient manner that is supported by workers, educators and business. Workers can improve their job skills and prepare themselves for increased responsibility. Businesses can maintain qualified employees and help them advance within the organization. Educators and other students benefit from having students with real world experience participating in the classroom.

Congress has recognized the strength of section 127. In 1997 the Senate voted to make the provision permanent. In the 106th Congress, all 20 members of the Finance Committee sponsored legislation to make section 127 permanent. So why hasn’t the legislation been enacted? While it is difficult to be sure, bills including permanent extension always come back from a conference with the House of Representatives as a short extension with no coverage for graduate courses. Our hope is that this year will be different.

There are two principal flaws in section 127. First, the benefit is scheduled to expire on December 31, 2001. The provision has been extended ten times since it original enactment. During 1995, the provision was expired and, even though reenacted in 1996, employers were not sure at the end of 1995 whether or not to report as income their employees’ educational expenses. We have had this provision in the Code long enough to know that it works and we should make it permanent. The bill Senator GRASSLEY and I introduce today would do just that.

The second flaw is that the program is limited to employer assistance for undergraduate courses. If an employer wants to provide funds for its employees’ interest in grades then the employee has to increase his or her wages income and tax liability. For example, suppose a bank has an employee who wants to pursue an MBA. The employee earns $30,000 per year and pays $2000 federal income taxes. If the tuition costs $4,000, all of which is paid by the employer, then the worker has to pay 15 percent of the value of the assistance, or $600 in income taxes. This can be a strong disincentive for low and moderate income workers to accept employer-sponsored tuition assistance offer.

The importance of graduate education has increased dramatically in the past two decades. For an increasing number of students, graduate school work is a career. For an increasing number of employers, providing graduate education is necessary to retain employees who are capable of doing work at higher levels, for more compensation. The bill would permit employers to provide tuition assistance to their workforce and thereby do what is necessary to provide educational benefits for undergraduate and graduate education.

Section 127 is one of the most successful education programs the federal government has ever undertaken. There is no bureaucracy administering this program—it is run through the generosity of private sector employers who provide educational opportunities to their employees in the interest of raising workforce productivity and making their businesses more competitive. Like other types of benefits, $127 employer-provided educational assistance must be provided on a nondiscriminatory basis and may not favor highly-compensated employees.

The Revenue Act of 1978 created $127 and established employer-provided educational assistance as a tax exclusion for any type of course, other than a hobby or a sport. Prior to 1978, only specific “job-related” education was excludable from taxable income. The provision has
been extended numerous times since its inception. It is time for the exclusion to become permanent.

I commend the leadership of Senator MAX BAUCUS for bringing this bill before the Senate and I am proud to be a cosponsor of this bill. I hope the rest of our colleagues in the Senate will join in supporting the enactment of this bill.

By Mrs. FEINSTEIN:

S. 134. A bill to ban the importation of large capacity ammunition feeding devices; to the Committee on the Judiciary.

LARGE CAPACITY AMMUNITION MAGAZINE IMPORTATION BAN ACT OF 2001

Mrs. FEINSTEIN. Mr. President, I rise to re-introduce the same ban on importing large capacity ammunition magazines that passed both Houses of Congress in 1999 during the Juvenile Justice debate.

That amendment passed the Senate by voice vote after a Motion to Table failed 59-39. The same provision, offered by then-Judiciary Chairman Henry Hyde on the House floor, passed by voice vote as an amendment to the House Juvenile Justice Gun Bill.

Nevertheless, these clips continue to flood into the country, because the Juvenile Justice bill became stalled in Conference, and never got to the President’s desk.

It is time to take care of this once and for all—outside of politics, and outside of partisan bickering over other provisions. We simply cannot stand by and watch millions of these killer clips flood our shores.

Large-capacity ammunition clips are ammunition feeding devices, such as clips, magazines, drums and belts, which hold more than ten rounds of ammunition.

The 1994 assault weapons ban prohibited the domestic manufacture of these devices, but foreign companies are still sending them to our shores by the hundreds of thousands.

As the author of the 1994 provision, I can assure you that this was not our intent. We intended to ban the future manufacture of all high capacity clips, leaving only a narrow clause allowing for the importation of clips already on their way to this country.

Instead, due to the grandfather clause inserted into the 1994 legislation, BATF has allowed millions of foreign clips into this country, with no true method of determining date of manufacture. Between March 1998 and March 1999, BATF approved more than 11.4 million large-capacity clips for importation into America.

By voting for the amendment to the Juvenile Justice bill in 1999, a significant majority of this body has already agreed that it is both illogical and irresponsible to permit foreign companies to sell items to the American public—particularly items that are so often used for deadly purposes—that U.S. companies are prohibited from selling.

Supporting this legislation once again will simply finish what we already started during the juvenile justice debate, and bring foreign companies into greater compliance with the original intent of the 1994 law.

Opposing this bill would effectively allow foreign companies to continue to flout our laws, while domestic companies remain in compliance.

Let me just outline a bit of the history behind this issue.

Because of strong NRA opposition to the 1994 assault weapons ban and fears that businesses with inventories of the newly illegal products would be adversely impacted, we carved out a clause during negotiations to allow pre-existing guns and clips to remain on the shelves of stores across this country.

This so-called ‘grandfather clause’ was also meant to allow guns and clips already on their way to this country to get here. Some Senators did not want to penalize companies that already had shipments in transit.

But it has now been more than six years, and these companies have had more than enough time to ship their pre-existing supplies of clips to the United States. Without question, many of these clips now flooding this country were made after the 1994 ban took effect. But because the ATF cannot tell when the clips were made, they must allow their import.

In 1998, President Clinton stopped the importation of most copycat assault weapons to this country with an Executive Order. However, the Justice Department advised us that the President does not have the authority to ban importation of big clips. As a result, millions of high capacity ammunition magazines continue to flow onto our shores and into the hands of criminals and, indeed, our children.

These clips come from at least 17 different countries, from Austria to Zimbabwe.

They come in sizes ranging from 15 rounds per clip to 30, 75, 90, or even 250 rounds per clip. In one recent one-year period:

20,000 clips of 250-rounds came from England.

Two million 15-round magazines came from Italy.

5,000 clips of 70-rounds came from the Czech Republic.

And the list goes on, and on, and on. Mr. President, 75, 90 and even 250-round clips have no sporting purpose. They are not used for self defense. They have only one use—the purposeful killing of other men, women and children.

The legislation I re-introduce today will stop the flow of these clips into this country. I know that we cannot eliminate these clips from existence. But we can make them harder to obtain and, over time, dry up their supply.

These big clips allow disgruntled workers, angry children and psycho-pathic killers to exponentially increase the damage of their crimes. Let me give you just two examples.

In the now famous Springfield, Oregon shooting, a 15 year-old gunman with a 30-round clip killed two people and injured 22 more. Two dead, 22 wounded, all from one ammunition clip. It was only when his clip was finally empty and he had to pause to change clips that a fellow student was able to tackle and subdue him. Just imagine if the clip had held 75 rounds. Or 250.

In the Jonesboro, Arkansas shooting, the two boys were armed with ten guns, one of which was a Universal carbine equipped with a 15-round killer clip. All 15 of the bullets in the killer clip were fired—more rounds than in all of the other nine guns combined. Five people were killed, ten other wounded.

Mr. President, in passing this legislation, we will not put an end to all incidents of gun violence now or in the near future. But we will begin to limit the destructive power of that violence.

It will not stop every troubled child or adult who decides to commit an act of violence from doing so, but we can limit the tools used to carry out that act.

Passing this bill will not infringe on the legitimate rights of any adult gun owner or prevent a son or daughter from protecting the family from harm. It will not create a new category of banned guns.

But it will save some lives. It is just that simple. So let us do our best to ensure that the next time a troubled or vengeful child decides to strike out at his classmates, he cannot so easily find a gun that fires a hundred rounds a minute, or holds dozens of armor-piercing bullets.

Mr. President, I urge any of my colleagues who remain skeptical to look into the heart of this legislation. And I urge them to look into their own hearts, and to realize that there are some things we can do to keep future Littletons from happening. This legislation is one of them.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following the statement. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 134

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 “Large Capacity Ammunition Magazine Import Ban Act of 2001.”

SEC. 2. BAN ON IMPORTING LARGE CAPACITY AMMUNITION FEEDING DEVICES. Section 922(w) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking “(1) Except as provided in paragraph (2)” and inserting “(1)(A) Except as provided in subparagraph (B)”;

(2) in paragraph (2), by striking “(2) Paragraph (1)” and inserting “(B) Subparagraph (A)”;

(Sec. 2)
California teaching hospitals collectively lost $90 million in net income since 1997. Many factors are to blame for the financial crisis of our nation’s teaching hospitals. Balanced Budget Act of 1997: The Balanced Budget Act (BBA) of 1997 took a major blow at teaching hospitals, significantly cutting federal Medicare payments. The cuts included in BBA 1997, for example, has meant a loss of $25 million over three years to UCLA. Penetration of Managed Care: Managed care payments to many teaching hospitals barely cover costs. Twenty-eight percent of all privately insured Americans are enrolled in an HMO. In California, this number is 88 percent. For example, California’s capitation rate is one of the lowest in the nation. The average capitation rate in the state reaches $34 per month. Last year, the rate sunk to $29, while the cost of living jumped 25.2 percent.

Increasing Number of Uninsured: The number of uninsured has exploded. Twenty-five percent of all privately insured Americans are without health insurance. California alone has 7 million uninsured residents. The high rate of uninsured impacts teaching hospitals because they are a major safety net provider—teaching hospitals provide approximately 44 percent of all care to the indigent. This means that when our nation’s uninsured require medical care for complicated and complex pathologies, they find their way to teaching hospitals. Academic medical centers affiliated with the University of California, for example, are the second largest safety net for a State that has the fourth highest uninsured rate in the country. These are three examples of the forces behind the financial crisis of our nation’s teaching hospitals. Low DGME payments further erode and destabilize the health care system. Academic medical centers have three major responsibilities and missions—teaching, research, and patient care—which cause them to incur costs unique to such facilities. “If just one leg of that three-legged stool is weak, it academic medical centers becomes destabilized,” said Dr. Gerald Levey, UCLA’s provost for health sciences. Low DGME payments are weakening teaching hospitals’ ability to train future physicians. Teaching hospitals account for only 6 percent of the nation’s 5,000 hospitals. Despite the small number of teaching hospitals, they are a major provider of care. Teaching hospitals house: Forty percent of all neonatal intensive care units; fifty-three percent of pediatric intensive care units; and seventy percent of all burn units. Teaching hospitals also handle: Twenty percent of all inpatient admissions; twenty-two percent of outpatient visits; nineteen percent of surgical operations, including 82 percent of all open heart surgeries; sixteen percent of emergency visits; and nineteen percent of all births.

The bottom line is that the financial crisis faced by teaching hospitals is impacting patient access to and quality of care.

California has been particularly impacted by this financial crisis. Let me tell you how an outpatient eye clinic at the University of California, San Francisco has been impacted by the financial crisis facing teaching hospitals. The clinic has a patient mix that is approximately 70 percent Medicare and 30 percent Medi-Cal. Due in part to historically low DGME payments, the clinic has had to decrease the number of staff, increase patient load, and cut faculty salaries by 15 percent. The number of patients seen on an average day, for example, has increased from 12 per half day to 18. Less time with each patient compromises quality of care.

According to a 1965 Medicare rule, Medicare paid for its share of DGME costs based on each hospital’s ‘Medicare-allowable costs.’ This allowed for open-ended reimbursement. Congress changed the methodology used to determine payments in 1986, and retroactively established Fiscal Year 1985 as the base year for all future calculations for DGME payments. The problem, which created this disparity in payments, is that some teaching hospitals narrowly interpreted the law and did not claim such expenses as faculty costs and benefits in 1985.

Submitted claims for 1985 were then used to determine a ‘base formula’ for each teaching hospital. The base formula used to determine all DGME payments since 1985 has been used to determine all DGME payments since 1985 and disadvantages many teaching hospitals.

To give you an idea of the large variation in payments, 10 percent of teaching hospitals had base payments of more than $98,800 in 1995, whereas the average payment for another 10 percent was below $37,400. The national mean in 1995 was $62,700.

A study conducted last year based on data from the Health Care Financing Administration (HCFA) further highlights the variations among teaching hospitals. The study shows that: Beth Israel Medical Center in Manhattan received an average Medicare payment of $57,010 a year for each resident it trains. In comparison, Columbia-Presbyterian Medical Center in Manhattan received an average of $24,444 per resident.

Even when cost-of-living and training expenses are presumably similar (both hospitals are in Manhattan), there is a 57 percent variation in payments received by hospitals for training residents. Additional examples of variations in payments include: Montefiore Medicare
Center in the Bronx received an average of $55,073 per resident; Massachusetts General Hospital in Boston received an average of $29,843 per resident; Cleveland Clinic Hospital received an average of $16,118 per resident, and the University of California, Los Angeles Medical Center received an average of $11,908 per resident.

In an attempt to level the playing field, the Balanced Budget Refinement Act of 1999 (BRA) contained provision that created a 70 percent floor and a 140 percent ceiling for Medicare DGME payments. The Medicare, Medicaid, and SCHIP Improvement Act of 2000 also contained provision to increase the floor to 85 percent in 2002.

While Congress has begun to address the issue of variations in DGME payments by implementing a floor and a ceiling for payments in 1999 and 2000, more must be done.

I believe all teaching hospitals should receive reimbursement from Medicare that equal the national average. Bringing all teaching hospitals up to the national average, without undermining the financial stability of those teaching hospitals currently receiving payments above the national average, could significantly stabilize our nation’s health care system.

The legislation that I am introducing today takes good steps to reduce variations in DGME and restore stability to the system.

As established in current law, the floor for Medicare reimbursements for teaching hospitals would equal 85 percent by Fiscal Year 2002. Over a period of four years (from FY 2003-2006), this legislation would bring teaching hospitals that are currently reimbursed by Medicare below the national average up to the national average.

The phase in is as follows:

Beginning in Fiscal Year 2003 and 2004, the floor would be increased to 90 percent.

In Fiscal Year 2005, the floor would be increased to 95 percent.

By Fiscal Year 2006, all teaching hospitals would be receiving per resident payments that equal at least 100 percent of the national average. Those teaching hospitals receiving payments above the national average would be held harmless.

Approximately thirty-eight States will benefit under the proposed legislation. Teaching hospitals in several states will benefit over the next several years due in combination to the proposed legislation and the changes made in both 1999 and 2000 to increase the floor for DGME payments.

California to benefit: California will gain approximately $61.5 million over the next 6 years as a result of this legislation and the changes made to the DGME floor in 1999 and 2000.

For example, the University of California Medical Centers will gain $16.3 million over six years. The medical center at the University of Davis will gain $3.2 million; the medical center at the University of Irvine will gain $1.6 million; UCLA’s medical center will gain $5.8 million; the medical center at the University of San Diego will gain $1.8 million; and the medical center at the University of San Francisco will gain approximately $3.9 million.

This is merely an example of the impact under the proposed legislation. These numbers are significant. Many of our nation’s teaching hospitals would greatly benefit under the proposed legislation. The proposed legislation would use new money to move teaching hospitals below the national average up to the average. Less than $500 million over 4 years would be borrowed from the Medicare Part A Trust fund to pay for the increase in Medicare payments to direct graduate medical education. So as to keep the Medicare Part A Trust Fund solvent beyond 2025, this legislation authorizes the Senate to appropriate to the Trust Fund annually an amount equal to what is taken out to reimburse teaching hospitals at this higher rate.

Teaching hospitals rely heavily on DGME payments to train and support their medical students and faculty. For example, medical education funding in California helps support 108 hospitals that train more than 6,700 residents; it increased to $12.7 million over six years. The medical center at the University of Irvine will gain $1.6 million; UCLA will gain $4.1 million; and the medical center at the University of San Diego will gain $1.8 million; and the medical center at the University of San Francisco will gain approximately $3.9 million.

This is merely an example of State impact under the proposed legislation. These numbers are significant. Many of our nation’s teaching hospitals would greatly benefit under the proposed legislation.

The legislation that I am introducing today takes good steps to reduce variations in DGME and restore stability to the system.

As established in current law, the floor for Medicare reimbursements for teaching hospitals would equal 85 percent by Fiscal Year 2002. Over a period of four years (from FY 2003-2006), this legislation would bring teaching hospitals that are currently reimbursed by Medicare below the national average up to the national average.

The phase in is as follows:

Beginning in Fiscal Year 2003 and 2004, the floor would be increased to 90 percent.

In Fiscal Year 2005, the floor would be increased to 95 percent.

By Fiscal Year 2006, all teaching hospitals would be receiving per resident payments that equal at least 100 percent of the national average. Those teaching hospitals receiving payments above the national average would be held harmless.

Approximately thirty-eight States will benefit under the proposed legislation. Teaching hospitals in several states will benefit over the next several years due in combination to the proposed legislation and the changes made in both 1999 and 2000 to increase the floor for DGME payments.

California to benefit: California will gain approximately $61.5 million over the next 6 years as a result of this legislation and the changes made to the DGME floor in 1999 and 2000.

For example, the University of California Medical Centers will gain $16.3 million over six years. The medical center at the University of Davis will gain $3.2 million; the medical center at the University of Irvine will gain $1.6 million; UCLA’s medical center will gain $5.8 million; the medical center at the University of San Diego will gain $1.8 million; and the medical center at the University of San Francisco will gain approximately $3.9 million.

This is merely an example of State impact under the proposed legislation. These numbers are significant. Many of our nation’s teaching hospitals would greatly benefit under the proposed legislation.

The proposed legislation would use new money to move teaching hospitals below the national average up to the average. Less than $500 million over 4 years would be borrowed from the Medicare Part A Trust fund to pay for the increase in Medicare payments to direct graduate medical education. So as to keep the Medicare Part A Trust Fund solvent beyond 2025, this legislation authorizes the Senate to appropriate to the Trust Fund annually an amount equal to what is taken out to reimburse teaching hospitals at this higher rate.

Teaching hospitals rely heavily on DGME payments to train and support their medical students and faculty. For example, medical education funding in California helps support 108 hospitals that train more than 6,700 residents; it increased to $12.7 million over six years. The medical center at the University of Irvine will gain $1.6 million; UCLA will gain $4.1 million; and the medical center at the University of San Diego will gain $1.8 million; and the medical center at the University of San Francisco will gain approximately $3.9 million.

This is merely an example of State impact under the proposed legislation. These numbers are significant. Many of our nation’s teaching hospitals would greatly benefit under the proposed legislation.

I believe that a teaching hospital’s ability to serve their communities and train physicians will be further compromised if we do not enact this legislation.

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. 135. 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 ‘‘Direct Graduate Medical Education Improvement Act of 2001’’.


(a) In general.—Section 1886(h)(2)(D)(iii) of the Social Security Act (42 U.S.C. 1395ww(h)(2)(D)(iii)), as section 511 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106-554), is amended to read as follows:

‘‘(iii) Floor for locality adjusted national average per resident amount.—

(I) In general.—The approved FTE resident amount for a hospital for a cost reporting period beginning during a fiscal year shall not be less than the applicable percentage of the locality adjusted national average per resident amount computed under subparagraph (E) for the hospital for that period.

(II) Applicable percentage.—In this clause, the term ‘applicable percentage’ means, in the case of a cost reporting period beginning during—

(a) fiscal year 2001, 70 percent;

(bb) fiscal year 2002, 85 percent;

(cc) fiscal year 2003 or 2004, 90 percent;

(dd) fiscal year 2005, 95 percent; and

(ee) fiscal year 2006, 100 percent.

(b) Authorization of Appropriations.—For each fiscal year (beginning with fiscal year 2001) during which an approved FTE resident amount is assigned to a hospital and such amount is authorized to be appropriated to the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395f(d)(1)(A)) as an appropriation equal to the amount of (such fund) expenditures under such Trust Fund are increased for the fiscal year by reason of the enactment of items (cc), (dd), and (ee) of section 1860w(h)(2)(D)(ii)(II) of such Act (42 U.S.C. 1395w(h)(2)(D)(ii)(II)), as added by subsection (a).

By Mr. GRAMM:

S. 136. A bill to amend the Omnibus trade and Competitiveness Act of 1988 to extend trade negotiating and trade agreement implementing authority; to the Committee on Finance.

S. 137. A bill to authorize negotiation of free trade agreements with countries of the Americas, and for other purposes; to the Committee on Finance.

S. 138. A bill to authorize negotiation for the accession of United Kingdom to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.

S. 139. A bill to authorize negotiation for the accession of United Kingdom to the North American Free Trade Agreement, and for other purposes; to the Committee on Finance.
Mr. GRAMM. Mr. President, trade has been very good for America and her people. Trade is our game, and we excel at it. In 1999, Americans exported a record $856 billion in goods and services, a very enviable figure.

Trade has brought untold benefits to our people not the least of which are high-paying jobs, increased consumer choice, increased economic competitiveness. When Pericles spoke of Athens in his Funeral Oration, he might well have been speaking of us: "The magnitude of our city draws the produce of the world into our harbor, so that to the Athenian the fruits of other countries are as familiar a luxury as those of his own." Those who peddle defeatism as they clamor for protectionist measures are subverting our best means of growth. As President Reagan warned in 1988, "protectionism is destructionism."

Let me turn to my colleagues that it is not just the United States that profits. The whole world has benefited from the expansion of trade among nations. Trade has been a wealth-generating machine the likes of which the world has never seen. By coming together to an open free trade system, the US and its partners unleashed increasing economic growth and prosperity and brought hope and freedom to more people than any victory in any war in history. It is no wonder then that the world community, including all the nations we know of as the WTO—formerly the GATT—has gone from a handful of nations in 1948 to some 140 nations today.

My fervent goal has been to keep world trade expanding so that more people in more nations can enjoy what Pericles aptly called the "fruits" of trade. We in America have been at the vanguard of trade liberalization efforts, both globally and regionally. We must continue that trend. Unfortunately, in recent years this momentum has slid into an unwise hiatus in moving new global or regional trade liberalization initiatives. But this year, with a new President, committed to trade, we have a new opportunity before us. Now is the time for us to reassert our leadership, to set the pace for trade expansion throughout our hemisphere and throughout the world.

Today I am introducing four pieces of legislation intended to get us started. The first piece of the Fast-Track Trade Negotiating Authority Act, which the President with much-needed fast track authority, so that he may expand trade by entering into trade agreements with our partners around the world. Fast track is key to unleashing the wealth-generating machine of trade still further, to all corners of the world. It is long past time to reauthorize this critical provision.

The second measure, the Americas Free Trade Act, would lead to the expansion of free trade from Alaska to Cape Horn in our own hemisphere. It would provide the President with fast track authority for implementation of free trade agreements with any or all of the 33 other nations of the Western Hemisphere, for the benefit of its more than 800 million residents. According to the 1994 agreement among the leaders of the Western Hemisphere, the ultimate elimination of tariffs on all products from the Americas should be concluded by 2005. Having fast track authority in hand will give our President the ability to move the FTAA talks forward dramatically and successfully.

In the third bill, the Chile NAFTA Accession Act, and the fourth bill, the United Kingdom NAFTA Accession Act, seek to build bridges with key trading partners in order to spur larger trade liberalization efforts. Chile is a critical trading partner in South America who has been knocking at the NAFTA door for some time. The United Kingdom is a key partner in Western Europe who by joining NAFTA can help keep Europe from erecting protectionist walls against the rest of the world. Agreements with these two important nations can keep trade liberalization moving forward.

Mr. President, my commitment to this cause is longstanding. In 1986 I introduced legislation negotiations for a free trade agreement with Mexico. In 1987, I introduced a bill that laid out a framework for negotiating a North American free trade area—a bill which later served as the basis for an amendment to the 1988 trade bill and adopted by the Senate that authorized the negotiation of the NAFTA. In 1989, I once again introduced trade legislation and called for a free agreement encompassing the entire Western Hemisphere. I have introduced similar legislation in each Congress since then. It is my hope that the bills I am introducing today will serve as the basis for successful trade legislation in the 107th Congress.

I ask unanimous consent that the text of the Fast Track Trade Negotiating Authority Act, the Americas Free Trade Act, the Chile NAFTA Accession Act, and the United Kingdom NAFTA Accession Act, together with a summary of these bills, be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

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 "Americas Free Trade Act".

SEC. 2. FINDINGS. Congress makes the following findings:

(1) The countries of the Western Hemisphere have enjoyed more success in the last century in the conduct of their relations among themselves than have the countries in the rest of the world.

(2) The economic prosperity of the United States and its trading partners in the Western Hemisphere is increased by the reduction of trade barriers.

(3) Trade protection endangers economic prosperity in the United States and throughout the Western Hemisphere and undermines civil liberty and constitutionally limited government.

(4) The successful establishment of a North American Free Trade Area sets the pattern for the reduction of trade barriers throughout the Western Hemisphere and undermines commercial promotion of economic opportunity and freedom promotes civil liberty and constitutionally limited government.

(5) The reduction of government interference in the foreign and domestic sectors of a nation's economy and the concomitant promotion of economic opportunity and freedom promotes civil liberty and constitutionally limited government.

COUNTRIES THAT OBSERVE A CONSISTENT POLICY OF FREE TRADE, THE PROMOTION OF FREE ENTERPRISE AND OTHER ECONOMIC FREEDOMS (INCLUDING PROTECTIVE PROPERTY RIGHTS), AND THE REMOVAL OF BARRIERS TO FOREIGN DIRECT INVESTMENT, IN THE CONTEXT OF CONSTITUTIONALLY LIMITED GOVERNMENT AND MINIMAL INTERFERENCE IN THE ECONOMY, WILL FOLLOW THE SUREST AND MOST EFFECTIVE PREScriptive POLICY OF FREE TRADE.

SEC. 3. FREE TRADE AREA FOR THE WESTERN HEMISPHERE.

(a) IN GENERAL.—The President shall take appropriate action to initiate negotiations to obtain trade agreements with the sovereign countries located in the Western Hemisphere, the terms of which provide for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade, for the purpose of promoting the establishment of a free trade area for the entire Western Hemisphere.

(b) RECIPROCAL BASIS.—An agreement entered into under subsection (a) shall be reciprocal and provide mutual reductions in trade barriers to promote trade, economic growth, and employment.

(c) BILATERAL OR MULTILATERAL BASIS.—Agreements may be entered into on a bilateral basis with any foreign country described in that subsection or
SEC. 4. FREE TRADE WITH FREE CUBA.
(a) Restrictions Prior to Restoration of Free Trade with Cuba.—The President shall not apply this Act to Cuba unless the President certifies to Congress that—
(1) freedom has been restored in Cuba; and
(2) the rights of individuals to private property have been restored and are effectively protected and broadly exercised in Cuba.
(b) Standards for the Restoration of Free Trade with Cuba.—The President shall not make the certification that freedom has been restored in Cuba, for purpose of subsection (a), unless the President determines that—
(A) a constitutionally guaranteed democratic government has been established in Cuba with leaders chosen through free and fair elections;
(B) all political prisoners have been released in Cuba; and
(C) Cuba has a currency that is fully convertible domestically and internationally; and
(3) the rights of free speech and freedom of the press in Cuba are effectively guaranteed.
(c) Implementation of Trade Wishes Free Cuba.—Upon making the certification described in subsection (a), the President shall give priority to the negotiation of a free trade agreement that shall
SEC. 5. INTRODUCTION AND FAST-TRACK CONSIDERATION OF IMPLEMENTING BILLS.
(a) Introduction in House and Senate.—When the President submits to Congress a bill to implement a trade agreement described in this section, the bill shall be introduced (by request) in the House and the Senate as described in section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)).
(b) Restrictions on Content.—A bill to implement a trade agreement described in subsection (a) shall—
(1) contain only provisions that are necessary to implement the trade agreement; and
(2) may not contain any provision that establishes (or requires or authorizes the establishment of) a labor or environmental protection standard or amends (or requires or authorizes an amendment of) any labor or environmental protection standard set forth in law or regulation.
(c) INTENT IN SENATE—
(1) Applicability to all legislative forms of implementing bill.—For the purposes of this subsection, the term “implementing bill” means the following:
(A) The Bill.—A bill described in subsection (a), without regard to whether that bill originated in the Senate or the House of Representatives.
(B) Amendment.—An amendment to a bill referred to in subparagraph (A).
(C) Conference Report.—A conference report on a bill referred to in subparagraph (A).
(D) AMENDMENT BETWEEN HOUSES.—An amendment between the Houses of Congress in relation to a bill referred to in subparagraph (A).
(E) Motion.—A motion in relation to an item referred to in subparagraph (A), (B), (C), or (D).
(2) MAKING OF POINT OF ORDER.—
(A) Against Single Item.—When the Senate is considering an implementing bill, a Senator may make a point of order against any part of the implementing bill that contains material in violation of a restriction under paragraph (b)."
the implementing bill against the point of order is sustained shall be deemed stricken.

(B) AGAINST SEVERAL ITEMS.—In the case of a point of order made under paragraph (2)(B) against several provisions of an implementing bill, only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken.

(C) STRICKEN NOT IN ORDER AS AMENDMENT.—Matter stricken from an implementing bill under this paragraph may not be offered as an amendment to the implementing bill in any of its forms described in paragraph (1) from the floor.

(4) WAVERS AND APPEALS.—(A) The Presiding Officer rules on a point of order under this section, any Senator may move to waive the point of order as it applies to some or all of the provisions against which the point of order is raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate.

(B) The Presiding Officer rules on a point of order under this subsection, any Senator may appeal the ruling of the Presiding Officer on the point of order as it applies to all of the provisions against which the Presiding Officer ruled.

(C) THREE-FIFTHS MAJORITY REQUIRED.—(i) Any Senator may appeal the ruling of the Presiding Officer on a point of order under this subsection, any Senator may move to waive the point of order as it applies to some or all of the provisions against which the point of order is raised.

(ii) WAIVERS.—A ruling of the Presiding Officer on a point of order under this subsection is sustained unless at least the requisite majority votes not to sustain the ruling.

(iii) REQUISITE MAJORITY.—For purposes of clauses (i) and (ii), the requisite majority is three-fifths of the Members of the Senate, duly chosen and sworn.

(d) APPLICATION OF FAST TRACK PROCEDURES.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(1) in subsection (b)(1)—

(A) by inserting “section 3 of the Chile-NAFTA Accession Act,” after “the Omnibus Trade and Competitiveness Act of 1988,”; and

(B) by amending subparagraph (C) to read as follows:

“(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements or such extension, provisions, necessary to implement such trade agreement or agreements or such extension, either repealing or amending existing laws or providing new statutory authority,”; and

(2) in subsection (c)(1), by inserting “or under section 3 of the United Kingdom-NAFTA Accession Act,” after “the Uruguay Round Agreements Act,”.

S. 140

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 “United Kingdom-NAFTA Accession Act”.

SEC. 2. ACCESSION OF UNITED KINGDOM TO THE NORTH AMERICAN FREE TRADE AGREEMENT.

(a) In GENERAL.—Subject to section 3, the President is authorized to enter into an agreement described in subsection (b) and the provisions of section 151(c) of the Trade Act of 1974 (19 U.S.C. 2191(c)) shall apply with respect to a bill to implement such agreement if such agreement is entered into on or before December 31, 2003.

(b) AGREEMENT DESCRIBED.—An agreement described in this subsection means an agreement that—

(1) Applies for the accession of United Kingdom to the North American Free Trade Agreement; or

(2) is a bilateral agreement between the United States and United Kingdom that provides for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade and investment, the implementation of a free trade area between the United States and United Kingdom.

SEC. 3. INTRODUCTION AND FAST-TRACK CONSIDERATION OF IMPLEMENTING BILL.

(a) INTRODUCTION IN HOUSE AND SENATE.—When the President submits a bill to implement a trade agreement described in section 2, the bill shall be introduced (by request) in the House and the Senate as described in subsection (c)(1) of the Trade Act of 1974 (19 U.S.C. 2191(c)).

(b) RESTRICTIONS ON CONTENT.—A bill to implement a trade agreement described in section 2—

(1) shall contain only provisions that are necessary to implement the trade agreement; and

(2) may not contain any provision that establishes (or requires or authorizes the establishment of) a labor or environmental protection standard or stands (or requires or authorizes an amendment of) any labor or environmental protection standard set forth in law or regulation.

(c) POINT OF ORDER IN SENATE.—(1) APPLICABILITY TO ALL LEGISLATIVE FORMS OF IMPLEMENTING BILL.—For the purposes of this subsection, the term “implementing bill” has the meaning given such term by section 151 of the Trade Act of 1974.

(A) THE BILL.—A bill described in subsection (a), without regard to whether that bill originated in the Senate or the House of Representatives.

(B) AMENDMENT.—An amendment to a bill referred to in subparagraph (A).

(C) CONFERENCE REPORT.—A conference report on a bill referred to in subparagraph (A).

(D) AMENDMENT BETWEEN HOUSES.—An amendment between the Houses of Congress in relation to a bill referred to in subparagraph (A).

(E) MOTION.—A motion in relation to an item referred to in subparagraph (A), (B), (C), or (D).

(2) MAKING OF POINT OF ORDER.—(A) AGAINST SINGLE ITEM.—When the Senate is considering an implementing bill, a Senator may make a point of order against any part of the implementing bill that contains material or language of a restriction under subsection (b).

(B) AGAINST SEVERAL ITEMS.—Notwithstanding any other provision of law or rule of the Senate, when the Senate is considering implementing an implementing bill, it shall be in order for a Senator to raise a single point of order that several provisions of the implementing bill violate subsection (b). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

(C) EFFECT OF SUSTAINMENT OF POINT OF ORDER.—(A) AGAINST SINGLE ITEM.—If a point of order made against a part of an implementing bill under paragraph (2)(A) is sustained by the Presiding Officer, the part of the implementing bill against which the point of order is sustained shall be deemed stricken.

(B) AGAINST SEVERAL ITEMS.—In the case of a point of order made against a bill or conference report under paragraph (2)(B) against several provisions of an implementing bill, only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken.

(C) STRICKEN MATTER NOT IN ORDER AS AMENDMENT.—Matter stricken from an implementing bill under this paragraph may not be offered as an amendment to the implementing bill (in any of its forms described in paragraph (1)) from the floor.

(4) WAIVERS AND APPEALS.—(A) WAIVERS.—Before the Presiding Officer rules on a point of order under this subsection, any Senator may move to waive the point of order as it applies to all of the provisions against which the point of order is raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate.

(B) APPEALS.—After the Presiding Officer rules on a point of order under this subsection, any Senator may appeal the ruling of the Presiding Officer on the point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(C) THREE-FIFTHS MAJORITY REQUIRED.—(i) ANY POINT OF ORDER UNDER THIS SUBSECTION IS WAIVED ONLY BY THE AFFIRMATIVE VOTE OF AT LEAST THE REQUISITE MAJORITY.

(ii) APPEALS.—A ruling of the Presiding Officer on a point of order under this subsection is sustained unless at least the requisite majority votes not to sustain the ruling.

(iii) REQUISITE MAJORITY.—For purposes of clauses (i) and (ii), the requisite majority is three-fifths of the Members of the Senate, duly chosen and sworn.

(d) APPLICABILITY OF FAST TRACK PROCEDURES.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(1) in subsection (b)(1)—

(A) by inserting “section 3 of the United Kingdom-NAFTA Accession Act,” after “the Omnibus Trade and Competitiveness Act of 1988,”; and

(B) by amending subparagraph (C) to read as follows:

“(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements or such extension, provisions, necessary to implement such trade agreement or agreements or such extension, either repealing or amending existing laws or providing new statutory authority;”;

(2) in subsection (c)(1), by inserting “or under section 3 of the United Kingdom-NAFTA Accession Act,” after “the Uruguay Round Agreements Act,”.

SUMMARY OF FOUR TRADE POLICY INITIATIVES

FAST TRACK TRADE NEGOTIATING AUTHORITY ACT

Authorizes the President to enter into bilateral or multilateral trade agreements that extend provisions of the Trade Act of 1974.

Bars the application of the Act to Cuba.

Reauthorizes traditional fast-track authority procedures for implementing legislation for such agreements as long as agreements entered into by Decrees 21999/91 and 21999/92 are in force.

Updates existing outdated negotiating objectives to encompass policies and objectives of the United States.

AMERICAS FREE TRADE ACT

Directs the President to initiate negotiations for trade agreements with the nations of the Western Hemisphere to promote a free trade area for the hemisphere.

Directs the President to enter into an agreement with Chile that provides for
Chile’s accession into NAFTA, or consists of a US/Chile bilateral free trade agreement.

Applies fast-track procedures to implementing legislation for such an agreement as long as the agreement is entered into by December 31, 2002.

Limits implementing legislation to those provisions necessary to implement the agreement, includes provisions setting labor or environmental standards or amending existing labor or environmental law.

Provides a point of order against provisions that do not meet these two limitations.

UNITED KINGDOM NAFTA ACCESSION ACT

Authorizes the President to enter into an agreement with the United Kingdom that provides for the United Kingdom’s accession into NAFTA, or consists of a US/UK bilateral free trade agreement.

Applies fast-track procedures to implementing legislation for such an agreement as long as the agreement is entered into by December 31, 2003.

Limits implementing legislation to those provisions necessary to implement the agreement, and bars the inclusion of provisions setting labor or environmental standards or amending existing labor or environmental law.

Provides a point of order against provisions that do not meet these two limitations.

By Mr. BENNETT:

S. 139. A bill to assist in the preservation of archaeological, paleontological, zoological, geological, and botanical artifacts through construction of a new facility for the University of Utah Museum of Natural History, Salt Lake City, Utah; to the Committee on Energy and Natural Resources.

Utah Public Lands Artifact Preservation Act of 2001

Mr. BENNETT. Mr. President, I rise today to introduce my first bill of the 107th Congress, the “Utah Public Lands Artifact Preservation Act of 2001.”

Utah’s public lands are a treasure trove of the natural and cultural history of the west. Over a century of scientific study and research of these public lands have unearthed Native American artifacts, fossilized remains of prehistoric life-forms, and other objects of botanical and geological significance. Fortunately, these unique and remarkable finds now comprise a substantial portion of the collection of the University of Utah Museum of Natural History.

The University of Utah Museum of Natural History collection contains more than one million objects and artifacts, a proud part of the collections of archaeology, botany, geology, paleontology, and zoology. It is one of the largest and most comprehensive collections in the region and is internationally significant. Over 75 percent of the collection was recovered from lands managed by the Bureau of Land Management, Bureau of Reclamation, National Park Service, United States Fish and Wildlife Service, and United States Forest Service.

Currently the home of the Museum of Natural History is the library where I studied as a student at the University of Utah. Although I have fond memories of the time I spent in the library, it is an unfit home for the museum. As we all know, the needs of a library and the needs of a museum are very different. The current facility is not large enough to accommodate the museum’s annual level of visitation. Additionally, space to display the collection is severely limited and the facilities are unsuitable for a museum. Clearly, the Museum of Natural History needs an appropriate structure to exhibit, research, and house its collection.

This legislation will result in an enlarged museum that will be more meaningful, educational, and accessible to the public and scientific researchers. Furthermore, the collection will no longer be jeopardized by inadequate facilities. The new museum will contain proper facilities for storage and research.

I believe the strength of this project lies in the fact that its success will rely upon a public-private partnership among the state of Utah, the federal government, hundreds of private individuals and foundations. Already, unprecedented support has been given by the Emma Eccles Jones Foundation for this project. I expect there will be many generous offers of support in the near future to make this project a success.

I believe that this legislation is an exciting opportunity to showcase the many treasures that Utah’s public lands contain. I look forward to working with my colleagues in the Senate and the new administration to pass this legislation this session.

By Mr. MCCAIN:

S. 141. A bill to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Pipeline Safety Improvement Act

Mr. MCCAIN. Mr. President, today I am introducing the Pipeline Safety Improvement Act of 2001. I am very pleased to be in sponsoring this important transportation safety legislation by Senators Murray, Hollings, Hutchison, Bingaman, Domenici, and Breaux. This bill, which is identical to the measure proposed unanimously by the Senate last year but which failed to be sent to the President, is being introduced today to demonstrate our strong commitment to improving pipeline transportation safety. We urge our colleagues to join us in our efforts to help remedy identified safety problems and improve pipeline safety for all Americans.

As most of my colleagues well know, the Senate worked long and hard during the last Congress to produce comprehensive pipeline safety legislation. As a result of our bipartisan efforts, we unanimously approved pipeline safety improvement legislation last September. Unfortunately, the House failed to approve a pipeline safety measure and the Congress thus failed in its efforts to improve pipeline safety.

As a result, the unacceptable status quo under which at least 16 fatalities have occurred remains the law of the land. I am hopeful that this new Congress will act quickly to take the overdue action necessary to improve pipeline safety before any more lives are lost.

Mr. President, let me be clear from the outset that I continue to support passage of the strongest pipeline safety bill possible. As such, I will be very eager to receive safety improvement recommendations from the Administration. Indeed, I look forward to working with the Administration, the House of Representatives, safety advocates, industry and other concerned citizens to advance a sound legislative proposal that can be signed into law.

Although pipeline safety legislation was not enacted last year as we had hoped, the President did issue an executive order requiring a number of safety actions by pipeline operators. Further, the Department of Transportation (DOT) also issued a number of regulations during the past few months. The Administration’s actions will be carefully considered by the Commerce Committee and we will work to ensure our legislation reflects the Administration’s actions, as appropriate, as we advance the legislation to the full Senate.

The following highlights some of the major provisions of the legislation we are reintroducing today.

The bill would require the implementation of pipeline safety recommendations issued last March by the Department of Transportation Inspector General. The bill would require pipeline operators to submit to the Secretary of Transportation a plan designed to improve the qualifications for pipeline personnel. At a minimum, the qualification plan would have to demonstrate that pipeline employees have the necessary knowledge to safely and properly perform their assigned duties and would require testing and periodic reexamination of the employees’ qualifications.

The legislation would require DOT to issue regulations mandating pipeline operators to periodically determine the adequacy of their pipelines to safely operate and to implement integrity management programs to reduce those identified risks. The regulations would, at a minimum, require operators to: base their integrity management plans on risk assessments that they conduct; periodically assess the integrity of their pipelines; and, take steps to prevent corrosion of their pipelines, such as improving leak detection capabilities or installing restrictive flow devices.
The bill also would require pipeline operators to carry out a continuing public education program that would include activities to advise municipalities, school districts, businesses, and residents of pipeline facility locations on a variety of pipeline safety-related matters. It also directs the pipeline operators to initiate and maintain communication with State emergency response commissions and local emergency planning committees and to share with these entities information critical to addressing pipeline safety issues, including information on the types of product transported and efforts by the operator to mitigate safety risks.

The legislation directs the Secretary to develop and implement a comprehensive plan for the collection and use of pipeline data in a manner that would enable incident trend analysis and evaluations of operator performance. Operators would be required to report incident releases greater than five gallons, compared to the current reporting requirement of 42 gallons. In addition, the Secretary would be directed to establish a national repository of data to be administered by the Bureau of Transportation Statistics in cooperation with RSPA.

Given the critical importance of technology applications in promoting transportation safety across all modes of transportation, the legislation directs the Secretary to include as part of transportation, the legislation directives to further strengthen federal pipeline safety policy. I hope this Congress can act expeditiously to approve comprehensive pipeline safety legislation. We simply cannot afford another missed opportunity to address identified pipeline safety shortcomings.

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. 141
(Data not available at time of printing, the bill will print in a subsequent issue of the RECORD.)

By Mr. JOHNSON (for himself, Mr. GRASSLEY, Mr. THOMAS, and Mr. DASCHEL)

S. 142. A bill to amend the Packers and Stockyards Act, 1921, to make unlawful for any packer, or control livestock intended for slaughter, to the Committee on Agriculture, Nutrition, and Forestry.

AMENDING THE PACKERS AND STOCKYARDS ACT
  S. 142

Mr. JOHNSON. 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. 142

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

SECTION 1. PROHIBITION ON PACKERS OWNING, FEEDING, OR CONTROLLING LIVESTOCK.

(a) IN GENERAL.—Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

(1) a cooperative, if a majority of the membership of such cooperative—

(A) own, feed, or control livestock; and

(B) provide the livestock to the cooperative for slaughter; or

(2) a packer that is owned or controlled by producers of a type of livestock, if during a calendar year the packer slaughters less than 2 percent of the head of that type of livestock slaughtered in the United States; or

(3) in subsection (b) as so redesignated, by striking "or (e)" and inserting "(e), or (f)";

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsection (a) take effect on the date of enactment of this Act.

(2) TRANSITION RULES.—In the case of a packer that on the date of enactment of this Act owns, feeds, or controls livestock intended for slaughter in violation of section (a) the packer shall, beginning on the date that is 18 months after the date of enactment of this Act (as determined by the Secretary of Agriculture).

By Mr. GRAMM (for himself, Mr. SCHUMER, Mr. HAGEL, Mr. ENZI, Mr. BENNETT, Mr. Bunning, Mr. BOND, Mr. TORRICELLI, Mr. AL- LARD, and Mr. CRAPO):

S. 143. A bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934, to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission (SEC), to include provision for compensation for employees of the Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

COMPETITIVE MARKET SUPERVISION ACT OF 2001

S. 143

Mr. GRAMM. Mr. President, today I am joined by Senator SCHUMER, together with Senators HAGEL, ENZI, BENNETT, Bunning, Bond, TORRICELLI, ALLARD, and CRAPO in introducing the Competitive Market Supervision Act of 2001.

This important legislation will reduce the excess fees collected by the SEC.

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

S. 143

COMPETITIVE MARKET SUPERVISION ACT OF 2001

(a) IN GENERAL.—Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

(1) a cooperative, if a majority of the membership of such cooperative—

(A) own, feed, or control livestock; and

(B) provide the livestock to the cooperative for slaughter; or

(2) a packer that is owned or controlled by producers of a type of livestock, if during a calendar year the packer slaughters less than 2 percent of the head of that type of livestock slaughtered in the United States; or

(3) in subsection (b) as so redesignated, by striking "or (e)" and inserting "(e), or (f)";

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsection (a) take effect on the date of enactment of this Act.
investors and issuers from this legislation will be approximately $8 billion over 5 years, and nearly $14 billion over ten years, without reducing funds available for the SEC or for necessary appropriations.

Rather than user fees, these revenues have become taxes on savings and investment, taxes that lower the returns of every investor who buys stock, owns a mutual fund, or plans to use Individual Retirement Accounts, 401(k) plans, or pension rate and return on capital. Furthermore, excess Section 6(b) fees are particularly harmful since these taxes are imposed at the beginning of the investment cycle, subtracting from the economy monies that could be leveraged into several times their value to finance efforts to create jobs, develop new products, and build America.

Section 2 of the bill amends Section 6(b) of the Securities Act of 1933 to lower registration fee rates. In addition, this section eliminates the general revenue portion of the registration fee. The offsetting collection rate is set at $67 per $1 million of securities registered for FY 2002-06, and at $33 per $1 million for FY 2007 and thereafter. Section 2 also reduces merger and tender fee rates in Section 13(e)(3) and Section 14(g) of the Securities Exchange Act of 1934 from one fiftieth percent under current law to $67 per $1 million of securities involved for the period FY 2002-06, and reduces rates further to $33 per $1 million for FY 2007 and thereafter, and all fees are also reclassified from general revenues to offsetting collections. It is important to harmonize the fee registration, and merger and tender fee rates so as to provide no distortions or inject any unintended incentives into the managerial decision as to when a merger should occur.

Under Section 4, all transactions included in Section 31 of the Securities Exchange Act of 1934 are consolidated, with a fee rate applied to each as an offsetting collection. Transaction fees in any particular fiscal year will be set in appropriations acts at a rate estimated to collect the target dollar amount set in Section 4 for that year. The target dollar amount is calculated to approximate the amount of transaction fees required so that, when combined with anticipated registration and merger/tender fees, total offsetting collections will approximately equal the offset fees anticipated under the current law. If the most recent projections prove accurate, this will reduce transaction fee rates by as much as two-thirds.

I would note that the fee targets established under Section 4 are based upon the most recent budget estimates available. It is my intention to adjust those targets prior to Committee action on the bill as new budget estimates become available in the next few weeks.

AUTHORITY OF SEC TO ADJUST TO FEE RATES

Given the difficulty in predicting fee revenues, it is also important to provide a framework that ensures full funding for the SEC. Therefore, Section 5 of this legislation provides the Commission with the authority to adjust fee rates to ensure that the agency is fully funded in the event that reductions in market valuations or volume purport to lower the legislative targets. In addition, Section 5 requires the agency to lower fee rates when fees are projected to bring in revenues that are in excess of the cap on fee collections laid out in the bill. To provide a safety valve, the authority granted in Section 5, the legislation requires the agency to report to Congress before it exercises any authority to adjust fees.

SEC. 12. PAY COMPARABILITY

Section 6 of the bill amends the Securities Exchange Act of 1934 to extend to the SEC the same authority provided to the federal bank regulators to adjust base rates of compensation for all of its employees. Under existing law, the Fed may do this only for its economists. The provisions allow parity among the Commission and Federal banking agency compensation programs. This change is particularly timely since under the terms of the Gramm-Billey Act, in many institutions, examiners from the SEC will be working along side examiners from the federal banking regulators. Without this pay comparability, we could witness a drain of talent within the SEC toward the other examiners. An amendment also is made to the Federal Deposit Insurance Act to bring the SEC within the consultation and information-sharing requirements of other agencies mentioned at 12 U.S.C. 1833(b) with respect to rates of employee compensation. A further technical amendment to section 1833(b) deletes references to entities that have been abolished.

The legislation assures that reductions, if any, in the base pay of a Commission employee represented by a labor organization with exclusive recognition in accordance with Chapter 71 of Title 5 of the United States Code, result from collective bargaining between such organization and Commission management, rather than by reason of the enactment of this amendment.

Mr. President, I look forward to early and favorable consideration of the Competitive Market Supervision Act of 2001. I ask that a summary of the provisions of the bill and bill text be included in the RECORD.

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

S. 143

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

SECTION 1. SHORT TITLE. TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Competitive Market Supervision Act of 2001.”

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

Sec. 1. Short title; table of contents.
Sec. 2. Reduction in registration fee rates; elimination of general revenue component.

SEC. 3. REDUCTION IN MERGER AND TENDER FEE RATES; RECLASSIFICATION AS OFFSETTING COLLECTIONS.

(a) SECTION 13.—Section 13(e)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3)) is amended to read as follows:

(3) FEES.—

(A) IN GENERAL.—At the time of the filing of a registration statement that shall require by rule pursuant to paragraph (1), the person making the filing shall pay to the Commission a fee equal to the amount determined under paragraph (3) as shall be equal to the amount determined under paragraph (3). The Commission shall publish in the Federal Register notices of the fee rate applicable under this section for each fiscal year.”

(B) Other Amendments.—(i) $67 for each fiscal year 2002 through 2006.
(ii) $33 for fiscal year 2007 and each fiscal year thereafter.”.

(b) SEC PAY COMPARABILITY.

Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended—

(2) by striking paragraph (3);

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(4) in paragraph (3), as redesignated—

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

(1) by striking paragraph (2) and inserting “this paragraph”;

(2) by striking “this paragraph” and inserting “this paragraph”;

(5) by striking paragraph (4), as redesignated, and inserting the following:

(6) PRO RATA APPLICATION OF RATE.—The rate required by this subsection shall be applied pro rata to amounts and balances equal to or less than $1,000,000.”.

SEC. 3. REDUCTION IN MERGER AND TENDER FEE RATES; RECLASSIFICATION AS OFFSETTING COLLECTIONS.

(a) SECTION 13.—Section 13(e)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3)) is amended to read as follows:

(3) FEES.—

(A) IN GENERAL.—At the time of the filing of a registration statement that shall require by rule pursuant to paragraph (1), the person making the filing shall pay to the Commission a fee equal to—

(i) $67 for each $1,000,000 of the value of the securities proposed to be purchased, for each of fiscal years 2002 through 2006; and

(ii) $33 for each $1,000,000 of the value of securities proposed to be purchased, for each fiscal year 2007 and each fiscal year thereafter.

(B) REDUCTION.—The fee required by this paragraph shall be reduced with respect to securities in an amount paid with respect to any securities issued in connection with the proposed transaction under section 6(b) of the Securities Exchange Act of 1933, or that shall be reduced with respect to any securities issued in connection with such transaction under this paragraph.

(1) LIMITATION.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except as otherwise permitted in advance in appropriations Acts.

(ii) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

SEC. 4. REDUCTION IN TRANSACTION FEES; ELIMINATION OF GENERAL REVENUE COMPONENT.

Sec. 5. Adjustments to fee rates.
Sec. 6. Effective date.

SEC. 2. REDUCTION IN REGISTRATION FEE RATES; ELIMINATION OF GENERAL REVENUE COMPONENT.

Section 6(b) of the Securities Exchange Act of 1934 are consolidated, and inserting the following:

(C) LIMITATION; DEPOSIT OF FEES.

(1) by striking paragraph (2) and inserting “this paragraph”;

(2) by striking “this paragraph” and inserting “this paragraph”;

(5) by striking paragraph (4), as redesignated, and inserting the following:

(6) PRO RATA APPLICATION OF RATE.—The rate required by this subsection shall be applied pro rata to amounts and balances equal to or less than $1,000,000.”.

SEC. 3. REDUCTION IN MERGER AND TENDER FEE RATES; RECLASSIFICATION AS OFFSETTING COLLECTIONS.

(a) SECTION 13.—Section 13(e)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3)) is amended to read as follows:

(3) FEES.—

(A) IN GENERAL.—At the time of the filing of a registration statement that shall require by rule pursuant to paragraph (1), the person making the filing shall pay to the Commission a fee equal to—

(i) $67 for each $1,000,000 of the value of the securities proposed to be purchased, for each of fiscal years 2002 through 2006; and

(ii) $33 for each $1,000,000 of the value of securities proposed to be purchased, for each fiscal year 2007 and each fiscal year thereafter.

(B) REDUCTION.—The fee required by this paragraph shall be reduced with respect to securities in an amount paid with respect to any securities issued in connection with the proposed transaction under section 6(b) of the Securities Exchange Act of 1933, or that shall be reduced with respect to any securities issued in connection with such transaction under this paragraph.

(1) LIMITATION.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except as otherwise permitted in advance in appropriations Acts.

(ii) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.
"(D) Lapse of Appropriations.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, unless such a regular appropriation is enacted.

(E) Pro Rata Application of Rate.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than $1,000,000.

(F) Lapse of Appropriations.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

(G) Pro Rata Application of Rate.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than $1,000,000.

SEC. 5. Adjustments to Fee Rates.

(a) Estimates of Collections.—(1) Fee Projections.—The Securities and Exchange Commission shall project the aggregate amount of fees collected by the Commission for a fiscal year, not later than 30 days after the end of such fiscal year.

(b) Submission of Information.—Each national securities exchange and national securities association shall file with the Commission not later than 30 days after the end of each fiscal year a statement of projected fees collected for the fiscal year, except to the extent provided in advance in appropriations Acts.

(c) Limitation; Deposit of Fees.—(A) Limitation.—Except as provided in subsection (a), the aggregate amount of fees collected by the Commission shall not exceed the level of fees collected for the fiscal year prior to the effective date specified in such order through the effective date specified in such order.

(b) Deposit of Fees.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

(D) Lapse of Appropriations.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

(E) Pro Rata Application of Rate.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than $1,000,000.
5 percent during any fiscal year, the Commission shall by order, subject to subsection (e), decrease the fee rate or suspend collection of fees under section 31 of the Securities Exchange Act of 1934, as so designated by this Act, if the Commission shows that either the cap or floor for total fee collections is not being met. The Commission may order collection of the fee at any time during a fiscal year.

SEC. 6. COMPARABILITY PROVISIONS.

(a) SECURITIES AND EXCHANGE COMMISSION EMPLOYEES.

(1) IN GENERAL.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) APPOINTMENT AND COMPENSATION.—"

(B) RATES OF PAY.—Rates of pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

"(C) COMPARABILITY.—The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (15 U.S.C. 1813a) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to under section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b); and

(B) by redesignating paragraph (3) as paragraph (2)."

(2) EMPLOYEES REPRESENTED BY LABOR ORGANIZATIONS.—To the extent that any employee of the Commission is represented by a labor organization with exclusive recognition in accordance with chapter 71 of title 5, United States Code, no reduction in base pay of such employee shall be made by reason of enactment of this subsection.

(b) REPORTING ON INFORMATION BY THE COMMISSION.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Federal Deposit Insurance Corporation is responsible for the protection of thrift depositors under the Federal Deposit Insurance Act of 1989 (12 U.S.C. 1831g)," and

(2) by striking subsection (c) and inserting the following:

"(b) IN GENERAL.—The Commission shall inform the heads of banking agencies, the Securities and Exchange Commission, and the Federal Reserve System of any material information concerning thrift institutions (as defined in section 14(g)(1) of the Federal Deposit Insurance Act)."

(c) TECHNICAL AMENDMENTS.

(1) Section 3122(a)(1) of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking "or" after the semicolon;

(B) in subparagraph (D), by inserting "or" after the semicolon; and

(C) by adding at the end the following:


(2) Section 577(k)(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking "or" after the semicolon;

(B) in paragraph (3), by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(4) section (b) of the Securities Exchange Act of 1934.".

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), this Act and the amendments made by this Act become effective on October 1, 2001.

(b) EXCEPTIONS.—The authorities provided by section 13(e)(3)(D), section 14(g)(1)(D), section 14(g)(3)(D), and section 31(d)(1) of the Securities Exchange Act of 1934, as so designated by this Act, shall not apply until October 1, 2002.
The amendment ensures that reductions, if any, in base pay for an employee of the SEC represented by a labor organization with exclusive recognition in accordance with Chapter 71 of title 5 of the United States Code to reflect changes made under subsection (a).

In establishing and adjusting schedules of compensation and benefits for its employees, section 6(b) requires the SEC to inform the heads of the agencies mentioned above and must seek to maintain comparability with such agencies regarding compensation and benefits. A technical change is made to strike out sub-paragraph (c) of section 6(a) of the Thrift Depository Protection Oversight Board of the Resolution Trust Corporation, which was abolished on December 31, 1995. Section 6(c) provides certain conforming amendments to title 5 of the United States Code to reflect changes made under subsection (a).

Section 7. Effective date

In general, the effective date is October 1, 2001. However, certain fee reductions will not become effective until October 1, 2002.

By Mr. THURMOND:

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer: to the Committee on the Judiciary.

Mr. THURMOND. Mr. President, today, I am introducing the voluntary school prayer constitutional amendment, this bill is identical to S.J. Res. 73, which I introduced in the 98th Congress at the request of then-President Reagan and have reintroduced every Congress since.

This proposal has received strong support from both sides of the aisle and is of vital importance to our Nation. It would restore the right to pray voluntarily in public schools—a right which was freely exercised under our Constitution until the 1960’s, when the Supreme Court ruled to the contrary.

Also, in 1985, the Supreme Court ruled the statute unconstitutional which authorized teachers in public schools to provide “a period of silence . . . for meditation or voluntary prayer” at the beginning of each day. As I stated when that opinion was issued and repeated again: the Supreme Court has too broadly interpreted the Establishment Clause of the First Amendment and, in doing so, has incorrectly infringed on the rights of those children—and their parents—who wish to pray voluntarily in public schools.

Until the Supreme Court ruled in the Engel and Abington School District decisions, the Establishment Clause of the First Amendment was generally understood to prohibit the Federal Government from officially approving, or holding in special favor, any particular religious faith or denomination. In crafting that clause, our Founding Fathers sought to prevent what had originally caused many colonial Americans to emigrate to this country—an official, State religion. At the same time, they sought, through the Free Exercise Clause, to guarantee to all Americans the freedom to worship God without government interference or restraint. In their wisdom, they recognized that true religious liberty precludes the government from both forcing and preventing worship.

As Supreme Court Justice William Douglas once stated: “We are a religious people whose institutions presuppose a Supreme Being.” Nearly every President since George Washington has proclaimed a day of public prayer. Moreover, we, as a Nation, continue to recognize the Deity in our Pledge of Allegiance by affirming that we are a Nation “under God.” Our currency is inscribed with the motto, “In God We Trust.” In this Body, we open the Senate and begin our workday with the comfort and stimulus of voluntary group prayers. I would note that this practice has been upheld as constitutional by the Supreme Court.

It is unreasonable that the opportunity for the same beneficial experience is denied to the boys and girls who attend public schools. This situation simply does not comport with the intent of the Constitution and is, in fact, antithetical to the rights of our youngest citizens to freely exercise their respective religions. It should be changed, without further delay.

The Congress should swiftly pass this resolution and send it to the States for ratification. This amendment to the Constitution would clarify that it does not prohibit vocal, voluntary prayer in the public school and other public institutions. It emphatically states that no person may be required to participate in any prayer. The government would be precluded from drafting school prayers. This well-crafted amendment enjoys the support of an overwhelming number of Americans.

I strongly urge my colleagues to support prompt consideration and approval of this legislation during this Congress.

I ask unanimous consent that the legislation be printed in the RECORD.

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

S.J. Res. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (Two sessions of Congress, House and Senate concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

ARTICLE

“Nothing in this Constitution shall be construed to authorize the group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer. Neither the United States nor any State shall compose the words of any prayer to be said in public schools.”

SENATE RESOLUTION 11—EXPRESSING THE SENSE OF THE SENATE REAFFIRMING THE CARGO PREFERENCE POLICY OF THE UNITED STATES

Mr. INOUYE submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. Res. 11

Whereas the maritime policy of the United States expressly provides that the United States shall have a merchant marine sufficient to carry a substantial portion of the international waterborne commerce of the United States;

Whereas the maritime policy of the United States expressly provides that the United States shall have a merchant marine sufficient to serve as a fourth arm of defense in time of war and national emergency;

Whereas the Federal Government has expressly recognized the vital role of the United States merchant marine during Operation Desert Shield and Operation Desert Storm;

Whereas cargo reservation programs of Federal agencies are intended to support the privately owned and operated United States- flag merchant marine by requiring a certain percentage of government cargo to be carried on United States- flag vessels;

Whereas when Congress enacted the cargo reservation laws, Congress contemplated that Federal agencies would incur higher program costs to use the United States- flag vessels required under those laws;

Whereas section 2631 of title 10, United States Code, requires that all United States military cargo be carried on United States- flag vessels;

Whereas Federal law requires that cargo purchased with loan funds and guarantees from the Export-Import Bank of the United States established under section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 655), be carried on United States- flag vessels;

Whereas section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1231(b)), requires that at least 50 percent of the gross tonnage of ocean-borne cargo be carried directly or indirectly by the Federal Government be carried on United States- flag vessels, and section 901(b) of that Act (46 U.S.C. App. 1231(b)) requires that at least 90 percent of such cargoes of certain agricultural commodities that are the subject of an export activity of the Commodity Credit Corporation or the Secretary of Agriculture be carried on United States- flag vessels;

Whereas cargo reservation programs are very important for the shipowners of the United States, which require compensation for maintaining a United States- flag fleet;

Whereas the United States- flag vessels that carry reserved cargoes have high-quality jobs for seafarers of the United States;

Whereas, according to the most recent statistics from the Maritime Administration, in 2019, United States reservation programs generated $900,000,000 in revenue to the United States- flag fleet and accounted for one-third of all revenue from United States- flag foreign trade cargo;

Whereas the Maritime Administration has indicated that the total volume of cargoes moving under the programs subject to the cargo reservation laws is declining and will continue to decline;

Whereas, in 1970, Congress found that the degree of compliance by Federal agencies with the cargo reservation laws was chaotic and uneven, and that it varied from agency to agency;
Resolved. That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Alan Cranston, former member of the United States Senate.

Resolved. That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved. That when the Senate adjourns or recesses today, it stand adjourned or recessed as a further mark of respect to the memory of the Honorable Alan Cranston.

Mrs. BOXER. Mr. President, I would like to take this opportunity to share with the Senate my thoughts on the life of a friend and former member of this body, Senator Cranston.

Alan passed away on December 31, 2000 at 86 at home in California. It was a quiet end for a man who throughout his career raised his voice for so many. Alan enjoyed a long life and was blessed with a keen mind, a strong spirit and simple common sense. In return for these gifts he worked to make this world a more peaceful and humane place. I will miss him and his counsel.

Alan was first elected to the Senate in 1968. He served the people of California in this Chamber for four terms, eventually retiring in 1993. It was my honor to have been elected to the seat he vacated.

Prior to his Senate service he was Controller for the State of California. He served his country in World War II, first in the Office of War Information and then in the U.S. Army. After graduating from Stanford University and before the onset of the war, Alan was an overseas correspondent for the International News Service covering such places as England, Germany, Italy and Ethiopia.

While a correspondent he saw an English language version of Mein Kampf, sanitized to hide the truth from Americans. He published his own version highlighting the “worst of Hitler” and was sued by Hitler’s publisher. While he lost his half a million copies had already been distributed helping to educate many about the true nature of Nazism and Hitler.

As United States Senator he stood out as a tireless and effective advocate for his constituents. No matter how he grew in stature and influence within this institution, he never forgot those who sent him to Washington and why. Alan cared deeply for people. He pursued policies that reflected his unwavering belief in the fundamental dignity and worth of others.

As Chairman of the Committee on Veterans’ Affairs, Alan played an invaluable role in America’s efforts to assist our service men and women and their families. In addition, he was a national leader on the environment, civil rights, workers’ rights, education and so much more. A consensus builder, he achieved success through a firm understanding of the issues and a finely developed sense of what was needed, but what was possible.

Alan left his mark on many issues, but his true passion was world peace.

As a witness to the horror and devastation of World War II, he committed himself to creating a world where conflicts between nations could be resolved without bloodshed. He was an outspoken opponent of the war in Vietnam and made the abolition of nuclear weapons a central part of his agenda in the Senate. Upon his retirement, he devoted himself to the latter cause almost exclusively.

Encouraged by the end of the Cold War, after leaving the Senate he became chairman of the Gorbachev Foundation, which later changed its name to the State of the World Forum. Based in San Francisco, the Forum has developed into a widely respected organization for the discussion of global issues.

In recent years, the Forum has hosted multi-day gatherings attended by world leaders. This year’s gathering occurred in New York and coincided with the U.N.’s Millennium Summit. As an advocate on nonproliferation, Alan Cranston prepared the program on the subject for participants who included former heads of state, and some of the most influential minds in foreign affairs, business and media.

Alan also formed the Global Security Institute. There he and others conceived of Project Abolition, the Responsible Security Appeal.

The purpose of this coalition is to rally people, politicians and governments to support policies that lead to a world safe from the nuclear threat. I am sure Alan would be pleased that this effort will continue even without him.

Recently, CNN recently announced that they were forming a foundation with an annual budget of $50 million dedicated to the elimination of weapons of mass destruction. This is great news, and further evidence that Alan’s message of peace continues to resonate. In many ways, this foundation is a tribute to him and his legacy.

Senator Alan Cranston was a leader and citizen that California, the United States and the world could be proud of. Although we are all a little poorer today at his passing, in the final tally we are all much richer for having known him and benefited from this time among us.

I yield the floor.

SENATE RESOLUTION 13—EXPRESSING THE SENSE OF THE SENATE REGARDING THE NEED FOR CONGRESS TO ENACT A NEW FARM BILL DURING THE 110TH SESSION OF THE 107TH CONGRESS.

Mr. DASCHLE (for himself, Mr. HARKIN, Mr. LEAHY, Mr. JOHNSON, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. KOHL, Mr. SARBANES, Mr. WELLSTONE, Mr. DORGAN, Mr. DURBIN, Mr. CONRAD, Mrs. CARNANAN, Mr. DAYTON, Mr. KENNEDY, and Ms. STABENOW submitted the following resolution; which was referred to the committee on Agriculture, Nutrition, and Forestry:
Whereas in contrast to the economic prosperity enjoyed by Americans over the past several years, many agriculture-dependent rural economies have continued to experience economic hardship;

Whereas independently owned and operated farms and ranches that are integral to the economic and social stability of rural America, but that are relatively less able to withstand economic shock, have suffered disproportionately during this period of ongoing economic distress;

Whereas the current contract payments are provided to owners and producers that may no longer be producing the crop on which the contract payments are calculated;

Whereas despite being promoted as a means of limiting farm program spending, current program policy necessitates record levels of program spending and emergency assistance programs;

Whereas the previous record of $32,000,000,000 in direct payments through the Commodity Credit Corporation for fiscal year 1986 during the heart of the farm crisis in the 1980’s was eclipsed by direct payments made for fiscal year 2000 by nearly $6,300,000,000;

Whereas even at these high levels of farm program and emergency spending, the farm economy and the financial condition of farm and ranch families and rural communities continues to decline;

Whereas agricultural producers are extremely frustrated and dissatisfied with the inconsistent criteria for receipt of disaster payments, the unpredictability of the payments, and the lack of flexibility of the payments across producers, regions, and agricultural commodities; and

Whereas over the past 3 years, Congress has waited until well into the legislative year before considering and responding to the need for disaster payments and then has justified the use of unnecessarily simplistic and fiscally wasteful payment formulas by claiming that there was inadequate time to devise superior alternatives: Now, therefore, be it

Resolved, That Congress should—

(1) enact a new farm bill during the 1st session of the 107th Congress;

(2) include in the budget resolution for fiscal year 2002 sufficient funds to provide an adequate farm income safety net and eliminate the need for off-budget, emergency spending;

(3) ensure that all farm-related payments are allocated fairly and reasonably and in relation to need; and

(4) provide such additional sums as are necessary to fund other farm bill priorities, such as rural economic development and telecommunication, conservation, research, nutrition, and food safety.

AUTHORITY FOR COMMITTEES TO MEET

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet on Monday, January 22, 2001, to conduct a markup on the nomination of the Honorable Mel Martinez, of Florida, to serve as Secretary of the Department of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE—REGISTRATION OF MASS MAILINGS

The filing date for 2000 fourth quarter mass mailings is January 25, 2001. If your office did no mass mailings during this period, please submit a form that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, D.C. 20510-7116.

The Public Records office will be open from 8:00 a.m. to 6:00 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224-0322.

NOTICE—2000 YEAR END REPORT


The Public Records office will be open from 8:00 a.m. to 6:00 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office at (202) 224-0322.

INAUGURAL CEREMONY

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the proceedings of Saturday’s Inaugural Ceremony be printed in today’s RECORD.

There being no objection, the proceedings of the Inaugural Ceremony ordered to be printed in the RECORD, as follows:

INAUGURATION CEREMONY, SATURDAY.

January 20, 2001, 11:47 A.M.

Members of the House of Representatives, Members of the Senate, Justices of the Supreme Court, nominees to the Cabinet, the Governors of the States, and the Mayor of the District of Columbia, the Joint Chiefs of Staff, and other distinguished guests assemb-

led on the West Front.

Mr. Martin Paone, Senate Secretary for the Majority, escorted Senators Clinton and Mrs. Gore, accompanied by Mrs. Clegg Dodd, Mrs. Gephardt, and Mrs. Daschle, to the President’s platform.

Mrs. Elizabeth Dole, Senate Secretary for the Minority, escorted Mrs. Bush and Mrs. Cheney, accompanied by Mrs. McConnel (Elaine Chao), Mrs. Lott, Mrs. Hastert, and Mrs. Armey, to the President’s platform.

Mr. Jay Eagen, House Chairman, accompanied Secretary of the Senate, Mr. Jeff Trandahl, Clerk of the House, escorted President Clinton and Vice President Gore, accompanied by Senator Dodd, Representative Gephardt, and Senator Daschle, to the President’s platform.

Ms. Lani Gerst, Executive Director, JCCIC, Mrs. Loretta Symms, Senate Deputy Sergeant at Arms, and Ms. Kerri Healy, House Deputy Sergeant at Arms, escorted Vice President-elect Cheney, accompanied by Senator Lott and Representative Armey, to the President’s platform.

Ms. Tamara Somerville, Chief of Staff, JCCIC, Mr. Jim Ziglar, Senate Sergeant at Arms, and Mr. Bill Carter, Sergeant at Arms, escorted President-elect Bush, accompanied by Senator McConnell, Senator Dodd, Speaker Hastert, and Senator Lott, to the President’s platform.

Mr. MCCONNELL. Everyone, please be seated so we can begin.

Welcome to the 56th inauguration of the President and the Vice President of the United States of America. Today we honor the past in commemorating two centuries of inaugurations in Washington, DC. As well, we are on the future of the first inauguration of the 21st century and the new millennium. America has now spanned four centuries, her face still shining bright—beginning and present—linked by timeless ideals and faith. The enduring strength of our Constitu-
tion, which brings us to the West Front of the Capitol today, attests to the wisdom of America’s founders and the heroism of genera-
tions of Americans who fought wars and came to the peace to preserve the sacred freedoms of liberty. In becoming the 43rd President of the United States, George W. Bush will assume the sacred trust as guardian of our Constitu-
tion. Dick Cheney will be sworn in as our new Vice President. Witnessed by the Con-
gress, Supreme Court, Governors, and Presi-
dents past, the current President will stand by as the new President peacefully takes of-

fice. This is a triumph of our democratic Re-
public, a ceremony befitting a great nation.

In his father’s stead, the Rev. Franklin Gra-
ham is with us today to pray in the Nation in prayer. Please stand for the invocation.

Reverend Graham.

Reverend GRAHAM. Let us pray:

Blessed are You, O Lord, our God, Yours, O God, is the greatness and the power and the glory and the majesty and the splendor, for everything in heaven and Earth is Yours. O Lord, is the kingdom. You are exalted as head over all. Wealth and honor come from You. You are the ruler of all things. In Your hands are strength and power to exalt and to give strength to all.

As President Lincoln once said, we have been the recipients of the choicest bounties of heaven. We have been preserved these many years in peace and prosperity. We have grown in numbers, wealth, and power, as no other nation has ever grown, but we have forgotten God. It behooves us then to humble ourselves before the offended powers, to confess our national sins, and to pray for clemency and forgiveness.

Rev. Graham,

As we come together on this his-
toric and solemn occasion to inaugu-
rate once again a President and Vice President, teach us to bless the power, wisdom, and sal-
vation which are only from You here.

We pray, O Lord, for President-elect George W. Bush and Vice President-elect Richard B. Cheney to whom You have en-
trusted the leadership of this great mo-
ment in history. We pray that You will help them bring our country together so that we
Give our new President, and all who advise him, calmness in the face of storms, encouragement in the face of frustration, and humility in the face of success. Give them the wisdom to know and to do what is right and the courage to say no to all that is contrary to Your statutes and holy law.

Lend us, we pray for their families, and especially their wives, Laura Bush and Lynne Cheney, that they may sense Your presence and know Your love.

Today we witness to You President and Senator Clinton and Vice President and Mrs. Gore. Lead them as they journey through new doors of opportunity to serve others.

Today we witness to You President and Senator Clinton, Vice President and Mrs. Gore. Lead them as they journey through new doors of opportunity to serve others.

Now, O Lord, we dedicate this Presidential inaugural ceremony to You. May this be the beginning of a new dawn for America as we humble ourselves before You and acknowledge You alone as our Lord, our Saviour, and our Redeemer.

We pray this in the name of the Father and of the Son and of the Holy Spirit, Amen.

Mr. McCONNELL. Thank you, Reverend Graham.

It is my distinct pleasure to introduce the Dupont Manual Choir of Louisville, KY.

Mr. McConnell. I call now on Senator Christopher J. Dodd of Connecticut to introduce the Chief Justice of the United States.

Mr. DODD. Thank you, Senator McConnell. Please join the Vice President-elect, Senator Clinton, Vice President and Mrs. Gore, President-elect and Mrs. Bush, and fellow citizens, the Vice President-elect will now take the oath of office.

President Bush, do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you will take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of which I am about to enter. So help me God.

Mr. Chief Justice REHNQUIST. Congratulations.

The Marine Band performed “Hail Columbia.”

Mr. McCONNELL. Ladies and gentlemen, Staff Sergeant Alec T. Maly of the United States Army Band will now perform an American medley.

Mr. McConnell. It is now my high honor to again present the Chief Justice of the United States, Mr. William Hobbs Rehnquist, to administer the Presidential oath of office.

Today we entrust to You President and Senator Clinton and Vice President and Mrs. Gore. Lead them as they journey through new doors of opportunity to serve others.

I, George Walker Bush, do solemnly swear that I will faithfully execute the office of President of the United States and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States. So help me God.

Mr. Chief Justice REHNQUIST. Congratulations.

Mr. McCONNELL. Ladies and gentlemen, the President of the United States, George W. Bush.

Mr. Chief Justice REHNQUIST. Congratulations.

Mr. McCONNELL. I now call on Senator Christopher J. Dodd of Connecticut to introduce the Chief Justice of the United States.

Mr. DODD. Thank you, Senator McConnell. Please join the Vice President-elect, Senator Clinton, Vice President and Mrs. Gore, President-elect and Mrs. Bush, and fellow citizens, the Vice President-elect will now take the oath of office.

I am honored and humbled to stand here, where so many of America’s leaders have come before me and so many will follow. We have a place, all of us, in a long story: a story we continue, but whose end we will not see. It is the story of a new world that became a friend and liberator of the old, the story of a slave-holding society that became a servant of freedom, the story of a power that went into the world to protect but not possess, and the story of America; a story of flawed and fallible people, united across the generations by grand and enduring ideals.

We are committed to being an unfolding American promise: that everyone belongs, that everyone deserves a chance, that no insignificant person was ever born.

Mr. Chief Justice REHNQUIST. Congratulations.

The President-elect now takes the oath of office prescribed by the Constitution, which he repeats as follows:

I, Richard Bruce Cheney, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of which I am about to enter. So help me God.

Mr. Chief Justice REHNQUIST. Congratulations.

Mr. McConnell. It is my distinct pleasure to introduce the Dupont Manual Choir of Louisville, KY.

Mr. McConnell. I call now on Senator Christopher J. Dodd of Connecticut to introduce the Chief Justice of the United States.

Mr. DODD. Thank you, Senator McConnell. Please join the Vice President-elect, Senator Clinton, Vice President and Mrs. Gore, President-elect and Mrs. Bush, and fellow citizens, the Vice President-elect will now take the oath of office.

I am honored and humbled to stand here, where so many of America’s leaders have come before me and so many will follow. We have a place, all of us, in a long story: a story we continue, but whose end we will not see. It is the story of a new world that became a friend and liberator of the old, the story of a slave-holding society that became a servant of freedom, the story of a power that went into the world to protect but not possess, and the story of America; a story of flawed and fallible people, united across the generations by grand and enduring ideals.

We are committed to being an unfolding American promise: that everyone belongs, that everyone deserves a chance, that no insignificant person was ever born.

Americans are called to enact this promise in our lives and in our laws. And though our Nation has sometimes halted, and sometimes delayed, we must follow no other course.

Through much of the last century, America’s faith in freedom and democracy was a story of progress and promise. And whatever our views of its cause, we can agree that the enemies of liberty and our country—some seem to believe that our politics can afford to be petty because, in a time of peace, the stakes of our debates appear small. But the stakes, for America, are never small. If our country does not lead the cause of freedom, it will not only lose the war, but turn the hearts of children toward knowledge and character, and we lose their gifts and undermine their idealism. If we permit our economy to drift and decline, the vulnerable will suffer most.

We must live up to the calling we share. Civility is not a tactic or a sentiment. It is the determination, the commitment, the cynicism, of community over chaos. And this commitment, if we keep it, is a way to share with one another.

America, at its best, is also courageous. Our national courage has been clear in times of depression and war, when defeating common dangers defined our common good. Now we must choose if the example of our fathers and mothers will inspire us or condemn us. We must show courage in a time of blessing by confronting problems instead of passing them onto future generations.

Together we will reclaim America’s soul before it is too late. We claim more young lives. We will reform Social Security and Medicare, sparing our children from struggles we have the power to prevent. We will reduce taxes, to recover the momentum of our economy and reward the efforts and enterprise of working Americans.

We will build our defenses beyond challenge, lest weakness invite challenge. We will confront weapons of mass destruction, so that a new century is spared new horrors.

The enemies of liberty and our country should make no mistake. America remains engaged in the world, and by history and by choice, shaping a balance of power that favors freedom. We will defend our allies and our interests. We will show purpose without arrogance. We will meet aggression and bad faith with resolve and strength. And to all nations, we will speak for the values that give our Nation birth.

Mr. Chief Justice REHNQUIST.

Mr. McConnell. It is now my high honor to again present the Chief Justice of the United States, Mr. William Hobbs Rehnquist, to administer the Presidential oath of office.

America, at its best, is compassionate.

In the quiet of American conscience, we know that deep, persuasive, and yearning love is the very humanity; an ideal we carry but do not achieve. We know the justice of our Nation’s promise. And whatever our views of its cause, we can agree that children at risk are not at fault. Abandoning our children is not acts of God; they are failures of love.

Mr. Chief Justice REHNQUIST.
And the proliferation of prisons, however necessary, is no substitute for hope and order in our souls.

Where there is suffering, there is duty. Americans are not strangers; they are citizens; not problems, but priorities. And all of us are diminished when any are hopeless.

(Appause.)

Government has great responsibilities, for public safety and public health, for civil rights and common schools. Yet compassion is the touch or the word, not just a government. And some needs and hurts are so deep, they will only respond to a mentor’s touch or a pastor’s smile. Church and charity and synagogue and mosque lend our communities their humanity, and they will have an honored place in our plans and in our laws.

(Appause.)

Many in our country do not know the pain of poverty. But we can listen to those who do. And I can pledge our Nation to a goal that we have failed for his inauguration. The years and the ice and a nation of character.

And a nation of character.

(Senator Frist, of Tennessee, points out an error in the record, which is corrected, and the record is closed in the morning.)

We cannot have a decent society if we have not a decent government. The President has offered a call for responsibility, and try to live it as well. In all these ways, I will bring the values of our history to the care of our times.

What you do is as important as anything government does. I ask you to seek a common purpose to conform our comfort; to defend needed reforms against easy attacks; to serve your Nation, beginning with your neighbor. I ask you to be citizens—citizens, not apostles; citizens, not subjects; responsible citizens building communities of service and a nation of character.

(Appause.) Americans are generous and strong and decent, not because we believe in ourselves, but because we hold beliefs beyond ourselves. When this spirit of citizenship is missing, no government program can replace it. When this spirit is present, no wrong can stand against it.

(Appause.)

After the Declaration of Independence was signed, Virginia statesman John Page wrote to Thomas Jefferson:

We know the hour is not to the swift nor the Battle to the Strong. Do you not think an Angel rides in the Whirlwind and directs this Storm?

Much of the effects that have passed since Jefferson arrived for his inauguration. The years and changes accumulate, but the themes of this day he would know: our Nation’s grand story of courage and its simple dream of dignity. We are not the story’s author, who fills time or eternity with His purpose. Yet His purpose is achieved in our duty; and our duty is fulfilled in service to one another.

Never tiring, never yielding, never finishing, we renew that purpose today: to make our country more just and generous; to affirm the dignity of our lives and every life.

This work continues. This story goes on. And an angel still rides in the whirlwind and directs the course of history. God bless you all, and God bless America.

(Appause.)

Mr. McCONNELL. Please stand now as Pastor Kribyjon H. Caldwell will now deliver the benediction, and afterward, please remain standing for the singing of our National Anthem, after which the ceremony will be concluded. I call upon Senator Dodd to organize the Presidential party after the ceremony has ended to depart the platform. Pastor Caldwell.

Pastor CALDWELL. Thank you, Senator McConnell.

Let us pray, please:

Almighty God, the supplier and supplier of peace, prudent policy, and nonpartisanship, we bless Your holy and righteous name. Thank You, O God, for blessing us with forgiveness, with faith, and with favor. Forgive us for choosing popularity over principles. And forgive us for choosing materialism over morals. Deliver us from these and all other evils, and cast our sea of sorrow and getfulness to be remembered no more. And Lord, not only do we thank You for our forgiveness, we thank You for faith, to believe in Your divine favor; let Your divine favor be upon President George W. Bush and First Lady Laura Welch Bush and their family. We ask unanimous consent that the resolution be printed in the Record.

The PRESIDING OFFICER. The Clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 12) relative to the death of Alan Cranston, former United States Senator from the State of California.

And the proliferation of prisons, however necessary, is no substitute for hope and order in our souls. As Immediate consideration of S. Res. 12 introduced earlier today by Senators BOXER and FEINSTEIN.

And we are here to consider this resolution.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the resolution be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELATIVE TO THE DEATH OF ALAN CRANSTON

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 12 introduced earlier today by Senators BOXER and FEINSTEIN.

The PRESIDING OFFICER. The Clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 12) relative to the death of Alan Cranston, former United States Senator from the State of California.

And the proliferation of prisons, however necessary, is no substitute for hope and order in our souls. As Immediate consideration of S. Res. 12 introduced earlier today by Senators BOXER and FEINSTEIN.

And we are here to consider this resolution.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the resolution be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 12) was agreed to.

The preamble was agreed to.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the provisions of 20 U.S.C. sections 42 and 43, appoints the Senator from Vermont (Mr. LEAHY) as a member of the Board of Regents of the Smithsonian Institution, vice the former Senator from New York (Mr. Moynihan).

The Chair, on behalf of the Democratic leader, pursuant to Public Law 106-398, announces the appointment of John J. Hamre, of Maryland, to serve as a member of the Commission on the Future of the United States Aerospace Industry.

ORDERS FOR TUESDAY, JANUARY 23, 2001

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 11:30 a.m. on Tuesday, January 23. I further ask unanimous consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 12:30 p.m. with Senators speaking for up to 10 minutes
each with the time equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I further ask unanimous consent that the bills printed in the RECORD from the hours of 12:30 to 2:15 p.m. for the weekly policy conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mrs. HUTCHISON. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the provisions of S. Res. 12, following the remarks of Senator STABENOW and Senator REID.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

(The remarks of Mr. Reid pertaining to the introduction of S. 104 are printed in today’s RECORD under “Statements on Introduced Bills and Joint Resolutions.”)

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Senator NELSON of Florida assumed the chair.)

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the question be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I ask unanimous consent to speak as in morning business for as much time as I desire.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ANTIQUITIES ACT

Mr. NICKLES. Mr. President, I rise to be critical of President Clinton’s recent actions dealing with the Antiquities Act in declaring millions of lands national monuments. He did this without consulting with the Governors, without consulting with elected officials, without consulting Congress. I believe that to be almost an act of contempt with certainly in defiance of what is considered the Antiquities Act and the purpose of the Antiquities Act.

The Antiquities Act was written in 1906. It was established at that time to protect very special historic, beautiful lands from development. It is a short act, and I will have it printed in the RECORD at the conclusion of my speech. The purpose of the act President Clinton has defied. It does not say he is King or that he can take an unlimited amount of lands without consulting Congress or elected officials or local officials and say, we declare this a national monument so you cannot touch it and we don’t care what you think.

I was amused when I noticed the Washington Post and other media said President Clinton was being active in the final days as President of the United States. He was more than active when acting in a way I believe certainly exceeded the statutory language of the Antiquities Act. Certainly he was being more than active when he defied logic and did not consult elected officials because the Antiquities Act and his actions prove that it needs to be reformed.

When I read it, I wonder where he gets this authority. I think he exceeded the authority of the act. The authority of the act demands consultation.

The President of the United States is authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic and scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. And it continues.

The media reported that President Clinton has created more national monuments than any other President going back to Theodore Roosevelt. I looked back and Theodore Roosevelt didn’t do as much as President Clinton in the last month or certainly since the last election. Theodore Roosevelt, through his actions, did a total of 1.5 million acres. President Clinton did 2 million acres after the election. Why did he do it after the election? Is it because there were hundreds of thousands of acres he did not consult with people? He didn’t ask the elected officials. He said, This is what we will do; we will declare a national monument. All together he has declared 5.7 million acres in national monuments.

I mention the elections because obviously President Clinton used this act for election purposes. He did it in September of 1998 right before the election, I might mention, and it dealt with the Grand Staircase-Escalante National Monument, 1.7 million acres, right before the election in 1996. He announced it in Arizona, overlooking the Grand Canyon. That is interesting, but the Grand Canyon is in Arizona; it is in Utah. Utah officials were outraged because they were not consulted. The resources involved mineral deposits and coal, the value of which were billions of dollars and thousands of jobs. He did not consult with anybody in Utah. There was public outrage, but nothing happened. President Clinton did not declare any national monuments in 1997, not in 1998, not in 1999.

President Clinton used his Antiquities Act in declaring millions of acres after the election. Why did he do it after the election? Is it because he showed contempt of Congress, contempt of the Constitution, contempt of the people who live in those districts.

I think Congress should look at some of these recent declarations and have hearings. Did he draft these declarations correctly? Are the boundaries right? Are they too big? Are they too restrictive? Do they make sense? What...
is the economic consequences on the local city and towns and communities? What does this mean for their taxes? What does this mean for future royalties? What does this mean to Indian tribes? What does it mean for him to take millions of acres and ignore them as national monument? I may agree with each one. I disagree with the process.

Again, I think it is very much in violation of the Antiquities Act, very much in violation of the intentions of the Antiquities Act, very much an abuse of his office as President of the United States. There is no comparison to previous Presidents and what they have done.

I will have printed in the RECORD a list of all Presidents since the inception of the Antiquities Act, starting with Theodore Roosevelt, all the way through listing every President and the number of acres they had designated during their term of office as national monuments. It shows no President has done as much as President Clinton, with the exception of President Carter when there was an enormous amount of land in the State of Alaska that was declared a national monument. Other than that one act, President Clinton had exceeded any other President by multiples of at least two, three, four, or many times more. President George Herbert Walker Bush had zero acres. President Ronald Reagan had zero acres. President Jimmy Carter, I mentioned Alaska lands issued, so that was different. Gerald Ford had 86 acres. Richard Nixon had zero acres. Lyndon Johnson had 344,000 acres. President Clinton did more than 10 times L.B.J. John Kennedy did 26,000 acres; President Clinton did almost 5.7 million acres. John Kennedy did 26,000 acres. This was a Land grab, a power grab, but more than that, I believe it was a unconstitutional expansion of the Antiquities Act.

I think he exceeded his constitutional power and I regret it. I think it was a mistake. I think it shows contempt of Congress. Why did he wait until after the election? Possibly because there would be a real significant uproar in these States for failing to consult them.

Under the way President Clinton has misused and, I believe, abused the act, he has acted more like a emperor than President of the United States.

I ask unanimous consent a list showing President Clinton’s use of the 1906 Antiquities Act and other Presidents and their use of the Antiquities Act in addition to copies of the Antiquities Act and the limitations and the situation dealing with Alaska and Wyoming be printed in the RECORD.

There being no objection, the material order is to be printed in the RECORD, as follows:

PRESIDENT CLINTON’S USE OF 1906 ANTIQUITIES ACT—Continued

<table>
<thead>
<tr>
<th>President</th>
<th>Total acres</th>
<th>1906 Antiquities Act</th>
<th>Date established</th>
</tr>
</thead>
<tbody>
<tr>
<td>William Jefferson Clinton (1803-1901)</td>
<td>1,700,000</td>
<td>1906 Antiquities Act</td>
<td>09–18–96</td>
</tr>
</tbody>
</table>

ANTITUDES ACT

16 USC Sec. 431

TITLE 16—CONSERVATION

CHAPTER 1—NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

Subchapter LXI—National and International Monuments and Memorials

Sec. 431. National monuments; reservation of lands; relinquishment of private claims

The President of the United States is authorized in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. When such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is authorized to accept the relinquishment of such tracts in behalf of the Government of the United States. (June 30, 1906, ch. 3060, Sec. 2, 34 Stat. 225.)

LIMITATION ON FURTHER EXTENSION OR ESTABLISHMENT OF NATIONAL MONUMENTS IN WYOMING

16 USC Sec. 431a

TITLE 16—CONSERVATION

CHAPTER 51—ALASKA NATIONAL INTEREST LANDS CONSERVATION

Subchapter VI—Administrative Provisions

Sec. 3213. Future executive branch actions

(a) No further executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection.

(b) No further studies of Federal lands in the State of Alaska shall be conducted unless notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.

PATIENTS’ BILL OF RIGHTS

Ms. STABENOW. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business. The PRESIDING OFFICER. Without objection, it is so ordered.
involved in the important issues of health care that affect our families. As we begin the 107th Congress, I think we have a great opportunity to get things done for the people we represent. We have a 50-50 Senate, a divided House, and the closest elections we have seen in our history. Now is the time for us to reach across the aisle to colleagues on the other side, to work together on behalf of the families all of us represent.

I come to the floor today to talk about one of the most important issues confronting us as a Congress and one of the best ways for us to start the new year providing health care for the families we represent and that is the enactment of a strong Patients’ Bill of Rights. I strongly believe that every one of our citizens, child to senior, has the right to quality, affordable health care. Whether we are talking about access to nursing homes and home health care, or the availability of prescription drugs for seniors and our families or a Patients’ Bill of Rights, I am pleased to have been involved in those efforts, and will continue to be so, with my colleagues in the Senate.

One of the most significant in a positive way of common sense?

Jessica sits on my desk in my Senate offices. Today, I am taking my fight for Jessica to the Senate floor, and I hold great hope that this Congress, that this Senate, will do what others have failed to do—pass a strong Patients’ Bill of Rights.

Jessica was born in 1975 with a rare metabolic disorder that required vigilance around the clock. In the spring of 1999, she was having an average of 60 seizures a month. Her doctor recommended surgery to prevent further seizures, and on May 12, 1999, she had the operation. They finally did get the approval from the insurance company that refused to cover the surgery because Jessica’s needed. Jessica’s parents continued with her regular doctor and paid for the appointments out of their own pocket, while having insurance under an HMO.

After hours and hours on the phone, page by page, name by name, going through, calling doctors, hearing: No, no, no to serving and treating Jessica.

Jessica’s parents continued with her regular doctor and paid for the appointments out of their own pocket, while having insurance under an HMO.

On September 10, 1999, Jessica passed away. In the final days of her life, Tricia Luker talks about the fact that she wanted to be on the front porch, blowing bubbles and reading books to Jessica, which she loved, but instead was fighting the insurance company bureaucracy to get her the treatment from the doctor who had been with her for 14 years.

Today, Tricia Luker’s daughter Jessica is gone, but they are still paying the bills from the insurance company that refused to cover the treatment that Jessica needed. Jessica’s tragic story demonstrates why we need a strong Patients’ Bill of Rights, a bill that will help patients like Jessica who have complicated medical problems with access to specialists.

The bill would hold insurance companies accountable for their decisions. It would afford the Lukers the opportunity to appeal what on its face seems unreasonable and lacking in common sense.

Throughout my campaign for the Senate, I shared Jessica’s story with the people of Michigan. I pledged to bring a picture with me to the Senate and to keep my promise to Jessica’s family, and to all of the families of Michigan, to try and I can to pass a Patients’ Bill of Rights.

Today, I am taking my fight for Jessica to the Senate floor, and I hold great hope that this Congress, that this Senate, will do what others have failed to do—pass a strong Patients’ Bill of Rights.

A small version of this picture of Jessica sits on my desk in my Senate office. It will remain there with me until, in fact, we pass a Patients’ Bill of Rights. I believe we have the power and the right to go through what Calvin and Tricia Luker went through, trying to get their daughter care. In the memory of Jessica, I call on my Senate colleagues to make passing a strong Patients’ Bill of Rights one of our top priorities.

One of the most important issues of common sense and fairness to Americans is direct access for women to OB/GYN care; direct access to pediatricians; a guaranteed option for patients to select doctors outside of their plan, if necessary; coverage for clinical trials; access to medically necessary prescription drugs; and the right to an independent appeal for any denied claim.

Most importantly, this legislation will hold insurance companies accountable for decisions they make regarding patients they serve, and this is the most critical point. I have spoken with families throughout Michigan and received countless letters, e-mails, and phone calls from people pleading with us to help them pass this bill. Jessica’s is just one of the many tragic stories I have heard.

I want to mention just a couple of other names of people with whom I have worked in the State of Michigan who have been struggling with their families to get the care they have paid for and that they deserve. Ardhath and Frank Reagan of Holly, MI. Mr. Reagan became paralyzed from the waist down from a rare disease. His insurance company refused to pay for his surgery, saying he was not a good candidate.

They told Ardhath to put her husband in a nursing home. The insurance company’s foot dragging forced her husband to go through, calling doctors, hearing: No, no, no, to serving and treating Mrs. Reagan.

Michael Pesendorfer from the Metro Detroit area—Michael was stricken with cancer. He has joined me on a number of occasions as well to speak out for a Patients’ Bill of Rights. The insurance company delayed approval for treatment. They finally did get the approval for the procedure, but it was too late, and she died shortly after.

Susan and Sam Yamen from Birmingham, MI—I read their story on the floor of the House of Representatives last session, and I am an example of why we need the commonsense policy of saying you go to the nearest emergency room in a medical emergency.

Sam cut his leg with a chain saw from a business he operated. He had a severe nerve injury. He had a nerve injury and was not paying today in 2001.

How could the Lukers know their insurance company would change without receiving any advanced notice? How could the insurance company refuse to pay, using the bureaucracy to stand in the way of common sense?

The insurance change meant more difficulties for the Lukers. Jessica’s specialist, who had been treating her for 14 years, was not a part of the HMO and was not allowed to continue to serve her. Again, the Lukers were forced to deal with the insurance company, try to get through, calling doctors, hearing: No, no, no, to serving and treating Jessica.

The doctors said it was critical that it be done immediately to save the nerve endings in his leg. They would not approve the surgery in this emergency.
room and he, unfortunately, had to be placed into an ambulance and taken across town to another emergency room where he sat for 9 hours before he could get any care and did not receive the surgery he needed. In fact, Mr. Yamen has lost his tree trimming business and much of the nerve endings and feeling in his leg. His family has been in great economic struggle as a result of this.

What these stories tell me is that patients enrolled in an HMO need basic protections and guarantees of adequate coverage. Our families are paying for the insurance. They need to get the care, and they need to know it is going to be there in an emergency.

I believe a strong Patients’ Bill of Rights provides those protections and guarantees for coverage. Certainly, Jessica and her family and the families I mentioned and all of the others I talked to all across Michigan have stories that need to be addressed because they are not just stories; they are reality for too many people.

I am committed to reaching across the aisle to work with our colleagues to pass this critical health care legislation. I know that in order to keep my promise to Jessica’s family, we have to get to work and we have to work together. I am ready to work with everyone who shares my goals and the goals and the needs of the families whom I represent. I look forward to working on the legislation that has been introduced today and the opportunity for us to show clearly that we intend to work together for the people of our country by passing a strong Patients’ Bill of Rights as quickly as possible.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, first, on behalf of my colleagues, permit me to extend a warm welcome to our new Senator from Michigan. It was an honor to be on the floor as she made her first speech. I appreciate very much her dedication and enthusiasm and her expressed commitment and interest in working together. I assure her we will have many opportunities in the months to come. All of us are going to have to work together if we are going to make the kind of progress we wish.

(The remarks of Mr. Bond pertaining to the introduction of S. 29 are located in today’s Record under “Statements on Introduced Bills and Joint Resolutions.”)

ADJOURNMENT UNTIL 11:30 A.M. TOMORROW

Mr. BOND. Mr. President, is there further business to come before the Senate at this time?

The PRESIDING OFFICER. Under the previous order, if there is no further business to come before the Senate, the Senate stands adjourned until 11:30 a.m. tomorrow.

Thereupon, the Senate, at 3:03 p.m., adjourned until Tuesday, January 23, 2001, at 11:30 a.m.
EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week. Meetings scheduled for Tuesday, January 23, 2001 may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED

JANUARY 24

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Norman Mineta, to be Secretary of Transportation.
SR–253

JANUARY 25

10 a.m.
Budget
To hold hearings to examine evolving fiscal challenges.
SD–216

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings on the nomination of Elaine Chao, to be Secretary of Labor.
SD–430

10 a.m.
Judiciary
Business meeting to consider pending calendar business.
SD–226

This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
Chamber Action

Routine Proceedings, pages S69–S427

Measures Introduced: One hundred and thirty-four bills and five resolutions were introduced, as follows: S. 6–11, S. 16–143, S. Res. 11–13, and S.J. Res. 1–2. Pages S97–S101

Measures Passed:

Relative to the Death of Former Senator Cranston: Senate agreed to S. Res. 12, relative to the death of Alan Cranston, former United States Senator for the State of California. Page S423

Appointments:

Smithsonian Institution Board of Regents: The Chair, on behalf of the Vice President, pursuant to the provisions of 20 U.S.C., sections 42 and 43, appointed Senator Leahy as a member of the Board of Regents of the Smithsonian Institution, vice former Senator Moynihan. Page S423

Commission on the Future of the United States Aerospace Industry: The Chair, on behalf of the Democratic Leader, pursuant to Public Law 106–398, announced the appointment of John J. Hamre, of Maryland, to serve as a member of the Commission on the Future of the United States Aerospace Industry. Page S423

Executive Reports of Committees: Page S97

Statements on Introduced Bills: Pages S101–S421

Authority for Committees: Page S421

Additional Statements: Pages S86–S87

Adjournment: Senate met at 10 a.m. and, in accordance with the provisions of S. Res. 12, adjourned at 3:03 p.m., until 11:30 a.m., on Tuesday, January 23, 2001. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S424.)

Committee Meetings

(Committees not listed did not meet)

NOMINATION

Committee on Agriculture, Nutrition, and Forestry: On Thursday, January 18, Committee concluded hearings on the nomination of Ann Margaret Veneman, of California, to be Secretary of Agriculture, after the nominee, who was introduced by Senators Feinstein and Boxer and Representative Dreier, testified and answered questions in her own behalf.

NOMINATION

Committee on Armed Services: On Thursday, January 11, Committee concluded hearings on the nomination of Donald Henry Rumsfeld, of Illinois, to be Secretary of Defense, after the nominee, who was introduced by Senators Fitzgerald and Durbin, testified and answered questions in his own behalf.

NOMINATION

Committee on Banking, Housing, and Urban Affairs: On Monday, January 22, Committee ordered favorably reported the nomination of Melquiades Rafael Martinez, of Florida, to be Secretary of Housing and Urban Development.

On Wednesday, January 17, Committee concluded hearings on the nomination of Melquiades Rafael Martinez, after the nominee, who was introduced by Senators Graham and Bill Nelson, testified and answered questions in his own behalf.

FINAL BUDGET REPORT

Committee on the Budget: On Friday, January 19, Committee concluded hearings to review the former Administration’s final report on the budget and the economy, including a review of fiscal years 1994–2001, and fiscal year 2002 baseline projections and economic outlook, after receiving testimony from Jacob J. Lew, Director, Office of Management and Budget.
NOMINATION
Committee on Environment and Public Works: On Wednesday, January 17, Committee concluded hearings on the nomination of Christine Todd Whitman, of New Jersey, to be Administrator of the Environmental Protection Agency, after the nominee, who was introduced by Senators Torricelli and Corzine and Representative Frelinghuysen, testified and answered questions in her own behalf.

NOMINATION
Committee on Foreign Relations: On Thursday, January 18, Committee ordered favorably reported (upon receipt by the Senate) the nomination of Colin Luther Powell, of Virginia, to be Secretary of State.

On Wednesday, January 17, Committee concluded hearings on the nomination of Colin Luther Powell, after the nominee, who was introduced by Senators Warner and Allen, testified and answered questions in his own behalf.

UNITED NATIONS REFORM REPORT
Committee on Foreign Relations: On January 9, Committee concluded hearings to review the Report on United Nations Reform, after receiving testimony from Richard C. Holbrooke, U.S. Permanent Representative to the United Nations, who was accompanied by several of his associates.

NOMINATION
Committee on Governmental Affairs: On Friday, January 19, Committee concluded hearings on the nomination Mitchell E. Daniels, Jr., of Indiana, to be Director of the Office of Management and Budget, after the nominee, who was introduced by Senators Lugar and Bayh, testified and answered questions in his own behalf.

NOMINATION
Committee on the Judiciary: On Tuesday through Friday, January 16–19, Committee concluded hearings on the nomination of John Ashcroft, of Missouri, to be Attorney General of the United States, after the nominee, who was introduced by Senators Bond, Carnahan, Hutchison, Collins, and former Senator Danforth, testified and answered questions in his own behalf. Testimony was also received from Representatives Waters, Jackson-Lee, Clyburn, Hulshof, and Watts; Missouri Supreme Court Justice Ronnie White, Jefferson City; Edward D. Robertson, former Missouri Supreme Court Justice, Harriet Woods, former Missouri Lieutenant Governor, Jerry Hunter, former Missouri Secretary of Labor, David C. Mason, Circuit Judge, and B. T. Rice, New Horizons Seventh Day Christian Church, all of St. Louis; Kate Michelman, National Abortion and Reproductive Rights Action League, Marcia Greenberger, National Women’s Law Center, Wade Henderson, Leadership Conference on Civil Rights, Robert Woodson, National Center for Neighborhood Enterprise, Bill Taylor, Citizens’ Commission on Civil Rights, James M. Dunn, Wake Forest University, Michael Barnes, Handgun Control, and Kay James, Heritage Foundation, all of Washington, D.C.; Gloria Feldt, Planned Parenthood Federation of America, New York, New York; and Colleen Campbell, Memory of Victims Everywhere, San Juan Capistrano, California.

NOMINATION
Committee on Health, Education, Labor, and Pensions: On Wednesday, January 10, Committee concluded hearings on the nomination of Roderick R. Paige, of Texas, to be Secretary of Education, after the nominee, who was introduced by Representative Jackson-Lee, testified and answered questions in his own behalf.

NOMINATION
Committee on Health, Education, Labor, and Pensions: On Friday, January 19, Committee concluded hearings on the nomination of Tommy G. Thompson, of Wisconsin, to be Secretary of Health and Human Services, after the nominee, who was introduced by Senators Kohl and Feingold and Donna E. Shalala, Secretary of Health and Human Services, testified and answered questions in his own behalf.

NOMINATION
Committee on Veterans’ Affairs: On Thursday, January 18, Committee concluded hearings on the nomination of Anthony Joseph Principi, of California, to be Secretary of Veterans Affairs, after the nominee, who was introduced by Senator Boxer and Representative Dreier, testified and answered questions in his own behalf.
House of Representatives

Chamber Action
The House was not in session.

Committee Meetings
No committee meetings were held.

CONGRESSIONAL PROGRAM AHEAD
Week of January 23 through January 27, 2001

Senate Chamber
On Tuesday and Wednesday, Senate expects to consider pending cabinet nominations. The balance of the week is uncertain.

Senate Committees
(Committee meetings are open unless otherwise indicated)

Committee on the Budget: January 25, to hold hearings to examine evolving fiscal challenges, 10 a.m., SD–216.

Committee on Commerce, Science, and Transportation: January 24, to hold hearings on the nomination of Norman Mineta, to be Secretary of Transportation, 9:30 a.m., SR–253.

Committee on Energy and Natural Resources: January 24, business meeting to consider the nomination of Gale Ann Norton, of Colorado, to be Secretary of the Interior, 9:30 a.m., SD–628.

Committee on Health, Education, Labor, and Pensions: January 24, to hold hearings on the nomination of Elaine Chao, to be Secretary of Labor, 9:30 a.m., SD–430.

Committee on the Judiciary: January 24, business meeting to consider pending calendar business, 10 a.m., SD–226.

House Chamber
The House is not scheduled to be in session.

House Committees
No committee meetings are scheduled.
Next Meeting of the Senate
11:30 a.m., Tuesday, January 23

Senate Chamber

Program for Tuesday: After the transaction of any morning business (not to extend beyond 12:30), Senate expects to consider pending nominations.

(Senate will recess from 12:30 p.m., until 2:15 p.m., for their respective party conferences.)

Next Meeting of the House of Representatives
2 p.m., Tuesday, January 30

House Chamber

Program for Tuesday: The House is not scheduled to be in session.