of child abuse and neglect, and supporting efforts to enhance public awareness of it.

S. J. RES. 10

At the request of Mr. KENNEDY, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Michigan (Ms. STABENOW), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. J. Res. 10, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

S. RES. 44

At the request of Mr. COCHRAN, the names of the Senator from Idaho (Mr. CRAPO), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. Res. 44, a resolution designating each of March 2001, and March 2002, as ''Arts Education Month''.

S. RES. 63

At the request of Mr. CAMPBELL, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. Res. 63, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

AMENDMENT NO. 115

At the request of Mr. DOMENICI, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of amendment No. 115 proposed to S. 27, a bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 622. A bill to amend titles V, XVIII, and XIX of the Social Security Act to promote tobacco cessation under the medicare program, the medicaid program, and maternal and child health services block grant program; to the Committee on Finance.

Mr. DURBIN. Mr. President, I rise today to introduce legislation that expands treatment to millions of Americans suffering from a deadly addiction: tobacco. I am pleased to have Senators BROWNBACK, BINGAMAN, and GRAHAM of Florida join me in this effort. The Medicare, Medicaid and MCH Smoking Cessation Promotion Act of 2001 will help make smoking cessation therapy accessible to recipients of Medicare, Medicaid, and the Maternal and Child Health, MCH, Program.

We have long known that cigarette smoking is the largest preventable cause of death, accounting for 20 percent of all deaths in this country. It is well documented that smoking causes virtually all cases of lung cancer and a substantial portion of coronary heart disease, peripheral vascular disease, chronic obstructive lung disease, and cancers of other sites. And the harmful effects of smoking do not end with the smoker. Women who use tobacco during pregnancy are more likely to have adverse birth outcomes, including babies with low birth weight, which is linked with an increased risk of infant death and a variety of infant health disorders.

Still, despite enormous health risks, 48 million adults in the United States smoke cigarettes, approximately 22.7 percent of American adults. The rates are higher for our youth, 36.4 percent report daily smoking. In Illinois, the adult smoking rate is about 24.2 percent. Perhaps most distressing and surprising, data indicate that about 13 percent of mothers in the United States smoke during pregnancy.

Today, the Surgeon General released a new report that documents the health effects for women who smoke. Women now represent 39 percent of all smoking related deaths in the United States each year, more than double the percentage in 1965.

More than 21 percent of women in my state of Illinois smoke. Lung cancer is the leading cancer killer among women surpassing breast cancer in 1987, and smoking causes 87 percent of lung cancer cases. In fact, lung cancer death rates among women increased by more than 400 percent between 1960 and 1990. And smoking among girls is on the rise as well. From 1991 to 1999, smoking among high school girls increased from 27 to 34.9 percent.

There is no doubt that smoking rates among women and girls are linked to targeted tobacco advertising. The Centers for Disease Control and Prevention's National Health Interview Survey showed an abrupt increase in smoking inititation among girls around 1967, about the same time that Philip Morris and other tobacco companies launched advertisements for brands specifically targeted at women and girls. Six years after the introduction of Virginia Slims and other such brands, the rate of smoking initiation of 12-year-old girls increased by 110 percent.

The report released today echoes this concern, highlighting the targeting of women in tobacco marketing. Between 1995 and 1998, expenditures in the United States for cigarette advertising and promotion increased from $4.90 billion to $6.73 billion. In 1999, these promotional expenditures leaped another 22 percent, to a new high of $8.24 billion.

As a result, we are not only paying a heavy health toll, but an economic price as well. The total cost of smoking in 1993 in the U.S. was about $102 billion, with over $50 billion in health care expenditures directly linked to smoking. The Centers for Disease Control and Prevention, CDC, reports that approximately 43 percent of these costs were paid by government funds, primarily Medicaid and Medicare. Smoking costs Medicaid alone more than $12.9 billion per year. According to the Chicago chapter of the American Lung Association, my state of Illinois spends $2.9 billion each year in public and private funds to combat smoking-related diseases.

Today, however, we also know how to help smokers quit. Advancements in treating tobacco use and nicotine addiction have helped millions kick the habit. While more than 40 million adults continue to smoke, nearly as many persons are former smokers living longer, healthier lives. In large part, this is because new tools are available. Effective pharmacotherapy and counseling regimens have been tested and proven effective. The Surgeon General's 2000 Report, Reducing Tobacco Use, concluded that ''pharmacologic treatment of nicotine addiction, combined with behavioral support, will enable 10 to 25 percent of users to remain abstinent at one year of posttreatment.''

Studies have shown that reducing adult smoking through tobacco use treatment pays immediate dividends, both in terms of health improvements and cost savings. Creating a new nonsmoker reduces anticipated medical costs associated with acute myocardial infarction and stroke by $47 in the first year and by $853 during the next seven years in 1995 dollars. And within four to five years after tobacco cessation, quitters use fewer health care services than continued smokers. In fact, in one study the cost savings from reduced use paid for a moderately priced effective smoking cessation intervention in just three to four years.

The health benefits tobacco quitters enjoy are undisputed. They live longer. After 15 years, the risk of premature death for ex-smokers returns to nearly the level of persons who have never smoked. Male smokers who quit between just the ages of 35 and 39 add an average of five years to their lives; women can add three years. Even older Americans over age 65 can extend their life expectancy by giving up cigarettes.

Former smokers are also healthier. They are less likely to die of chronic lung diseases. After ten smoke-free years, their risk of lung cancer drops to as much as one-half that of those who continue to smoke. After five to fifteen years the risk of stroke and heart disease for ex-smokers returns to the level of those who have never smoked. They have fewer days of illness, reduced rates of bronchitis and pneumonia, and fewer health complaints.

New Public Health Service Guidelines released last summer conclude that tobacco dependence treatments are both clinically effective and cost-effective relative to other medical and disease prevention interventions. The guidelines urge health care insurers and purchasers to include counseling and FDA-approved pharmacotherapeutic treatments as a covered benefit.

Unfortunately, the federal government, a major purchaser of health care

through Medicare and Medicaid, does not currently adhere to its own published guidelines. It is high time that government-sponsored health programs catch up with science. That is why we are introducing legislation to improve smoking cessation benefits in government-sponsored health programs.

The Medicare, Medicaid and MCH Smoking Cessation Promotion Act of 2000 improves access to and coverage of smoking cessation treatment therapies in four primary ways.

First, our bill adds a smoking cessation counseling benefit to Medicare. By 2020, 17 percent of the U.S. population will be 65 years of age or older. It is estimated that Medicare will pay $800 billion to treat tobacco-related diseases over the next twenty years. In a study of adults 65 years of age or older who received advice to quit, behavioral counseling and pharmocotherapy, 24.8 percent reported having stopped smoking six months following the intervention. The total economic benefits of quitting after age 65 are notable. Due to a reduction in the risk of lung cancer, coronary heart disease and emphysema, studies have found that heavy smokers over age 65 who quit can avoid up to $4,592 in lifelong illness-related costs.

Second, our measure provides coverage for both prescription and nonprescription smoking cessation drugs in the Medicaid program. The bill eliminates the provision in current federal law that allows states to exclude FDA-approved smoking cessation therapies from coverage under Medicaid. Ironically, State Medicaid programs are required to cover Viagra, but not to treat tobacco addiction. Despite the fact that the States are now receiving the full benefit of their federal lawsuit against the tobacco industry, less than half the States provide coverage for smoking cessation in their Medicaid program. On average, states spend approximately 14.4 percent of their Medicaid budgets on medical care related to smoking.

Third, our legislation clarifies that the maternity benefit for pregnant women in Medicaid covers smoking cessation counseling and services. Smoking during pregnancy causes about 5–6 percent of perinatal deaths, 17–26 percent of low-birth-weight births, and 7–10 percent of preterm deliveries, and increases the risk of miscarriage and fetal growth retardation. It may also increase the risk of sudden infant death syndrome, SIDS. And a recent study published in the American Journal of Respiratory and Critical Care Medicine shows that children whose mothers smoke during pregnancy are almost twice as likely to develop asthma as those whose mothers did not. The Surgeon General recommends that pregnant women and parents with children living at home be counseled on the potentially harmful effects of smoking on fetal and child health. A new study shows that, over seven years, reducing smoking prevalence by just one percentage point would prevent 57,200 low birth weight births and save $572 million in direct medical costs.

Fourth, our bill ensures that the Maternal and Child Health Program recognizes that medications used to promote smoking cessation and the inclusion of anti-tobacco messages in health promotion are considered part of quality maternal and child health services. In addition to the well-documented benefits of smoking cessation for maternity care, the Surgeon General's report adds, ''Tobacco use is a pediatric concern. In the United States, more than 6,000 children and adolescents try their first cigarette each day. More than 3,000 children and adolescents become daily smokers each day, resulting in approximately 1.23 million new smokers under the age of 18 each year.'' The goal of the MCH program is to improve the health of all mothers and children. This goal cannot be reached without addressing the tobacco epidemic.

This legislation has been endorsed by ENACT, a coalition of more than 60 national health organizations including the Campaign for Tobacco Free Kids, the American Cancer Society, the American Heart Association, the American College of Chest Physicians, the Association of Maternal and Child Health Programs, and the American Public Health Association.

I hope my colleagues will join me not only in cosponsoring this legislation but also in working with me to see that its provisions are adopted before the year is out. As the Surgeon General has said, ''Although our knowledge about tobacco control remains imperfect, we know more than enough to act now.''

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. 622

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare, Medicaid, and MCH Tobacco Cessation Promotion Act of 2001''.

SEC. 2. MEDICARE COVERAGE OF COUNSELING FOR CESSATION OF TOBACCO USE.

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by section 105(a) 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—

(1) in subparagraph (U), by striking ''and'' at the end;

(2) in subparagraph (V), by inserting ''and'' at the end; and

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

''(W) counseling for cessation of tobacco use (as defined in subsection (ww));''.

(b) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 105(b) 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 by adding at the end the following new subsection:

''Counseling for Cessation of Tobacco Use

''(ww) The term 'counseling for cessation of tobacco use' means the following:

''(1)(A) Counseling for cessation of tobacco use for individuals who have a history of tobacco use.

''(B) For purposes of subparagraph (A), the term 'counseling for cessation of tobacco use' means diagnostic, therapy, and counseling services for cessation of tobacco use which are furnished—

''(i) by or under the supervision of a physician; or

''(ii) by any other health care professional who is legally authorized to furnish such services under State law (or the State regulatory mechanism provided by State law) of the State in which the services are furnished,

as would otherwise be covered if furnished by a physician or as an incident to a physician's professional service.

''(C) The term 'counseling for cessation of tobacco use' does not include coverage for drugs or biologicals that are not otherwise covered under this title.''.

(c) PAYMENT AND ELIMINATION OF COST-SHARING FOR COUNSELING FOR CESSATION OF TOBACCO USE.—

(1) PAYMENT AND ELIMINATION OF COINSURANCE.—Section 1833(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 ''and'' before ''(U)''; and

(B) by inserting before the semicolon at the end the following: '', and (V) with respect to counseling for cessation of tobacco use (as defined in section 1861(ww)), the amount paid shall be 100 percent of the lesser of the actual charge for the service or the amount determined by a fee schedule established by the Secretary for each service''.

(2) ELIMINATION OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—The third sentence of section 1866(a)(2)(A) of the Social Security Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after ''1861(s)(10)(A)'' the following: '', with respect to counseling for cessation of tobacco use (as defined in section 1861(ww)),''.

(3) ELIMINATION OF DEDUCTIBLE.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended—

(A) by striking ''and'' before ''(6)''; and

(B) by inserting before the period the following: '', and (7) such deductible shall not apply with respect to counseling for cessation of tobacco use (as defined in section 1861(ww))''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date that is 1 year after the date of enactment of this Act.

SEC. 3. PROMOTING CESSATION OF TOBACCO USE UNDER THE MEDICAID PROGRAM.

(a) DROPPING EXCEPTION FROM MEDICAID PRESCRIPTION DRUG COVERAGE FOR TOBACCO CESSATION MEDICATIONS.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r–8(d)(2)) is amended—

(1) by striking subparagraph (E);

(2) by redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I), respectively; and

(3) in subparagraph (F) (as redesignated by paragraph (2)), by inserting before the period at the end the following: ''except agents approved by the Food and Drug Administration for purposes of promoting, and when used to promote, tobacco cessation''.

(b) REQUIRING COVERAGE OF TOBACCO CESSATION COUNSELING SERVICES FOR PREGNANT WOMEN.—Section 1902(e)(5) of the Social Security Act (42 U.S.C. 1396a(e)(5)) is amended by adding at the end the following new sentence: ''Such medical assistance shall include counseling for cessation of tobacco use (as defined in section 1861(ww)).''.

(c) REMOVAL OF COST-SHARING FOR TOBACCO CESSATION COUNSELING SERVICES FOR PREGNANT WOMEN.—Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended, in each of subsections (a)(2)(B) and (b)(2)(B), by inserting '', and counseling for cessation of tobacco use (as defined in section 1861(ww))'' after ''complicate the pregnancy''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date that is 1 year after the date of enactment of this Act.

SEC. 4. PROMOTING CESSATION OF TOBACCO USE UNDER THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM.

(a) QUALITY MATERNAL AND CHILD HEALTH SERVICES INCLUDES TOBACCO CESSATION COUNSELING AND MEDICATIONS.—Section 501 of the Social Security Act (42 U.S.C. 701) is amended by adding at the end the following new subsection:

''(c) For purposes of this title, the term 'maternal and child health services' includes counseling for cessation of tobacco use (as defined in section 1861(ww)), any drug or biological used to promote tobacco cessation, and any health promotion counseling that includes an antitobacco use message.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 1 year after the date of enactment of this Act.

By Mr. ROCKEFELLER (for himself, Mr. DASCHLE, Mr. KENNEDY, and Mr. SARBANES):

S. 623. A bill to amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and Medicare benefits for individuals ages 55 to 65, to amend the Internal Revenue Code of 1986 to allow a 50 percent credit against income tax for payment of such premiums and of premiums for certain COBRA continuation coverage, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, the problem of the uninsured continues to plague our Nation, and it is particularly severe for older Americans who are facing the loss of health coverage but who are not yet eligible for Medicare. Today, over 40 million Americans are without health insurance.

Adults between the ages of 55 to 65 are the fastest growing group of uninsured. Individuals 55 and older who have been laid off or retire early are particularly vulnerable to loss of health insurance. They have a difficult time buying health insurance on their own because they tend to have more chronic health problems that can result in either the denial of coverage, limited coverage, or very expensive policies.

This is the age group where early detection and access to preventative care become crucial. For example, only 16 percent of uninsured women report having had a mammogram in the past year, compared to 42 percent of insured women. Because regular preventative care is not received, the uninsured are more likely to be diagnosed at a more advanced stage of cancer, over 40 percent more likely to be diagnosed with late stage breast and prostate cancer, and more than twice as likely to be diagnosed with late stage melanoma than the insured.

The uninsured are more likely than those with insurance to be hospitalized for conditions that could have been avoided, such as pneumonia and uncontrolled diabetes. Delaying or not receiving treatment can lead to more serious illness and avoidable health problems, which has a direct impact on the health care needs of this segment of the population as they become old enough for Medicare coverage.

Lack of insurance and gaps in coverage affect more than just those without insurance. There is a cost to society, as well. When an uninsured person goes to a public hospital or clinic, and emergency room, or a private physician for care and cannot pay the full cost, some of the bill is passed on to those who do pay, through higher insurance premiums and in the form of taxes supporting our public insurance programs. One way or another, we all pay indirectly for having a large and growing uninsured population.

With the aging of the baby boom generation, this particularly vulnerable age group is expected to increase significantly. In 1999, there were 23.1 million Americans in this age group. This is expected to increase to 35 million Americans by the year 2020. Unless we effect positive change to address the barriers facing the growing number of uninsured in this age group, this problem will only get worse.

I join Senators KENNEDY, DASCHLE, and SARBANES, and Representatives. STARK, BROWN, GEPHARDT, RANGEL, DINGELL, and a number of their colleagues today to introduce an improved version of the Medicare Early Access Act. Our legislation will create an opportunity for people between ages 55 and 64 to purchase Medicare coverage, which is really the only affordable option for this group, because of their age and the likelihood of chronic and/or preexisting conditions.

The Medicare Early Access and Tax Credit Act would reduce the number of uninsured Americans by more than 500,000. This bill provides new insurance coverage options through a Medicare buy-in for people aged 55 through 64 or through a special COBRA continuation program for workers aged 55 through 64 whose employers reneged on the promise of retiree health coverage.

This legislation improves upon the existing Medicare Early Access Act by adding a new 50 percent federal tax credit to the program to make it more affordable for people age 55 and over to obtain health insurance coverage. By including a tax credit, we are making this option available to a broader range of people.

A survey released last session by the Commonwealth Fund finds that one in five people from age 50–64 reported a period of time when they were without health insurance coverage since turning age 50. Access to employer insurance is reduced as people approach age sixty-five and retire. Consequently, older Americans rely most heavily on individual insurance, which is expensive and limited for people with serious health problems. Because average health expenses increase sharply with age, people closest to age sixty-five face the greatest risk of being uninsured and being charged the highest premiums in the individual market. Clearly, we need to take real steps to address the needs of this population.

The Commonwealth survey also found that, when asked what source they would trust more to provide health insurance for adults ages 50 to 64, Medicare outranked employer-sponsored coverage and direct purchase of private individual health insurance. Half of uninsured adults ages 50–64 said they would trust Medicare the most as a source of coverage.

The Medicare Early Access and Tax Credit Act provides an insurance option for people who are unable to purchase health insurance in the private market either because of pre-existing conditions, age related premium increases, or both.

The Medicare Early Access and Tax Credit Act is not the solution to solving America's health insurance coverage problems. But, it is a simple and obvious step to take to open new doors to a vulnerable segment of our population who are lacking affordable coverage elsewhere, and who need the opportunity to buy in to Medicare. I urge my colleagues to join us in making health insurance a reality for people in their later years of life, who are not yet eligible for the safety net of Medicare.

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. 623

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 Early Access and Tax Credit Act of 2001''.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE

Sec. 101. Access to Medicare benefits for individuals 62-to-65 years of age.

''PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE

''Sec. 1859. Program benefits; eligibility.
''Sec. 1859A. Enrollment process; coverage.
''Sec. 1859B. Premiums.
''Sec. 1859C. Payment of premiums.
''Sec. 1859D. Medicare Early Access Trust Fund.

''Sec. 1859E. Oversight and accountability.
''Sec. 1859F. Administration and miscellaneous.
TITLE II—ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE
Sec. 201. Access to Medicare benefits for displaced workers 55-to-62 years of age.
TITLE III—COBRA PROTECTION FOR EARLY RETIREES
Subtitle A—Amendments to the Employee Retirement Income Security Act of 1974
Sec. 301. COBRA continuation benefits for certain retired workers who lose retiree health coverage.
Subtitle B—Amendments to the Public Health Service Act
Sec. 311. COBRA continuation benefits for certain retired workers who lose retiree health coverage.
Subtitle C—Amendments to the Internal Revenue Code of 1986
Sec. 321. COBRA continuation benefits for certain retired workers who lose retiree health coverage.
TITLE IV—50 PERCENT CREDIT AGAINST INCOME TAX FOR MEDICARE BUY-IN PREMIUMS AND FOR CERTAIN COBRA CONTINUATION COVERAGE PREMIUMS
Sec. 401. 50 percent income tax credit for medicare buy-in premiums and for certain COBRA continuation coverage premiums.

TITLE I—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE

SEC. 101. ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended—

(1) by redesignating section 1859 and part D as section 1858 and part E, respectively; and

(2) by inserting after such section the following new part:

''PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE

''SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.

''(a) ENTITLEMENT TO MEDICARE BENEFITS FOR ENROLLED INDIVIDUALS.—

''(1) IN GENERAL.—An individual enrolled under this part is entitled to the same benefits under this title as an individual entitled to benefits under part A and enrolled under part B.

''(2) DEFINITIONS.—For purposes of this part:

''(A) FEDERAL OR STATE COBRA CONTINUATION PROVISION.—The term 'Federal or State COBRA continuation provision' has the meaning given the term 'COBRA continuation provision' in section 2791(d)(4) of the Public Health Service Act and includes a comparable State program, as determined by the Secretary.

''(B) FEDERAL HEALTH INSURANCE PROGRAM DEFINED.—The term 'Federal health insurance program' means any of the following:

''(i) MEDICARE.—Part A or part B of this title (other than by reason of this part).

''(ii) MEDICAID.—A State plan under title XIX.

''(iii) FEHBP.—The Federal employees health benefit program under chapter 89 of title 5, United States Code.

''(iv) TRICARE.—The TRICARE program (as defined in section 1072(7) of title 10, United States Code).

''(v) ACTIVE DUTY MILITARY.—Health benefits under title 10, United States Code, to an individual as a member of the uniformed services of the United States.

''(C) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 2791(a)(1) of the Public Health Service Act.

''(b) ELIGIBILITY OF INDIVIDUALS AGE 62-TO-65 YEARS OF AGE.—

''(1) IN GENERAL.—Subject to paragraph (2), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

''(A) AGE.—As of the last day of the month, the individual has attained 62 years of age, but has not attained 65 years of age.

''(B) MEDICARE ELIGIBILITY (BUT FOR AGE).—The individual would be eligible for benefits under part A or part B for the month if the individual were 65 years of age.

''(C) NOT ELIGIBLE FOR COVERAGE UNDER GROUP HEALTH PLANS OR FEDERAL HEALTH INSURANCE PROGRAMS.—The individual is not eligible for benefits or coverage under a Federal health insurance program (as defined in subsection (a)(2)(B)) or under a group health plan (other than such eligibility merely through a Federal or State COBRA continuation provision) as of the last day of the month involved.

''(2) LIMITATION ON ELIGIBILITY IF TERMINATED ENROLLMENT.—If an individual described in paragraph (1) enrolls under this part and coverage of the individual is terminated under section 1859A(d) (other than because of age), the individual is not again eligible to enroll under this subsection unless the following requirements are met:

''(A) NEW COVERAGE UNDER GROUP HEALTH PLAN OR FEDERAL HEALTH INSURANCE PROGRAM.—After the date of termination of coverage under such section, the individual obtains coverage under a group health plan or under a Federal health insurance program.

''(B) SUBSEQUENT LOSS OF NEW COVERAGE.—The individual subsequently loses eligibility for the coverage described in subparagraph (A) and exhausts any eligibility the individual may subsequently have for coverage under a Federal or State COBRA continuation provision.

''(3) CHANGE IN HEALTH PLAN ELIGIBILITY DOES NOT AFFECT COVERAGE.—In the case of an individual who is eligible for and enrolls under this part under this subsection, the individual's continued entitlement to benefits under this part shall not be affected by the individual's subsequent eligibility for benefits or coverage described in paragraph (1)(C), or entitlement to such benefits or coverage.

''SEC. 1859A. ENROLLMENT PROCESS; COVERAGE.

''(a) IN GENERAL.—An individual may enroll in the program established under this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed by the Secretary consistent with the provisions of this section. Such regulations shall provide a process under which—

''(1) individuals eligible to enroll as of a month are permitted to pre-enroll during a prior month within an enrollment period described in subsection (b); and

''(2) each individual seeking to enroll under section 1859(b) is notified, before enrolling, of the deferred monthly premium amount the individual will be liable for under section 1859C(b) upon attaining 65 years of age as determined under section 1859B(c)(3).

''(b) ENROLLMENT PERIODS.—

''(1) INDIVIDUALS 62-TO-65 YEARS OF AGE.—In the case of individuals eligible to enroll under this part under section 1859(b)—

''(A) INITIAL ENROLLMENT PERIOD.—If the individual is eligible to enroll under such section for January 2002, the enrollment period shall begin on November 1, 2001, and shall end on February 28, 2002. Any such enrollment before January 1, 2002, is conditioned upon compliance with the conditions of eligibility for January 2002.

''(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after January 2002, the enrollment period shall begin on the first day of the second month before the month in which the individual first is eligible to so enroll and shall end four months later. Any such enrollment before the first day of the third month of such enrollment period is conditioned upon compliance with the conditions of eligibility for such third month.

''(2) AUTHORITY TO CORRECT FOR GOVERNMENT ERRORS.—The provisions of section 1837(h) apply with respect to enrollment under this part in the same manner as they apply to enrollment under part B.

''(c) DATE COVERAGE BEGINS.—

''(1) IN GENERAL.—The period during which an individual is entitled to benefits under this part shall begin as follows, but in no case earlier than January 1, 2002:

''(A) In the case of an individual who enrolls (including pre-enrolls) before the month in which the individual satisfies eligibility for enrollment under section 1859, the first day of such month of eligibility.

''(B) In the case of an individual who enrolls during or after the month in which the individual first satisfies eligibility for enrollment under such section, the first day of the following month.

''(2) AUTHORITY TO PROVIDE FOR PARTIAL MONTHS OF COVERAGE.—Under regulations, the Secretary may, in the Secretary's discretion, provide for coverage periods that include portions of a month in order to avoid lapses of coverage.

''(3) LIMITATION ON PAYMENTS.—No payments may be made under this title with respect to the expenses of an individual enrolled under this part unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under this section.

''(d) TERMINATION OF COVERAGE.—

''(1) IN GENERAL.—An individual's coverage period under this part shall continue until the individual's enrollment has been terminated at the earliest of the following:

''(A) GENERAL PROVISIONS.—

''(i) NOTICE.—The individual files notice (in a form and manner prescribed by the Secretary) that the individual no longer wishes to participate in the insurance program under this part.

''(ii) NONPAYMENT OF PREMIUMS.—The individual fails to make payment of premiums required for enrollment under this part.

''(iii) MEDICARE ELIGIBILITY.—The individual becomes entitled to benefits under part A or enrolled under part B (other than by reason of this part).

''(B) TERMINATION BASED ON AGE.—The individual attains 65 years of age.

''(2) EFFECTIVE DATE OF TERMINATION.—

''(A) NOTICE.—The termination of a coverage period under paragraph (1)(A)(i) shall take effect at the close of the month following for which the notice is filed.

''(B) NONPAYMENT OF PREMIUM.—The termination of a coverage period under paragraph (1)(A)(ii) shall take effect on a date determined under regulations, which may be determined so as to provide a grace period in which overdue premiums may be paid and coverage continued. The grace period determined under the preceding sentence shall not exceed 60 days; except that it may be extended for an additional 30 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 60-day period.

''(C) AGE OR MEDICARE ELIGIBILITY.—The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B) shall take effect as of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B (other than by reason of this part).

''SEC. 1859B. PREMIUMS.

''(a) AMOUNT OF MONTHLY PREMIUMS.—

''(1) BASE MONTHLY PREMIUMS.—The Secretary shall, during September of each year (beginning with 1998), determine the following premium rates which shall apply with respect to coverage provided under this title for any month in the succeeding year:

''(A) BASE MONTHLY PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—A base monthly premium for individuals 62 years of age or older, equal to 1/12 of the base annual premium rate computed under subsection (b) for each premium area.

''(2) DEFERRED MONTHLY PREMIUMS FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The Secretary shall, during September of each year (beginning with 2001), determine under subsection (c) the amount of deferred monthly premiums that shall apply with respect to individuals who first obtain coverage under this part under section 1859(b) in the succeeding year.

''(3) ESTABLISHMENT OF PREMIUM AREAS.—For purposes of this part, the term 'premium area' means such an area as the Secretary shall specify to carry out this part. The Secretary from time to time may change the boundaries of such premium areas. The Secretary shall seek to minimize the number of such areas specified under this paragraph.

''(b) BASE ANNUAL PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—

''(1) NATIONAL, PER CAPITA AVERAGE.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 1859(b)(1)(A) as if all such individuals were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

''(2) GEOGRAPHIC ADJUSTMENT.—The Secretary shall adjust the amount determined under paragraph (1) for each premium area (specified under subsection (a)(3)) in order to take into account such factors as the Secretary deems appropriate and shall limit the maximum premium under this paragraph in a premium area to assure participation in all areas throughout the United States.

''(3) BASE ANNUAL PREMIUM.—The base annual premium under this subsection for months in a year for individuals 62 years of age or older residing in a premium area is equal to the average, annual per capita amount estimated under paragraph (1) for the year, adjusted for such area under paragraph (2).

''(c) DEFERRED PREMIUM RATE FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The deferred premium rate for individuals with a group of individuals who obtain coverage under section 1859(b) in a year shall be computed by the Secretary as follows:

''(1) ESTIMATION OF NATIONAL, PER CAPITA ANNUAL AVERAGE EXPENDITURES FOR ENROLLMENT GROUP.—The Secretary shall estimate the average, per capita annual amount that will be paid under this part for individuals in such group during the period of enrollment under section 1859(b). In making such estimate for coverage beginning in a year before 2005, the Secretary may base such estimate on the average, per capita amount that would be payable if the program had been in operation over a previous period of at least 4 years.

''(2) DIFFERENCE BETWEEN ESTIMATED EXPENDITURES AND ESTIMATED PREMIUMS.—Based on the characteristics of individuals in such group, the Secretary shall estimate during the period of coverage of the group under this part under section 1859(b) the amount by which—

''(A) the amount estimated under paragraph (1); exceeds

''(B) the average, annual per capita amount of premiums that will be payable for months during the year under section 1859C(a) for individuals in such group (including premiums that would be payable if there were no terminations in enrollment under clause (i) or (ii) of section 1859A(d)(1)(A)).

''(3) ACTUARIAL COMPUTATION OF DEFERRED MONTHLY PREMIUM RATES.—The Secretary shall determine deferred monthly premium rates for individuals in such group in a manner so that—

''(A) the estimated actuarial value of such premiums payable under section 1859C(b), is equal to

''(B) the estimated actuarial present value of the differences described in paragraph (2). Such rate shall be computed for each individual in the group in a manner so that the rate is based on the number of months between the first month of coverage based on enrollment under section 1859(b) and the month in which the individual attains 65 years of age.

''(4) DETERMINANTS OF ACTUARIAL PRESENT VALUES.—The actuarial present values described in paragraph (3) shall reflect—

''(A) the estimated probabilities of survival at ages 62 through 84 for individuals enrolled during the year; and

''(B) the estimated effective average interest rates that would be earned on investments held in the trust funds under this title during the period in question.

''SEC. 1859C. PAYMENT OF PREMIUMS.

''(a) PAYMENT OF BASE MONTHLY PREMIUM.—

''(1) IN GENERAL.—The Secretary shall provide for payment and collection of the base monthly premium, determined under section 1859B(a)(1) for the age (and age cohort, if applicable) of the individual involved and the premium area in which the individual principally resides, in the same manner as for payment of monthly premiums under section 1840, except that, for purposes of applying this section, any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Trust Fund established under section 1859D.

''(2) PERIOD OF PAYMENT.—In the case of an individual who participates in the program established by this title, the base monthly premium shall be payable for the period commencing with the first month of the individual's coverage period and ending with the month in which the individual's coverage under this title terminates.

''(b) PAYMENT OF DEFERRED PREMIUM FOR INDIVIDUALS COVERED AFTER ATTAINING AGE 62.—

''(1) RATE OF PAYMENT.—

''(A) IN GENERAL.—In the case of an individual who is covered under this part for a month pursuant to an enrollment under section 1859(b), subject to subparagraph (B), the individual is liable for payment of a deferred premium in each month during the period described in paragraph (2) in an amount equal to the full deferred monthly premium rate determined for the individual under section 1859B(c).

''(B) SPECIAL RULES FOR THOSE WHO DISENROLL EARLY.—

''(i) IN GENERAL.—If such an individual's enrollment under such section is terminated under clause (i) or (ii) of section 1859A(d)(1)(A), subject to clause (ii), the amount of the deferred premium otherwise established under this paragraph shall be pro-rated to reflect the number of months of coverage under this part under such enrollment compared to the maximum number of months of coverage that the individual would have had if the enrollment were not so terminated.

''(ii) ROUNDING TO 12-MONTH MINIMUM COVERAGE PERIODS.—In applying clause (i), the number of months of coverage (if not a multiple of 12) shall be rounded to the next highest multiple of 12 months, except that in no case shall this clause result in a number of months of coverage exceeding the maximum number of months of coverage that the individual would have had if the enrollment were not so terminated.

''(2) PERIOD OF PAYMENT.—The period described in this paragraph for an individual is the period beginning with the first month in which the individual has attained 65 years of age and ending with the month before the month in which the individual attains 85 years of age.

''(3) COLLECTION.—In the case of an individual who is liable for a premium under this subsection, the amount of the premium shall be collected in the same manner as the premium for enrollment under such part is collected under section 1840, except that any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed to be a reference to the Medicare Early Access Trust Fund established under section 1859D.

''(c) APPLICATION OF CERTAIN PROVISIONS.—The provisions of section 1840 (other than subsection (h)) shall apply to premiums collected under this section in the same manner as they apply to premiums collected under part B, except that any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Trust Fund established under section 1859D.

''SEC. 1859D. MEDICARE EARLY ACCESS TRUST FUND.

''(a) ESTABLISHMENT OF TRUST FUND.—

''(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Medicare Early Access Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and such amounts as may be deposited in, or appropriated to, such fund as provided in this title.

''(2) PREMIUMS.—Premiums collected under section 1859B shall be transferred to the Trust Fund.

''(b) INCORPORATION OF PROVISIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), subsections (b) through (i) of section 1841 shall apply with respect to the Trust Fund and this title in the same manner as they apply with respect to the Federal Supplementary Medical Insurance Trust Fund and part B, respectively.

''(2) MISCELLANEOUS REFERENCES.—In applying provisions of section 1841 under paragraph (1)—

''(A) any reference in such section to 'this part' is construed to refer to this part D;

''(B) any reference in section 1841(h) to section 1840(d) and in section 1841(i) to sections 1840(b)(1) and 1842(g) are deemed references to comparable authority exercised under this part; and

''(C) payments may be made under section 1841(g) to the Trust Funds under sections 1817 and 1841 as reimbursement to such funds for payments they made for benefits provided under this part.

"SEC. 1859E. OVERSIGHT AND ACCOUNTABILITY.

''(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—The Board of Trustees of the Medicare Early Access Trust Fund under section 1859D(b)(1) shall report on an annual basis to Congress concerning the status of the Trust Fund and the need for adjustments in the program under this part to maintain financial solvency of the program under this part.

''(b) PERIODIC GAO REPORTS.—The Comptroller General of the United States shall periodically submit to Congress reports on the adequacy of the financing of coverage provided under this part. The Comptroller General shall include in such report such recommendations for adjustments in such financing and coverage as the Comptroller General deems appropriate in order to maintain financial solvency of the program under this part.

"SEC. 1859F. ADMINISTRATION AND MISCELLANEOUS.

''(a) TREATMENT FOR PURPOSES OF TITLE.—Except as otherwise provided in this part—

''(1) individuals enrolled under this part shall be treated for purposes of this title as though the individual were entitled to benefits under part A and enrolled under part B; and

''(2) benefits described in section 1859 shall be payable under this title to such individuals in the same manner as if such individuals were so entitled and enrolled.

''(b) NOT TREATED AS MEDICARE PROGRAM FOR PURPOSES OF MEDICAID PROGRAM.—For purposes of applying title XIX (including the provision of medicare cost-sharing assistance under such title), an individual who is enrolled under this part shall not be treated as being entitled to benefits under this title.

''(c) NOT TREATED AS MEDICARE PROGRAM FOR PURPOSES OF COBRA CONTINUATION PROVISIONS.—In applying a COBRA continuation provision (as defined in section 2791(d)(4) of the Public Health Service Act), any reference to an entitlement to benefits under this title shall not be construed to include entitlement to benefits under this title pursuant to the operation of this part.''.

(b) CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT PROVISIONS.—

(1) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking ''or the Federal Supplementary Medical Insurance Trust Fund'' and inserting ''the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund''.

(2) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended by striking ''and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII'' and inserting '', the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund established by title XVIII''.

(3) Section 1820(i) of such Act (42 U.S.C. 1395i–4(i)) is amended by striking ''part D'' and inserting ''part E''.

(4) Part C of title XVIII of such Act is amended—

(A) in section 1851(a)(2)(B) (42 U.S.C. 1395w–21(a)(2)(B)), by striking ''1859(b)(3)'' and inserting ''1858(b)(3)'';

(B) in section 1851(a)(2)(C) (42 U.S.C. 1395w–21(a)(2)(C)), by striking ''1859(b)(2)'' and inserting ''1858(b)(2)'';

(C) in section 1852(a)(1) (42 U.S.C. 1395w–22(a)(1)), by striking ''1859(b)(3)'' and inserting ''1858(b)(3)'';

(D) in section 1852(a)(3)(B)(ii) (42 U.S.C. 1395w–22(a)(3)(B)(ii)), by striking ''1859(b)(2)(B)'' and inserting ''1858(b)(2)(B)'';

(E) in section 1853(a)(1)(A) (42 U.S.C. 1395w–23(a)(1)(A)), by striking ''1859(e)(4)'' and inserting ''1858(e)(4)''; and

(F) in section 1853(a)(3)(D) (42 U.S.C. 1395w–23(a)(3)(D)), by striking ''1859(e)(4)'' and inserting ''1858(e)(4)''.

(5) Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1), by striking ''or (7)'' and inserting '', (7), or (8)'', and

(B) by adding at the end the following:

''(8) ADJUSTMENT FOR EARLY ACCESS.—In applying this subsection with respect to individuals entitled to benefits under part D, the Secretary shall provide for an appropriate adjustment in the Medicare+Choice capitation rate as may be appropriate to reflect differences between the population served under such part and the population under parts A and B.''.

(c) OTHER CONFORMING AMENDMENTS.—

(1) Section 138(b)(4) of the Internal Revenue Code of 1986 is amended by striking ''1859(b)(3)'' and inserting ''1858(b)(3)''.

(2)(A) Section 602(2)(D)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended by inserting ''(not including an individual who is so entitled pursuant to enrollment under section 1859A)'' after ''Social Security Act''.

(B) Section 2202(2)(D)(ii) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(D)(ii)) is amended by inserting ''(not including an individual who is so entitled pursuant to enrollment under section 1859A)'' after ''Social Security Act''.

(C) Section 4980B(f)(2)(B)(i)(V) of the Internal Revenue Code of 1986 is amended by inserting ''(not including an individual who is so entitled pursuant to enrollment under section 1859A)'' after ''Social Security Act''.

TITLE II—ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE

SEC. 201. ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE.

(a) ELIGIBILITY.—Section 1859 of the Social Security Act, as inserted by section 101(a)(2), is amended by adding at the end the following new subsection:

''(c) DISPLACED WORKERS AND SPOUSES.—

''(1) DISPLACED WORKERS.—Subject to paragraph (3), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

''(A) AGE.—As of the last day of the month, the individual has attained 55 years of age, but has not attained 62 years of age.

''(B) MEDICARE ELIGIBILITY (BUT FOR AGE).—The individual would be eligible for benefits under part A or part B for the month if the individual were 65 years of age.

''(C) LOSS OF EMPLOYMENT-BASED COVERAGE.—

''(i) ELIGIBLE FOR UNEMPLOYMENT COMPENSATION.—The individual meets the requirements relating to period of covered employment and conditions of separation from employment to be eligible for unemployment compensation (as defined in section 85(b) of the Internal Revenue Code of 1986), based on a separation from employment occurring on or after July 1, 2001. The previous sentence shall not be construed as requiring the individual to be receiving such unemployment compensation.

''(ii) LOSS OF EMPLOYMENT-BASED COVERAGE.—Immediately before the time of such separation of employment, the individual was covered under a group health plan on the basis of such employment, and, because of such loss, is no longer eligible for coverage under such plan (including such eligibility based on the application of a Federal or State COBRA continuation provision) as of the last day of the month involved.

''(iii) PREVIOUS CREDITABLE COVERAGE FOR AT LEAST 1 YEAR.—As of the date on which the individual loses coverage described in clause (ii), the aggregate of the periods of creditable coverage (as determined under section 2701(c) of the Public Health Service Act) is 12 months or longer.

''(D) EXHAUSTION OF AVAILABLE COBRA CONTINUATION BENEFITS.—

''(i) IN GENERAL.—In the case of an individual described in clause (ii) for a month described in clause (iii)—

''(I) the individual (or spouse) elected coverage described in clause (ii); and

''(II) the individual (or spouse) has continued such coverage for all months described in clause (iii) in which the individual (or spouse) is eligible for such coverage.

''(ii) INDIVIDUALS TO WHOM COBRA CONTINUATION COVERAGE MADE AVAILABLE.—An individual described in this clause is an individual—

''(I) who was offered coverage under a Federal or State COBRA continuation provision at the time of loss of coverage eligibility described in subparagraph (C)(ii); or

''(II) whose spouse was offered such coverage in a manner that permitted coverage of the individual at such time.

''(iii) MONTHS OF POSSIBLE COBRA CONTINUATION COVERAGE.—A month described in this clause is a month for which an individual described in clause (ii) could have had coverage described in such clause as of the last day of the month if the individual (or the spouse of the individual, as the case may be) had elected such coverage on a timely basis.

''(E) NOT ELIGIBLE FOR COVERAGE UNDER FEDERAL HEALTH INSURANCE PROGRAM OR GROUP HEALTH PLANS.—The individual is not eligible for benefits or coverage under a Federal health insurance program or under a group health plan (whether on the basis of the individual's employment or employment of the individual's spouse) as of the last day of the month involved.

''(2) SPOUSE OF DISPLACED WORKER.—Subject to paragraph (3), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

''(A) AGE.—As of the last day of the month, the individual has not attained 62 years of age.

''(B) MARRIED TO DISPLACED WORKER.—The individual is the spouse of an individual at the time the individual enrolls under this part under paragraph (1) and loses coverage described in paragraph (1)(C)(ii) because the individual's spouse lost such coverage.

''(C) MEDICARE ELIGIBILITY (BUT FOR AGE); EXHAUSTION OF ANY COBRA CONTINUATION COVERAGE; AND NOT ELIGIBLE FOR COVERAGE UNDER FEDERAL HEALTH INSURANCE PROGRAM OR GROUP HEALTH PLAN.—The individual meets the requirements of subparagraphs (B), (D), and (E) of paragraph (1).

''(3) CHANGE IN HEALTH PLAN ELIGIBILITY AFFECTS CONTINUED ELIGIBILITY.—For provision that terminates enrollment under this section in the case of an individual who becomes eligible for coverage under a group health plan or under a Federal health insurance program, see section 1859A(d)(1)(C).

''(4) REENROLLMENT PERMITTED.—Nothing in this subsection shall be construed as preventing an individual who, after enrolling under this subsection, terminates such enrollment from subsequently reenrolling under this subsection if the individual is eligible to enroll under this subsection at that time.''.

(b) ENROLLMENT.—Section 1859A of such Act, as so inserted, is amended—

(1) in subsection (a), by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ''; and'', and by adding at the end the following new paragraph:

''(3) individuals whose coverage under this part would terminate because of subsection

(d)(1)(B)(ii) are provided notice and an opportunity to continue enrollment in accordance with section 1859E(c)(1).'';

(2) in subsection (b), by inserting after Notwithstanding any other provision of law, (1) the following:

''(2) DISPLACED WORKERS AND SPOUSES.—In the case of individuals eligible to enroll under this part under section 1859(c), the following rules apply:

''(A) INITIAL ENROLLMENT PERIOD.—If the individual is first eligible to enroll under such section for January 2002, the enrollment period shall begin on November 1, 2001, and shall end on February 28, 2002. Any such enrollment before January 1, 2002, is conditioned upon compliance with the conditions of eligibility for January 2002.

''(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after January 2002, the enrollment period based on such eligibility shall begin on the first day of the second month before the month in which the individual first is eligible to so enroll (or reenroll) and shall end four months later.'';

(3) in subsection (d)(1), by amending subparagraph (B) to read as follows:

''(B) TERMINATION BASED ON AGE.—

''(i) AT AGE 65.—Subject to clause (ii), the individual attains 65 years of age.

''(ii) AT AGE 62 FOR DISPLACED WORKERS AND SPOUSES.—In the case of an individual enrolled under this part pursuant to section 1859(c), subject to subsection (a)(1), the individual attains 62 years of age.'';

(4) in subsection (d)(1), by adding at the end the following new subparagraph:

''(C) OBTAINING ACCESS TO EMPLOYMENT-BASED COVERAGE OR FEDERAL HEALTH INSURANCE PROGRAM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—In the case of an individual who has not attained 62 years of age, the individual is covered (or eligible for coverage) as a participant or beneficiary under a group health plan or under a Federal health insurance program.'';

(5) in subsection (d)(2), by amending subparagraph (C) to read as follows:

''(C) AGE OR MEDICARE ELIGIBILITY.—

''(i) IN GENERAL.—The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B)(i) shall take effect as of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B.

''(ii) DISPLACED WORKERS.—The termination of a coverage period under paragraph (1)(B)(ii) shall take effect as of the first day of the month in which the individual attains 62 years of age, unless the individual has enrolled under this part pursuant to section 1859(b) and section 1859E(c)(1).''; and

(6) in subsection (d)(2), by adding at the end the following new subparagraph:

''(D) ACCESS TO COVERAGE.—The termination of a coverage period under paragraph (1)(C) shall take effect on the date on which the individual is eligible to begin a period of creditable coverage (as defined in section 2701(c) of the Public Health Service Act) under a group health plan or under a Federal health insurance program.''.

(c) PREMIUMS.—Section 1859B of such Act, as so inserted, is amended—

(1) in subsection (a)(1), by adding at the end the following:

''(B) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—A base monthly premium for individuals under 62 years of age, equal to 1/12 of the base annual premium rate computed under subsection (d)(3) for each premium area and age cohort.''; and

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

''(d) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—

''(1) NATIONAL, PER CAPITA AVERAGE FOR AGE GROUPS.—

''(A) ESTIMATE OF AMOUNT.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 1859(c)(1)(A) within each of the age cohorts established under subparagraph (B) as if all such individuals within such cohort were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

''(B) AGE COHORTS.—For purposes of subparagraph (A), the Secretary shall establish separate age cohorts in 5 year age increments for individuals who have not attained 60 years of ages and a separate cohort for individuals who have attained 60 years of age.

''(2) GEOGRAPHIC ADJUSTMENT.—The Secretary shall adjust the amount determined under paragraph (1)(A) for each premium area (specified under subsection (a)(3)) in the same manner and to the same extent as the Secretary provides for adjustments under subsection (b)(2).

''(3) BASE ANNUAL PREMIUM.—The base annual premium under this subsection for months in a year for individuals in an age cohort under paragraph (1)(B) in a premium area is equal to 165 percent of the average, annual per capita amount estimated under paragraph (1) for the age cohort and year, adjusted for such area under paragraph (2).

''(4) PRO-RATION OF PREMIUMS TO REFLECT COVERAGE DURING A PART OF A MONTH.—If the Secretary provides for coverage of portions of a month under section 1859A(c)(2), the Secretary shall pro-rate the premiums attributable to such coverage under this section to reflect the portion of the month so covered.''.

(d) ADMINISTRATIVE PROVISIONS.—Section 1859F of such Act, as so inserted, is amended by adding at the end the following:

''(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—

''(1) PROCESS FOR CONTINUED ENROLLMENT OF DISPLACED WORKERS WHO ATTAIN 62 YEARS OF AGE.—The Secretary shall provide a process for the continuation of enrollment of individuals whose enrollment under section 1859(c) would be terminated upon attaining 62 years of age. Under such process such individuals shall be provided appropriate and timely notice before the date of such termination and of the requirement to enroll under this part pursuant to section 1859(b) in order to continue entitlement to benefits under this title after attaining 62 years of age.

''(2) ARRANGEMENTS WITH STATES FOR DETERMINATIONS RELATING TO UNEMPLOYMENT COMPENSATION ELIGIBILITY.—The Secretary may provide for appropriate arrangements with States for the determination of whether individuals in the State meet or would meet the requirements of section 1859(c)(1)(C)(i).''.

(e) CONFORMING AMENDMENT TO HEADING TO PART.—The heading of part D of title XVIII of the Social Security Act, as so inserted, is amended by striking ''62'' and inserting ''55''.

TITLE III—COBRA PROTECTION FOR EARLY RETIREES

Subtitle A—Amendments to the Employee Retirement Income Security Act of 1974

SEC. 301. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 603 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163) is amended by inserting after paragraph (6) the following new paragraph:

''(7) The termination or substantial reduction in benefits (as defined in section 607(7)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.''.

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 607 of such Act (29 U.S.C. 1167) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A), by inserting ''except as otherwise provided in this paragraph,'' after ''means,''; and

(ii) by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in section 603(7), the term 'qualified beneficiary' means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual's relationship to such qualified retiree.''; and

(B) by adding at the end the following new paragraphs:

''(6) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in section 603(7), a covered employee who, at the time of the event—

''(A) has attained 55 years of age; and

''(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

''(7) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

''(A) means, as determined under regulations of the Secretary and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, an increase in premiums, deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 2001), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such date (taking into account an appropriate adjustment to permit comparison of values over time); and

''(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of section 602(3).''.

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 602(2)(A) of such Act (29 U.S.C. 1162(2)(A)) is amended—

(1) in clause (ii), by inserting ''or 603(7)'' after ''603(6)'';

(2) in clause (iv), by striking ''or 603(6)'' and inserting '', 603(6), or 603(7)'';

(3) by redesignating clause (iv) as clause (vi);

(4) by redesignating clause (v) as clause (iv) and by moving such clause to immediately follow clause (iii); and

(5) by inserting after such clause (iv) the following new clause:

''(v) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in section 603(7), in the case of a qualified beneficiary described in section 607(3)(D) who is not the qualified retiree or spouse of such retiree, the later of—

''(I) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

''(II) the date that is 36 months after the date of the qualifying event.''.

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 602(1) of such Act (29 U.S.C. 1162(1)) is amended—

(1) by striking ''The coverage'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage''; and

(2) by adding at the end the following:

''(B) CERTAIN RETIREES.—In the case of a qualifying event described in section 603(7), in applying the first sentence of subparagraph (A) and the fourth sentence of paragraph (3), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary) continued under the group health plan (or, if none, under the most prevalent other plan offered by the same plan sponsor) shall be treated as the coverage described in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.''.

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 602(3) of such Act (29 U.S.C. 1162(3)) is amended by adding at the end the following new sentence: ''In the case of an individual provided continuation coverage by reason of a qualifying event described in section 603(7), any reference in subparagraph (A) of this paragraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in paragraph (1)(B)'.''.

(e) NOTICE.—Section 606(a) of such Act (29 U.S.C. 1166) is amended—

(1) in paragraph (4)(A), by striking ''or (6)'' and inserting ''(6), or (7)''; and

(2) by adding at the end the following:

''The notice under paragraph (4) in the case of a qualifying event described in section 603(7) shall be provided at least 90 days before the date of the qualifying event.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 2001. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice be required under such amendment before such date.

Subtitle B—Amendments to the Public Health Service Act

SEC. 311. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 2203 of the Public Health Service Act (42 U.S.C. 300bb–3) is amended by inserting after paragraph (5) the following new paragraph:

''(6) The termination or substantial reduction in benefits (as defined in section 2208(6)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.''.

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 2208 of such Act (42 U.S.C. 300bb–8) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A), by inserting ''except as otherwise provided in this paragraph,'' after ''means,''; and

(ii) by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in section 2203(6), the term 'qualified beneficiary' means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual's relationship to such qualified retiree.''; and

(B) by adding at the end the following new paragraphs:

''(5) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in section 2203(6), a covered employee who, at the time of the event—

''(A) has attained 55 years of age; and

''(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

''(6) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

''(A) means, as determined under regulations of the Secretary of Labor and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, an increase in premiums, deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 2001), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such date (taking into account an appropriate adjustment to permit comparison of values over time); and

''(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of section 2202(3).''.

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 2202(2)(A) of such Act (42 U.S.C. 300bb–2(2)(A)) is amended—

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

(2) by inserting after clause (ii) the following new clause:

''(iii) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in section 2203(6), in the case of a qualified beneficiary described in section 2208(3)(C) who is not the qualified retiree or spouse of such retiree, the later of—

''(I) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

''(II) the date that is 36 months after the date of the qualifying event.''.

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 2202(1) of such Act (42 U.S.C. 300bb–2(1)) is amended—

(1) by striking ''The coverage'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage''; and

(2) by adding at the end the following:

''(B) CERTAIN RETIREES.—In the case of a qualifying event described in section 2203(6), in applying the first sentence of subparagraph (A) and the fourth sentence of paragraph (3), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary of Labor) continued under the group health plan (or, if none, under the most prevalent other plan offered by the same plan sponsor) shall be treated as the coverage described in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.''.

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 2202(3) of such Act (42 U.S.C. 300bb–2(3)) is amended by adding at the end the following new sentence: ''In the case of an individual provided continuation coverage by reason of a qualifying event described in section 2203(6), any reference in subparagraph (A) of this paragraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in paragraph (1)(B)'.''.

(e) NOTICE.—Section 2206(a) of such Act (42 U.S.C. 300bb–6(a)) is amended—

(1) in paragraph (4)(A), by striking ''or (4)'' and inserting ''(4), or (6)''; and

(2) by adding at the end the following:

''The notice under paragraph (4) in the case of a qualifying event described in section 2203(6) shall be provided at least 90 days before the date of the qualifying event.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 2001. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice be required under such amendment before such date.

Subtitle C—Amendments to the Internal Revenue Code of 1986

SEC. 321. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 4980B(f)(3) of the Internal Revenue Code of 1986 is amended by inserting after subparagraph (F) the following new subparagraph:

''(G) The termination or substantial reduction in benefits (as defined in subsection (g)(6)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.''.

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 4980B(g) of such Code is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting ''except as otherwise provided in this paragraph,'' after ''means,''; and

(ii) by adding at the end the following new subparagraph:

''(E) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in subsection (f)(3)(G), the term 'qualified beneficiary' means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual's relationship to such qualified retiree.''; and

(B) by adding at the end the following new paragraphs:

''(5) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in subsection (f)(3)(G), a covered employee who, at the time of the event—

''(A) has attained 55 years of age; and

''(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

''(6) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

''(A) means, as determined under regulations of the Secretary of Labor and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, an increase in premiums, deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 2001), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such date (taking into account an appropriate adjustment to permit comparison of values over time); and

''(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of subsection (f)(2)(C).''.

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 4980B(f)(2)(B)(i) of such Code is amended—

(1) in subclause (II), by inserting ''or (3)(G)'' after ''(3)(F)'';

(2) in subclause (IV), by striking ''or (3)(F)'' and inserting '', (3)(F), or (3)(G)'';

(3) by redesignating subclause (IV) as subclause (VI);

(4) by redesignating subclause (V) as subclause (IV) and by moving such clause to immediately follow subclause (III); and

(5) by inserting after such subclause (IV) the following new subclause:

''(V) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in paragraph (3)(G), in the case of a qualified beneficiary described in subsection (g)(1)(E) who is not the qualified retiree or spouse of such retiree, the later of—

''(a) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

''(b) the date that is 36 months after the date of the qualifying event.''.

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 4980B(f)(2)(A) of such Code is amended—

(1) by striking ''The coverage'' and inserting the following:

''(i) IN GENERAL.—Except as provided in clause (ii), the coverage''; and

(2) by adding at the end the following:

''(ii) CERTAIN RETIREES.—In the case of a qualifying event described in paragraph (3)(G), in applying the first sentence of clause (i) and the fourth sentence of subparagraph (C), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary of Labor) continued under the group health plan (or, if none, under the most prevalent other plan offered by the same plan sponsor) shall be treated as the coverage described in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.''.

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 4980B(f)(2)(C) of such Code is amended by adding at the end the following new sentence: ''In the case of an individual provided continuation coverage by reason of a qualifying event described in paragraph (3)(G), any reference in clause (i) of this subparagraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in subparagraph (A)(ii)'.''.

(e) NOTICE.—Section 4980B(f)(6) of such Code is amended—

(1) in subparagraph (D)(i), by striking ''or (F)'' and inserting ''(F), or (G)''; and

(2) by adding at the end the following:

''The notice under subparagraph (D)(i) in the case of a qualifying event described in paragraph (3)(G) shall be provided at least 90 days before the date of the qualifying event.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 2001. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice be required under such amendment before such date.

TITLE IV—50 PERCENT CREDIT AGAINST INCOME TAX FOR MEDICARE BUY-IN PREMIUMS AND FOR CERTAIN COBRA CONTINUATION COVERAGE PREMIUMS

SEC. 401. 50 PERCENT INCOME TAX CREDIT FOR MEDICARE BUY-IN PREMIUMS AND FOR CERTAIN COBRA CONTINUATION COVERAGE PREMIUMS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following new section:

''SEC. 25B. MEDICARE BUY-IN PREMIUMS AND CERTAIN COBRA CONTINUATION COVERAGE PREMIUMS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid during such year as—

''(1) qualified continuation health coverage premiums, and

''(2) medicare buy-in coverage premiums.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CONTINUATION HEALTH COVERAGE PREMIUMS.—The term 'qualified continuation health coverage premiums' means, for any period, premiums paid for continuation coverage (as defined in section 4980B(f)) under a group health plan for such period but only if failure to offer such coverage to the taxpayer for such period would constitute a failure by such health plan to meet the requirements of section 4980B(f) and only if the continuation coverage is provided because of a qualifying event described in section 4980B(f)(3)(G).

''(2) MEDICARE BUY-IN COVERAGE PREMIUMS.—The term 'medicare buy-in coverage premiums' means premiums paid under part D of title XVIII of the Social Security Act.''

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25A the following new item:

''Sec. 25B. Medicare buy-in premiums and certain COBRA continuation coverage premiums.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

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

S. 624. A bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off and biweekly work programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clairfy the provisions relating to exemptions of certain professionals from minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, I rise today to introduce legislation that, if enacted, could have a monumental impact on the lives of thousands of working men, women and families in America. Today, with Senator KAY BAILEY HUTCHISON, I am pleased to introduce the Workplace Flexibility Act. The Workplace Flexibility Act has as its primary purpose, giving families and employers greater flexibility in meeting and balancing the demands of work and family.

The demand for family time is significant. In fact, families today are spending close to 40 percent less time with their families and children than in the 1960s. This is an important and even critical issue to many Americans. In fact, survey upon survey has found that the issue of workplace flexibility and family time is the number one issue women want addressed.

The Workplace Flexibility Act is not a total solution, but it is an important part of the solution. It gives working families a choice.

The Workplace Flexibility Act in a nutshell consists of two main provisions. The first allows employees the option of taking time off in lieu of overtime pay. The second gives employees the option of ''flexing'' their schedules over a two week period. In other words, employees would have 10 ''flexible'' hours that they could work in one week in order to take 10 hours off in the next week. Flexible work arrangements have been available to Federal government workers since 1978. In the 1970's, 80's, and 90's federal government workers have had this special privilege. The Federal program was so successful in fact, that the President in 1993 issues an Executive Order extending it to parts of the Federal Government that had not yet had the benefits of the program.

Yet members of the private sector do not have this option. The Workplace Flexibility Act corrects this and extends this option to all businesses covered by the Fair Labor Standards Act.

So, who are these workers who are currently covered by the FLSA but do not have the ability to exercise workplace flexibility? They are some of the hardest working Americans. Sixty percent of these workers have only a high school education. Eighty percent of them make less than $28,000. A great

percentage of them are single mothers with children. They are working hard to meet their family's economic needs as well as their emotional needs. And while government can't mandate love and nurture, it can get out of the way and eliminate barriers to opportunities for love and nurture. That is what the Workplace Flexibility Act does.

In the subsequent weeks and months we will undoubtedly hear from some that what working families really need is more money. They need their overtime pay. That may well be true for some families, and this bill does not affect them in any way. But for other families, for families who want to choose to take time off with pay to attend a child's school play or PTA meeting, the issue is time, not money. The point is this—the family should have the right to choose. Washington should not decide for them which priority is important for their family.

I am one who believes in the working men and women of America and in their ability to know what is best for their families. It is time for Congress to give families what they want, and not what Congress thinks they need. It's time to give working families what every Federal employee has already, workplace flexibility.

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

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

S. 624

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 ''Workplace Flexibility Act''.

SEC. 2. WORKPLACE FLEXIBILITY OPTIONS.

(a) COMPENSATORY TIME OFF.—Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

''(r)(1)(A) Except as provided in subparagraph (B), no employee may be required under this subsection to receive compensatory time off in lieu of monetary overtime compensation. The acceptance of compensatory time off in lieu of monetary overtime compensation may not be a condition of employment or of working overtime.

''(B) In a case in which a valid collective bargaining agreement exists between an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law, an employee may only be required under this subsection to receive compensatory time off in lieu of monetary overtime compensation in accordance with the agreement.

''(2)(A) An employee may receive, in accordance with this subsection and in lieu of monetary overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which monetary overtime compensation is required by this section.

''(B) In this subsection:

''(i) The term 'employee' means an individual—

''(I) who is an employee (as defined in section 3);

''(II) who is not an employee of a public agency; and

''(III) to whom subsection (a) applies.

''(ii) The term 'employer' does not include a public agency.

''(3) An employer may provide compensatory time off to employees under paragraph (2)(A) only pursuant to the following:

''(A) The compensatory time off may be provided only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the labor organization that has been certified or recognized as the representative of the employees under applicable law; or

''(ii) in the case of an employee who is not represented by a labor organization described in clause (i), a written agreement arrived at between the employer and employee before the performance of the work involved if the agreement or understanding was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) The compensatory time off may only be provided to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to receive compensatory time off in lieu of monetary overtime compensation.

''(C) No employee may receive, or agree to receive, the compensatory time off unless the employee has been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period.

''(D) An employee shall be eligible to accrue compensatory time off if such employee has not accrued compensatory time off in excess of the limit applicable to the employee prescribed by paragraph (4).

''(4)(A) An employee may accrue not more than 160 hours of compensatory time off.

''(B) Not later than January 31 of each calendar year, the employer of the employee shall provide monetary compensation for any unused compensatory time off accrued during the preceding calendar year that was not used prior to December 31 of the preceding calendar year at the rate prescribed by paragraph (8). An employer may designate and communicate to the employees of the employer a 12-month period other than the calendar year, in which case the compensation shall be provided not later than 31 days after the end of the 12-month period.

''(C) The employer may provide monetary compensation for an employee's unused compensatory time off in excess of 80 hours at any time after providing the employee with at least 30 days' written notice. The compensation shall be provided at the rate prescribed by paragraph (8).

''(5)(A) An employer that has adopted a policy offering compensatory time off to employees may discontinue the policy for employees described in paragraph (3)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement or understanding described in paragraph (3)(A)(ii).

''(B) An employee may withdraw an agreement or understanding described in paragraph (3)(A)(ii) at any time, by submitting a written notice of withdrawal to the employer of the employee. An employee may also request in writing that monetary compensation be provided, at any time, for all compensatory time off accrued that has not been used. Within 30 days after receiving the written request, the employer shall provide the employee the monetary compensation due in accordance with paragraph (8).

''(6)(A)(i) An employer that provides compensatory time off under paragraph (2) to an employee shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of—

''(I) interfering with the rights of the employee under this subsection to request or not request compensatory time off in lieu of payment of monetary overtime compensation for overtime hours;

''(II) interfering with the rights of the employee to use accrued compensatory time off in accordance with paragraph (9); or

''(III) requiring the employee to use the compensatory time off.

''(ii) In clause (i), the term 'intimidate, threaten, or coerce' has the meaning given the term in section 13A(c)(2).

''(B) An agreement or understanding that is entered into by an employee and employer under paragraph (3)(A)(ii) shall permit the employee to elect, for an applicable workweek—

''(i) the payment of monetary overtime compensation for the workweek; or

''(ii) the accrual of compensatory time off in lieu of the payment of monetary overtime compensation for the workweek.''.

(b) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended by adding at the end the following:

''(f)(1) In addition to any amount that an employer is liable under subsection (b) for a violation of a provision of section 7, an employer that violates section 7(r)(6)(A) shall be liable to the employee affected in an amount equal to—

''(A) the product of—

''(i) the rate of compensation (determined in accordance with section 7(r)(8)(A)); and

''(ii)(I) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee; minus

''(II) the number of such hours used by the employee; and

''(B) as liquidated damages, the product of—

''(i) such rate of compensation; and

''(ii) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee.

''(2) The employer shall be subject to such liability in addition to any other remedy available for such violation under this section or section 17, including a criminal penalty under subsection (a) and a civil penalty under subsection (e).''.

(c) CALCULATIONS AND SPECIAL RULES.—Section 7(r) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(r)), as added by subsection (a), is further amended by adding at the end the following:

''(7) An employee who has accrued compensatory time off authorized to be provided under paragraph (2) shall, upon the voluntary or involuntary termination of employment, be paid for the unused compensatory time off in accordance with paragraph (8).

''(8)(A) If compensation is to be paid to an employee for accrued compensatory time off, the compensation shall be paid at a rate of compensation not less than—

''(i) the regular rate received by such employee when the compensatory time off was earned; or

''(ii) the final regular rate received by such employee;

whichever is higher.

''(B) Any payment owed to an employee under this subsection for unused compensatory time off shall be considered unpaid monetary overtime compensation.

''(9) An employee—

''(A) who has accrued compensatory time off authorized to be provided under paragraph (2); and

''(B) who has requested the use of the accrued compensatory time off;

shall be permitted by the employer of the employee to use the accrued compensatory

time off within a reasonable period after making the request if the use of the accrued compensatory time off does not unduly disrupt the operations of the employer.

''(10) The terms 'monetary overtime compensation' and 'compensatory time off' shall have the meanings given the terms 'overtime compensation' and 'compensatory time', respectively, by subsection (o)(7).''.

(d) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations contained in section 516.4 of title 29, Code of Federal Regulations, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to employees so that the notice reflects the amendments made to the Act by this section.

SEC. 3. BIWEEKLY WORK PROGRAMS.

(a) IN GENERAL.—The Fair Labor Standards Act of 1938 is amended by inserting after section 13 (29 U.S.C. 213) the following:

''SEC. 13A. BIWEEKLY WORK PROGRAMS.

''(a) VOLUNTARY PARTICIPATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no employee may be required to participate in a program described in this section. Participation in a program described in this section may not be a condition of employment.

''(2) COLLECTIVE BARGAINING AGREEMENT.—In a case in which a valid collective bargaining agreement exists between an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law, an employee may only be required to participate in such a program in accordance with the agreement.

''(b) BIWEEKLY WORK PROGRAMS.—

''(1) IN GENERAL.—Notwithstanding section 7, an employer may establish biweekly work programs that allow the use of a biweekly work schedule—

''(A) that consists of a basic work requirement of not more than 80 hours, over a 2-week period; and

''(B) in which more than 40 hours of the work requirement may occur in a week of the period, except that no more than 10 hours may be shifted between the 2 weeks involved.

''(2) CONDITIONS.—An employer may carry out a biweekly work program described in paragraph (1) for employees only pursuant to the following:

''(A) AGREEMENT OR UNDERSTANDING.—The program may be carried out only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the labor organization that has been certified or recognized as the representative of the employees under applicable law; or

''(ii) in the case of an employee who is not represented by a labor organization described in clause (i), a written agreement arrived at between the employer and employee before the performance of the work involved if the agreement or understanding was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) STATEMENT.—The program shall apply to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to participate in the program.

''(C) MINIMUM SERVICE.—No employee may participate, or agree to participate, in the program unless the employee has been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period.

''(3) COMPENSATION FOR HOURS IN SCHEDULE.—Notwithstanding section 7, in the case of an employee participating in such a biweekly work program, the employee shall be compensated for each hour in such a biweekly work schedule at a rate not less than the regular rate at which the employee is employed.

''(4) COMPUTATION OF OVERTIME.—All hours worked by the employee in excess of such a biweekly work schedule or in excess of 80 hours in the 2-week period, that are requested in advance by the employer, shall be overtime hours.

''(5) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

''(6) DISCONTINUANCE OF PROGRAM OR WITHDRAWAL.—

''(A) DISCONTINUANCE OF PROGRAM.—An employer that has established a biweekly work program under paragraph (1) may discontinue the program for employees described in paragraph (2)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement or understanding described in paragraph (2)(A)(ii).

''(B) WITHDRAWAL.—An employee may withdraw an agreement or understanding described in paragraph (2)(A)(ii) at the end of any 2-week period described in paragraph (1)(A), by submitting a written notice of withdrawal to the employer of the employee.

''(c) PROHIBITION OF COERCION.—

''(1) IN GENERAL.—An employer shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of interfering with the rights of the employee under this section to elect or not to elect to work a biweekly work schedule.

''(2) DEFINITION.—In paragraph (1), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

''(d) DEFINITIONS.—In this section:

''(1) BASIC WORK REQUIREMENT.—The term 'basic work requirement' means the number of hours, excluding overtime hours, that an employee is required to work or is required to account for by leave or otherwise.

''(2) COLLECTIVE BARGAINING.—The term 'collective bargaining' means the performance of the mutual obligation of the representative of an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph shall not compel either party to agree to a proposal or to make a concession.

''(3) COLLECTIVE BARGAINING AGREEMENT.—The term 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining.

''(4) EMPLOYEE.—The term 'employee' means an individual—

''(A) who is an employee (as defined in section 3);

''(B) who is not an employee of a public agency; and

''(C) to whom section 7(a) applies.

''(5) EMPLOYER.—The term 'employer' does not include a public agency.

''(6) OVERTIME HOURS.—The term 'overtime hours', when used with respect to biweekly work programs under subsection (b), means all hours worked in excess of the biweekly work schedule involved or in excess of 80 hours in the 2-week period involved, that are requested in advance by an employer.

''(7) REGULAR RATE.—The term 'regular rate' has the meaning given the term in section 7(e).''.

(b) REMEDIES.—

(1) PROHIBITIONS.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended—

(A) by inserting ''(A)'' after ''(3)'';

(B) by adding ''or'' after the semicolon; and

(C) by adding at the end the following:

''(B) to violate any of the provisions of section 13A;''.

(2) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216), as amended in section 2(b), is further amended—

(A) in subsection (c)—

(i) in the first sentence—

(I) by inserting after ''7 of this Act'' the following: '', or of the appropriate legal or monetary equitable relief owing to any employee or employees under section 13A''; and

(II) by striking ''wages or unpaid overtime compensation and'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and'';

(ii) in the second sentence, by striking ''wages or overtime compensation and'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and''; and

(iii) in the third sentence—

(I) by inserting after ''first sentence of such subsection'' the following: '', or the second sentence of such subsection in the event of a violation of section 13A,''; and

(II) by striking ''wages or unpaid overtime compensation under sections 6 and 7 or'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, or'';

(B) in subsection (e)—

(i) in the second sentence, by striking ''section 6 or 7'' and inserting ''section 6, 7, or 13A''; and

(ii) in the fourth sentence, in paragraph (3), by striking ''15(a)(4) or'' and inserting ''15(a)(4), a violation of section 15(a)(3)(B), or''; and

(C) by adding at the end the following:

''(g)(1) In addition to any amount that an employer is liable under the second sentence of subsection (b) for a violation of a provision of section 13A, an employer that violates section 13A(c) shall be liable to the employee affected for an additional sum equal to that amount.

''(2) The employer shall be subject to such liability in addition to any other remedy available for such violation under this section or section 17.''.

(c) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations contained in section 516.4 of title 29, Code of Federal Regulations, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to employees so that the notice reflects the amendments made to the Act by this section.

SEC. 4. PROTECTIONS FOR CLAIMS RELATING TO COMPENSATORY TIME OFF IN BANKRUPTCY PROCEEDINGS.

Section 507(a)(3) of title 11, United States Code, is amended—

(1) by striking ''for—'' and inserting the following: ''on the condition that all accrued compensatory time off (as defined in section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207)) shall be deemed to have been earned within 90 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, for—''; and

(2) in subparagraph (A), by inserting before the semicolon the following: ''or the value of unused, accrued compensatory time off (as defined in section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207))''.

SEC. 5. CONGRESSIONAL COVERAGE.

Section 203 of the Congressional Accountability Act of 1995 (2 U.S.C. 1313) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and section 12(c)'' and inserting ''section 12(c), and section 13A''; and

(B) by striking paragraph (3);

(2) in subsection (b)—

(A) by striking ''The remedy'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the remedy''; and

(B) by adding at the end the following:

''(2) COMPENSATORY TIME.—The remedy for a violation of subsection (a) relating to the requirements of section 7(r) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(r)) shall be such remedy as would be appropriate if awarded under subsection (b) or (f) of section 16 of such Act (29 U.S.C. 216).

''(3) BIWEEKLY WORK PROGRAMS.—The remedy for a violation of subsection (a) relating to the requirements of section 13A of the Fair Labor Standards Act of 1938 shall be such remedy as would be appropriate if awarded under sections 16 and 17 of such Act (29 U.S.C. 216, 217) for such a violation.''; and

(3) in subsection (c), by striking paragraph (4).

SEC. 6. TERMINATION.

The authority provided by this Act and the amendments made by this Act terminates 5 years after the date of enactment of this Act.

SUMMARY OF THE WORKPLACE FLEXIBILITY ACT

SECTION 2, WORKPLACE FLEXIBILITY OPTIONS: COMP-TIME

Gives employers and employees, who have been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period, the option of comp time in lieu of monetary overtime compensation, at the rate of 1½ hours of comp time for each hour of overtime worked.

Where a collective bargaining agreement is in place, an employer would have to work within that context in shaping any comp time program.

Where there is no collective bargaining agreement in place, the employer and the individual employee would be allowed to enter into ''an agreement or understanding'' with respect to comp time. Such an agreement must be completely voluntary and must be arrived at before the performance of the work. The agreement must be affirmed in writing.

The employer is prohibited from directly or indirectly intimidating, threatening, coercing or attempting to intimidate, threaten or coerce any employee into agreeing to the comp time option nor may acceptance of comp time be a condition of employment or of working overtime.

Employees may not accrue more than 160 hours of comp time. If unused, such hours must be cashed out at the end of the preceding calendar year or not later than 31 days after the end of an alternative 12-month period designated by the employer. An employer may, upon 30 days written notice to the employee, cash-out all hours banked in excess of 80. Employees who terminate their employment either voluntarily or involuntarily must be paid for any unused comp time.

An employee may withdraw an agreement or understanding at any time by submitting a written notice of withdrawal to the employer and an employer must, within 30 days after receiving the written request, provide the employee the monetary compensation due.

Comp time may be used, upon request by a worker within a reasonable period after making the request if it does not unduly disrupt the operations of the employer.

SECTION 3, BI-WEEKLY WORK PROGRAMS: FLEX-TIME

Gives employers and employees the option of a 2-week 80 hour work period during which, without incurring an overtime penalty, up to 10 hours could be ''flexed'' between the two week period. Employees could, if agreed upon by their employers, choose to work 2 weeks of 40 hours each, 50 hours in one week and 30 in another, etc. Employers would not be required to pay overtime rates (time-and-a-half) until 80 hours had been worked in 2 calendar weeks. For hours worked in excess of 80 in a 2 week period, a worker would have to be compensated either in cash or in paid comp time, if the employer has agreed to a comp time option, each at not less than a time-and-a-half basis.

Like comp time, this program is completely voluntary and may not affect collective bargaining agreements that are in force.

Congress would be covered by both provisions which sunset after 5 years.

Mrs. HUTCHISON. Mr. President, I rise today to join with my colleague, Senator GREGG from New Hampshire to introduce the Workplace Flexibility Act to give America's families the kinds of choices and options they demand and deserve.

When I speak with hourly wage workers in my home state of Texas, and I ask them how they are coping with the growing and competing demands of work and family, I hear many different answers. I hear stories of parents working days and nights to pay the bills and maybe even get a little bit ahead.

Today we introduce legislation to deal with some of the workplace problems of Americans who are paid by the hour. Every day, millions of people in this country must punch a time clock, and they never seem to have enough time they need to get things done, much less the time they would like to have to spend on home and family. Despite the fact that hourly wage earners have the greatest time and money pressures on them, the federal government gives them the least amount of flexibility in scheduling their work week.

While salaried, or so-called ''exempt'' workers can bargain with their employers to work additional hours in one week in order to take time off later, hourly or ''non-exempt'' workers do not have that privilege. The Federal Fair Labor Standards Act prohibits them from benefitting from the additional scheduling options that salaried workers enjoy and that Congress gave to all federal employees back in 1978.

It is time to end this inequity in our nation's labor laws. It is time to give all American workers the ability to choose work schedules to fit their own home and family needs.

The Workplace Flexibility Act will do just that. The bill restores fairness in workplace scheduling by giving hourly wage earners three new scheduling and overtime options.

First, where an employer requires an employee to work overtime, any hours in excess of 40 in a week, the bill would give that employee the option of choosing paid time-and-a-half off in lieu of time and a half pay. So, for example, an employee who works 10 hours of overtime would have earned 15 hours of paid time off for later use. This is called ''comp time.''

Second, for those employees who do not typically work overtime, which, by the way, encompasses over 90 percent of the women who are now paid by the hour, the bill would allow employees to choose to work more than 40 hours in one week in exchange for the same amount of paid time off in another week. This is called ''flex time.''

Finally, the bill will give employees and employers the option of establishing regular two week schedules to allow an employee to work additional hours in week one in order to take paid time off in week two. For example, many federal employees enjoy working 9-hour days and taking every alternate Friday off, with pay, for a total at the end of two weeks of 80 hours. I think it is only right to give private sector workers the flexibility that these federal employees now enjoy.

Polls show that Americans overwhelmingly support being given these added options. Three fourths of federal employees say comp time and flextime have given them more time to spend with their families and have improved their morale and even their productivity. President Clinton's own polling firm found recently that the same proportion of Americans, 75 percent, favor expanding these options to all private sector employees. It is easy to understand why.

According to the Bureau of Labor Statistics, both mother and father work outside the home in almost two thirds of American households. Moreover, 75 percent of mothers with school age children are now in the workforce,

up dramatically in recent years. While the causes for this are many, including expanded work opportunities for women and a heavy tax burden on working families, the results are clear: fewer hours are spent by mothers and fathers with their children and with each other. This shrinking window of family time is weakening the essential family bond that is the bedrock of our strength as a nation.

Not only will our bill make it easier for parents to spend more quality time at home or engaged in personal or community activities, it will do so without a hit to the monthly bottom line. Since comp time and flex time are paid, workers will receive the same amount of money as they would if they did not have these options. The only difference is that this legislation will allow workers the flexibility of taking a day, a week, or even a month off once they have accumulated time in their bank.

Let me make one point very clear: the Workplace Flexibility Act expands, but does not replace the existing law requiring overtime pay for overtime work. For those employees required to work overtime, they will always have the option of receiving overtime pay at the standard time-and-a-half rate. This bill simply affords the employee additional options, upon the mutual agreement of the employee and employer. An employer who violates this or any other provision of our labor laws would be subject to severe civil fines and possibly even prison. In fact, this bill heightens those protections by providing for quadruple damages against an employer who violates the law.

But rather than foster antagonism between labor and management, these added scheduling options have been proven both in this country and abroad to encourage greater cooperation between employees and their employers. Flexible scheduling has created win-win situations for millions of salaried and federal workers and their employers. For the first time in 50 years, America's blue collar working men and women will be empowered to help determine the course of their work week. And thereby, workers will be given greater control over the most precious asset in their lives and in the lives of their families: time.

I urge my colleagues to respond to the growing need for workplace flexibility by supporting the Workplace Flexibility Act.

By Mr. KENNEDY (for himself, Mr. SPECTER, Mr. DASCHLE, Mr. SMITH of Oregon, Mr. LEAHY, Ms. COLLINS, Mr. LEIBERMAN, Ms. SNOWE, Mr. WYDEN, Mr. JEFFORDS, Mr. SCHUMER, Mr. CHAFEE, Mr. AKAKA, Mr. ENSIGN, Mr. BAYH, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Ms. CANTWELL, Mrs. CARNAHAN, Mr. CARPER, Mr. CLELAND, Mrs. CLINTON, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. INOUYE, Mr. JOHNSON, Mr. KERRY, Ms. LANDRIEU, Mr. LEVIN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MILLER, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Ms. STABENOW, Mr. TORRICELLI, and Mr. WELLSTONE):

S. 625. A bill to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes; to the Committee on the Judiciary.

Mr. KENNEDY, Mr. President, today's introduction of the bipartisan Local Law Enforcement Act, with 50 original sponsors in the Senate, is the first step toward passing this important legislation this year. This bill has the support of a wide range of law enforcement, religious, and civil rights organizations.

Although America experienced a significant drop in violent crime during the 1990s, the number of hate crimes has continued to grow. In fact, according to FBI statistics, in 1999 there were 7876 reported hate crimes committed in the United States. That's over 20 hate crimes per day, every day.

Hate crimes are a national disgrace, an attack on everything this country stands for. They send a poisonous message that some Americans are second class citizens who deserve to be victimized solely because of their race, their ethnic background, their religion, their sexual orientation, their gender or their disability. These senseless crimes have a destructive and devastating impact not only on individual victims, but entire communities. If America is to live up to its founding ideals of liberty and justice for all, combating hate crimes must be a national priority.

Yet for too long, the Federal government has been forced to stand on the sidelines in the fight against these senseless acts of hate and violence. The bill we are introducing today will change that by giving the Justice Department greater ability to investigate and prosecute these crimes, and to help the states do so as well.

We look forward to bringing this legislation to the Senate floor for a vote in the near future.

Mr. SMITH of Oregon. Mr. President, I rise today to introduce with Senator KENNEDY the Local Law Enforcement Act of 2001, legislation that would add new categories to current hate crimes law. I want to keep my remarks brief, so I speak to you from the heart about hate crimes.

Many of you know I am a Republican, a conservative man of faith from a religious minority. I have known firsthand persecution and discrimination because of my faith. As a member of the Senate Foreign Relations Committee, I have taken great interest in religious freedom and fighting anti-Semitism abroad. I found that all of my colleagues have joined me in that goal in many ways. We have all asked other countries to stop hate, to stop ethnic violence and persecution of minorities. Today, I ask every Senator to take the same stand in our own country.

If it were easy to speak out against hate thousands of miles away, then it must be easy to speak out against hate in your own backyard. Backyards in Wyoming—where Matthew Shepard was brutally beaten and left to die tied to a cattle fence off a lonely road. Backyards in Texas, where James Byrd, Jr. was dragged to death behind a pick-up truck. Backyards in Virginia, where Roanoke native Danny Lee Overstreet was brutally shot down in a hate crime last fall. Backyards in Alabama, where Jack Gaither was bludgeoned to death and set on fire. And backyards in Oregon, my state, where two women, Roxanne Ellis and Michelle Abdill of Medford, were killed in late 1995 because of their sexual orientation.

This hate crimes legislation sends a signal that violence of any kind is unacceptable. I look to my party and look for inclusion—a big tent approach to this issue. I hope that the President can join in this effort, I believe that given the opportunity, the White House can participate in this effort and play a significant role in the outcome. Further, I am committed to making sure that partisan rhetoric stays out of this issue and together we can work on both sides of the aisle to make this legislation public law. I fear any strain of hate or homophobia, any isolationism or xenophobia in politics today, and I believe that all my colleagues share this fear. Taking a stand against hate crimes isn't a liberal or a conservative issue—it's something we should all do.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate, to defend them regardless of their status, be they female, disabled or gay. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. By changing this law we can change hearts and minds as well.

The law is a teacher and we should teach our fellow citizens that all crime is hateful. But we can also teach that some crime is so odious that an extra measure of prosecution is demanded by us, so that it will never again be repeated among us.

Mrs. FEINSTEIN. Mr. President, I join with my colleagues in expressing my strong support for the Local Law Enforcement Act of 2001, legislation of which I am an original cosponsor.

Popularly known as the ''Hate Crimes Prevention Act,'' this legislation would expand current federal protections against hate crimes based on race, religion, and national origin; amend the criminal code to cover hate crimes based on gender, sexual orientation, and disability; authorize grants for State and local programs designed to combat and prevent hate crimes;

and enable the federal government to assist State and local law enforcement in investigating and prosecuting hate crimes.

While past efforts to enact this legislation have received strong bipartisan support, we have not been able to get it to the President's desk for his consideration. We must now work to ensure that this legislation is not simply supported, but actually passed and signed into law by the President.

This important legislation would enhance current hate crimes law and enable the federal government to offer assistance to states and localities in investigating and prosecuting bias-motivated crimes. Even with the strides we have made in combating hate crimes thus far, these crimes are still frequently under-reported and therefore go unprosecuted.

In California, I have seen, first-hand, the devastating impact these crimes have on victims, their families and their communities. Hate crimes divide neighborhoods and breed a sense of mistrust and fear within communities. This is why I have long supported legislation aimed at protecting citizens from crimes based on races, ethnicity, religion, gender, disability, or sexual orientation.

Prior to 1990, while we knew that hate crimes existed, we had no tools to measure the number of instances in which such crimes were committed. In 1990, Congress enacted the Hate Crimes Statistics Act. Because of this law, we are now able to quantify the extent of the problem. What we found was disturbing. For the first time, data was collected and analyzed on the incidence of hate crimes. In 1991, the first year after the Act took effect, 4,588 hate crimes were reported nationwide. In 1998, the last year for which we have statistics, that number rose to 7,755. These statistics provide federal and state law enforcement officials the tools to recognize the problems particular to their communities and have encouraged many to come up with solutions.

In 1993, I sponsored the Hate Crimes Sentencing Enhancement Act in 1993, which was subsequently signed into law as part of the Violent Crime Control and Law Enforcement Act of 1994. This act increased penalties for hate crimes targeting individuals because of their race, color, religion, national origin, gender, disability or sexual orientation.

While current hate crime laws help us better understand the problem and penalize those who would resort to such violent acts, these laws do not extend to the thousands of people who are victimized because of their gender, sexual orientation or disability. Nor are they broad enough to help those who were not engaging in such federally protected activities as attending school, or voting, when they were victimized.

In New Jersey, for example, a mentally disabled man was tortured by eight different people at a party. The man was burned with cigarettes, beaten, choked, and then left alone in the wilderness. Investigators found that this man was tortured only because of his disability. This was the third time this man had been attacked at a party.

Just recently, my staff met with a constituent who is a teacher at a Beverly Hills high school. The teacher expressed concern about the safety of gay students, many of whom had been targeted and attacked by other students on account of their sexual orientation. She felt that teachers like herself did all they could to protect the students while they were on school property. She feared for their safety, however, once the students were off school grounds. Even within the school, the teacher, explained, some officials did little to create an environment of tolerance and mutual respect for the students. As a result, the bias-motivated acts committed against them often went unreported, whether they took place in the school or within their communities.

My constituent's appeal for help on behalf of her young students amplifies the need to send a strong message of mutual tolerance and respect to our youngsters. Nearly two-thirds of these crimes are committed by our nation's youth and young adults. In many ways, reinforcing the strength of our diverse nation must begin with our youth.

As these stories illustrate, the perpetrators of hate crimes have no respect for boundaries. They are neither confined to any one region of the country, nor any one age group. The perpetrators of these crimes target individuals not because of what the victims have, or what they have done, but for who they are. Hate crimes are not like other crimes of violence. Their impact is pervasive.

Opponents of hate crimes legislation argue that these crimes are no different from any other crime; that they should be treated like other crimes of violence. Research by the American Psychological Association, APA, suggest otherwise. According to the APA, hate crime victims and their communities are often left with psychological wounds that run deeper and take significantly longer to heal than the wounds of victims of non-bias related crimes.

Much like victims of non-bias related crimes, victims of hate crimes are likely to exhibit symptoms of depression, post-traumatic stress disorder, anxiety, high levels of anger, and a decreased sense of control. Unlike victims of non-bias related crimes, however, hate crime victims experience psychological after-effects at a much higher level. According to the APA, hate crime victims need ''as much as five years to overcome the emotional distress of the incident,'' compared with ''victims of non-bias crimes who experience a drop off in crime-related psychological problems within two years of the crime.'' The financial costs for mental health and medical treatment following an attack only add to the psychological stress of the victim.

Hate crimes pose a very real threat to the social health of the community. Individuals who live in communities where hate crimes have occurred often experience an increased sense of fear and intimidation. They also tend to feel a heightened sense of vulnerability and are much less likely to report such crimes should they occur again, for fear of retaliation. Hate crimes also breed mistrust within the community. Members of the victimized groups are likely to believe that law enforcement agencies are biased against their group and, that when needed, the law enforcement community will not respond.

In essence, hate crimes have been shown to produce deep psychological wounds in the victim. They engender a sense of disunity and division within the community, which undermines the basic tenets on which this nation was founded. As a country that prides itself on its diversity, our nation cannot continue to withstand these acts of hatred and intolerance. No individual or group should be targeted for violence and no such act of violence should go unpunished.

No American should have to live in fear because of his or her perceived race, sexual orientation, ethnicity or disability. No American should be afraid to walk down the street for fear of a gender-motivated attack. No American should be deterred by intimidation from living in the home of his or her choice. And certainly, no American should be deterred from reporting a hate-based crime because they are afraid that the police lack the will or the resources necessary to protect them.

This legislation is not only overdue, it is necessary for the safety and well being of millions of Americans. It is necessary for our National unity.

Certainly, none of us in this body would condone an act of brutality based on an individual's race, religion, sexual orientation, disability, ethnicity or gender. None of us would be willing to send the message that today, basic civil rights protections do not extend to every American, but only to a few and under certain circumstances.

By introducing this legislation today, we are sending a signal that we are unwilling to turn a blind eye to this epidemic of hate that threatens to envelop our Nation. I urge my colleagues to join in this message by supporting the enactment of ''The Local Law Enforcement Enhancement Act of 2001.''

By Mr. JEFFORDS (for himself and Mr. BAUCUS):

S. 626. A bill to amend the Internal Revenue Code of 1986 to permanently extend the work opportunity credit and the welfare-to-work credit, and for other purposes; to the Committee on Finance.

Mr. JEFFORDS. Mr. President, today I am introducing the Work Opportunity Improvement Act of 2001, which

will permanently extend both the work opportunity tax credit and the welfare-to-work tax credit. The bill will also modify eligibility criteria for the work opportunity tax credit, to strengthen efforts to help fathers of children on welfare find work. Over the past five years, these tax credits have played a crucial role in helping 1.5 million low-skilled, undereducated persons dependent on public assistance enter the work force.

The work opportunity tax credit was first enacted in 1996, to provide employers with financial resources to recruit, hire, and retain individuals who have significant problems finding and keeping a job. The welfare-to-work tax credit, serving a similar purpose, was enacted the next year. Traditionally, employers had been reluctant to hire people coming off the welfare rolls, both because they tended to have less education and experience than other job candidates, and because they tended to have less education and experience than other job candidates, and because welfare dependence was seen as fostering a poor self-image and work habits. These tax credits, however, have demonstrated that employers can be enticed to overcome their resistance to hiring less skilled, economically dependent individuals. No other incentive or training program has been nearly as successful as these tax credits in encouraging employers to change their hiring practices.

Over the past five years, government and employers have developed a partnership that has led to significant changes in hiring practices. Many employers have established outreach and recruitment programs to identify and target individuals whom employers could hire under these tax credit programs. States have made the tax credit programs more employer-friendly by continual improvements in the way the programs are administered. Still, we repeatedly hear both from employers and State job service agencies administering the programs that continued uncertainty about the programs' future impedes expanded participation and improvements in program administration. Making the work opportunity and welfare-to-work tax credits permanent would induce employers to expand their recruitment efforts and encourage States to commit more time and effort to further improve the programs. This, in turn, would mean that more individuals would be helped to make the jump from welfare dependency to work. Because these programs have proven so successful over the past five years, I believe they should be made permanent and am today introducing a bill to achieve this end.

In addition to making these two tax provisions permanent, my bill will address an oversight. Currently, the work opportunity tax credit gives employers an incentive to hire individuals on food stamps between ages 18 and 24. No sound policy reason exists for not extending the tax credit's eligibility criteria to people on food stamps over age 25. Lifting the work opportunity tax credit food stamp age ceiling would mean that many more fathers of children on welfare could be hired under the credit. These individuals often face significant barriers to finding work. Increasing the age ceiling for food stamp recipients is consistent with the tax credit's underlying objectives, as many food stamp households include adults who are not working. Moreover, over 90 percent of those on food stamps live below the poverty line. My bill will include among those eligible for the work opportunity tax credit persons in households receiving food stamps, as long as they are 50 years old or younger. I believe that this will have the effect of making the tax credit available with respect to fathers of children on welfare who aren't otherwise eligible.

I urge my colleagues to support and co-sponsor this bill.

By Mr. GRASSLEY (for himself and Mr. GRAHAM):

S. 627. A bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I rise today to introduce the Long-Term Care and Retirement Security Act. This legislation, which I sponsored in the 106th Congress with my distinguished colleague from Florida, Senator BOB GRAHAM, would ease the tremendous cost of long-term care.

The bill that Senator GRAHAM and I are re-introducing today would allow individuals a tax deduction for the cost of long-term care insurance premiums. Increasingly, Americans are interested in private long-term care insurance to pay for nursing home stays, assisted living, home health aides, and other services. However, most people find the policies unaffordable. The younger the person, the lower the insurance premium, yet most people aren't ready to buy a policy until retirement. A deduction would encourage more people to buy long-term care insurance.

Our proposal also would give individuals or their care givers a $3,000 tax credit to help cover their long-term care expenses. This would apply to those who have been certified by a doctor as needing help with at least three activities of daily living, such as needing help with at least three activities of daily living, such as eating, bathing or dressing. This credit would help care givers pay for medical supplies, nursing care and any other expenses of caring for family members with disabilities.

The Van Zee family of Otley, Iowa, typifies many families who would benefit from his legislation. Renee Van Zee at 55 years old has early onset Alzheimer's disease. Three years after her diagnosis, she can't feed, bathe or dress herself. Her daughter, Leanna, and her husband, Albert, are pulling out all the stops to keep Mrs. Van Zee out of a nursing home. They care for her full-time. They've found some services through Medicaid and Medicare and received a donated hospital bed. Even so, caring for Mrs. Van Zee is difficult. She can't be left alone at any time. The family's network of services is piecemeal, like that of many families in similar straits. Those services could change with any change in their circumstances. The family bears considerable out-of-pocket expenses for Mrs. Van Zee's nutritional supplements. The supplements cost $4.96 for a four-pack of cans. Mrs. Van Zee consumes two or three cans a day. It's obvious how this situation affects a family's finances. Working adults quit their jobs to care for a loved one, and take on a host of new expenses at the same time.

The Long-Term Care and Retirement Security Act would help the 22 million family caregivers like the Van Zees. A $3,000 tax credit would help to pay for Mrs. Van Zee's nutritional supplements or hire an extra nurse. The legislation also would help families like the Van Zees buy long-term care insurance. Someone like Mrs. Van Zee could have bought herself insurance years ago, had it been an affordable option for her.

As it did last year, the bill that Senator GRAHAM and I are introducing today has been endorsed by both the AARP and the Health Insurance Association of America. A companion bill sponsored by Representatives NANCY JOHNSON, KAREN THURMAN, and EARL POMEROY is pending in the House of Representatives.

An aging nation has no time to waste in preparing for long-term care, and the need to help people afford long-term care is more pressing than ever. I look forward to working with Senator GRAHAM and our colleagues in the Senate to get our bill passed into law as soon as possible.

By Mr. BURNS (for himself, Mr. WYDEN, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. TORRICELLI, Mr. BREAUX, and Mr. MURKOWSKI):

S. 630. A bill to prohibit senders of unsolicited commercial electronic mail from disguising the source of their messages, to give consumers the choice to cease receiving a sender's unsolicited commercial electronic mail messages, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BURNS. 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. 630

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 ''Controlling the Assault of Non-Solicited Pornography

and Marketing Act of 2001'', or the ''CAN SPAM Act of 2001''.

SEC. 2. CONGRESSIONAL FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds the following:

(1) There is a right of free speech on the Internet.

(2) The Internet has increasingly become a critical mode of global communication and now presents unprecedented opportunities for the development and growth of global commerce and an integrated worldwide economy. In order for global commerce on the Internet to reach its full potential, individuals and entities, using the Internet and other online services should be prevented from engaging in activities that prevent other users and Internet service providers from having a reasonably predictable, efficient, and economical online experience.

(3) Unsolicited commercial electronic mail can be a mechanism through which businesses advertise and attract customers in the online environment.

(4) The receipt of unsolicited commercial electronic mail may result in costs to recipients who cannot refuse to accept such mail and who incur costs for the storage of such mail, or for the time spent accessing, reviewing, and discarding such mail, or for both.

(5) Unsolicited commercial electronic mail may impose significant monetary costs on providers of Internet access services, businesses, and educational and nonprofit institutions that carry and receive such mail, as there is a finite volume of mail that such providers, businesses, and institutions can handle without further investment. The sending of such mail is increasingly and negatively affecting the quality of service provided to customers of Internet access service, and shifting costs from the sender of the advertisement to the provider of Internet access service and the recipient.

(6) While some senders of unsolicited commercial electronic mail messages provide simple and reliable way for recipients to reject (or ''opt-out'' of) receipt of unsolicited commercial electronic mail from such senders in the future, other senders provide no such ''opt-out'' mechanism, or refuse to honor the requests of recipients not to receive electronic mail from such senders in the future, or both.

(7) An increasing number of senders of unsolicited commercial electronic mail purposefully disguise the source of such mail so as to prevent recipients from responding to such mail quickly and easily.

(8) An increasing number of senders of unsolicited commercial electronic mail purposefully include misleading information in the message's subject lines in order to induce the recipients to view the messages.

(9) Because recipients of unsolicited commercial electronic mail are unable to avoid the receipt of such mail through reasonable means, such mail may invade the privacy of recipients.

(10) The practice of sending unsolicited commercial electronic mail is sufficiently profitable that senders of such mail will not be unduly burdened by the costs associated with providing an ''opt-out'' mechanism to recipients and ensuring that recipients who exercise such opt-out do not receive further messages from that sender.

(11) In legislating against certain abuses on the Internet, Congress should be very careful to avoid infringing in any way upon constitutionally protected rights, including the rights of assemble, free speech, and privacy.

(b) CONGRESSIONAL DETERMINATION OF PUBLIC POLICY.—On the basis of the findings in subsection (a), the Congress determines that—

(1) there is substantial government interest in regulation of unsolicited commercial electronic mail;

(2) senders of unsolicited commercial electronic mail should not mislead recipients as to the source or content of such mail; and

(3) recipients of unsolicited commercial electronic mail have a right to decline to receive additional unsolicited commercial electronic mail from the same source.

SEC. 3. DEFINITIONS.

In this Act:

(1) AFFIRMATIVE CONSENT.—The term ''affirmative consent'', when used with respect to a commercial electronic mail message, means—

(A) the message falls within the scope of an express and unambiguous invitation or permission granted by the recipient and not subsequently revoked;

(B) the recipient had clear and conspicuous notice, at the time such invitation or permission was granted, of—

(i) the fact that the recipient was granting the invitation or permission;

(ii) the scope of the invitation or permission, including what types of commercial electronic mail messages would be covered by the invitation or permission and what senders or types of senders, if any, other than the party to whom the invitation or permission was communicated would be covered by the invitation or permission; and

(iii) a reasonable and effective mechanism for revoking the invitation or permission; and

(C) the recipient has not, after granting the invitation or permission, submitted a request under section 5(a)(3) not to receive unsolicited commercial electronic mail messages from the sender of the message.

(2) COMMERCIAL ELECTRONIC MAIL MESSAGE.—The term ''commercial electronic mail message'' means any electronic mail message the primary purpose of which is to advertise or promote, for a commercial purpose, a commercial product or service (including content on an Internet website). An electronic mail message shall not be considered to be a commercial electronic mail message solely because such message includes a reference to a commercial entity that serves to identify the sender or a reference or link to an Internet website operated for a commercial purpose.

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

(4) DOMAIN NAME.—The term ''domain name'' means any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.

(5) ELECTRONIC MAIL ADDRESS.—

(A) IN GENERAL.—The term ''electronic mail address'' means a destination (commonly expressed as a string of characters) to which electronic mail can be sent or delivered.

(B) INCLUSION.—In the case of the Internet, the term ''electronic mail address'' may include an electronic mail address consisting of a user name or mailbox (commonly referred to as the ''local part'') and a reference to an Internet domain (commonly referred to as the ''domain part'').

(6) FTC ACT.—The term ''FTC Act'' means the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(7) FUNCTIONING RETURN ELECTRONIC MAIL ADDRESS.—

(A) The term ''functioning return electronic mail address'' means a legitimately obtained electronic mail address, clearly and conspicuously displayed in a commercial electronic mail message, that—

(i) remains capable of receiving messages for no less than 30 days after the transmission of such commercial electronic mail message; and

(ii) that has capacity reasonably calculated, in light of the number of recipients of the commercial electronic mail message, to enable it to receive the full expected quantity of reply messages from such recipients.

(B) An electronic mail address that meets the requirements of subparagraph (A) shall not be excluded from this definition because of a temporary inability to receive electronic mail message due to technical problems, provided steps are taken to correct such technical problems within a reasonable time period.

(8) HEADER INFORMATION.—The term ''header information'' means the source, destination, and routing information attached to the beginning of an electronic mail message, including the originating domain name and originating electronic mail address.

(9) IMPLIED CONSENT.—The term ''implied consent'', when used with respect to a commercial electronic mail message, means—

(A) within the 5-year period ending upon receipt of such message, there has been a business transaction between the sender and the recipient (including a transaction involving the provision, free of charge, of information, goods, or services requested by the recipient); and

(B) the recipient was, at the time of such transaction or thereafter, provided a clear and conspicuous notice of an opportunity not to receive unsolicited commercial electronic mail messages from the sender and has not exercised such opportunity.

(10) INITIATE.—The term ''initiate'', when used with respect to a commercial electronic mail message, means to originate such message, to procure the origination of such message, or to assist in the origination of such message through the provision or selection of addresses to which such message will be sent, but shall not include actions that constitute routine conveyance of such message. For purposes of this Act, more than 1 person may be considered to have initiated the same message.

(11) INTERNET.—The term ''Internet'' has the meaning given that term in the Internet Tax Freedom Act (Pub. L. 105–277, Div. C, Title XI, §1101(e)(3)(c)).

(12) INTERNET ACCESS SERVICE.—The term ''Internet access service'' has the meaning given that term in section 231(e)(4) of the Communications Act of 1934 (47 U.S.C. 231(e)(4)).

(13) PROTECTED COMPUTER.—The term ''protected computer'' has the meaning given that term in section 1030(e)(2) of title 18, United States Code.

(14) RECIPIENT.—The term ''recipient'', when used with respect to a commercial electronic mail message, means the addressees of such message. If an address of a commercial electronic mail message has 1 or more electronic mail addresses in addition to the address to which the message was addressed, the addressees shall be treated as a separate recipient with respect to each such address.

(15) ROUTINE CONVEYANCE.—The term ''routine conveyance'' means the transmission, routing, relaying, handling, or storing, through an automatic technical process, of an electronic mail message for which another person has provided and selected the recipient addresses.

(16) SENDER.—The term ''sender'', when used with respect to a commercial electronic mail message, means a person who initiates such a message and whose product, service, or Internet web site is advertised or promoted by the message, but does not include any person, including a provider of Internet access service, whose role with respect to the message is limited to routine conveyance of the message.

(17) UNSOLICITED COMMERCIAL ELECTRONIC MAIL MESSAGE.—

(A) IN GENERAL.—The term ''unsolicited commercial electronic mail message'' means any commercial electronic mail message that is sent to a recipient—

(i) without prior affirmative consent or implied consent from the recipient; or

(ii) to a recipient who, subsequent to the establishment of affirmative or implied consent under subparagraph (i), has expressed, in a reply submitted pursuant to section 5(a)(3), or in response to any other opportunity the sender may have provided to the recipient, a desire not to receive commercial electronic mail messages from the sender.

(B) EXCLUSION.—Notwithstanding subparagraph (A), the term ''unsolicited commercial electronic mail message'' does not include an electronic mail message sent by or on behalf of one or more lawful owners of copyright, patent, publicity, or trademark rights to an unauthorized user of protected material notifying such user that the use is unauthorized and requesting that the use be terminated or that permission for such use be obtained from the rights holder or holders.

SEC. 4. CRIMINAL PENALTY FOR UNSOLICITED COMMERCIAL ELECTRONIC MAIL CONTAINING FRAUDULENT ROUTING INFORMATION.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1348. Unsolicited commercial electronic mail containing fraudulent transmission information

''(a) IN GENERAL.—Any person who intentionally initiates the transmission of any unsolicited commercial electronic mail message to a protected computer in the United States with knowledge that such message contains or is accompanied by header information that is materially or intentionally false or misleading shall be fined or imprisoned for not more than 1 year, or both, under this title.

''(b) DEFINITIONS.—Any term used in subsection (a) that is defined in section 3 of the Unsolicited Commercial Electronic Mail Act of 2001 has the meaning giving it in that section.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1348. Unsolicited commercial electronic mail containing fraudulent routing information''.

SEC. 5. OTHER PROTECTIONS AGAINST UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

(a) REQUIREMENTS FOR TRANSMISSION OF MESSAGES.—

(1) PROHIBITION OF FALSE OR MISLEADING TRANSMISSION INFORMATION.—It shall be unlawful for any person to initiate the transmission, to a protected computer, of a commercial electronic mail message that contains, or is accompanied by, header information that is materially or intentionally false or misleading, or not legitimately obtained.

(2) PROHIBITION OF DECEPTIVE SUBJECT HEADINGS.—It shall be unlawful for any person to initiate the transmission, to a protected computer, of a commercial electronic mail message with a subject heading that such person knows is likely to mislead the recipient about a material fact regarding the contents or subject matter of the message.

(3) INCLUSION OF RETURN ADDRESS IN COMMERCIAL ELECTRONIC MAIL.—It shall be unlawful for any person to initiate the transmission of a commercial electronic mail message to a protected computer unless such message contains a functioning return electronic mail address to which a recipient may send a reply to the sender to indicate a desire not to receive further messages from that sender at the electronic mail address at which the message was received.

(4) PROHIBTIION OF TRANSMISSION OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL AFTER OBJECTION.—If a recipient makes a request to a sender, through an electronic mail message sent to an electronic mail address provided by the sender pursuant to paragraph (3), not to receive further electronic mail messages from that sender, it shall be unlawful for the sender, or any person acting on behalf of the sender, to initiate the transmission of an unsolicited commercial electronic mail message to such a recipient within the United States more than 10 days after receipt of such request.

(5) INCLUSION OF IDENTIFIER, OPT-OUT, AND PHYSICAL ADDRESS IN UNSOLICITED COMMERCIAL ELECTRONIC MAIL.—It shall be unlawful for any person to initiate the transmission of any unsolicited commercial electronic mail message to a protected computer unless the message provides, in a manner that is clear and conspicuous to the recipient—

(A) identification that the message is an advertisement or solicitation;

(B) notice of the opportunity under paragraph (3) to decline to receive further unsolicited commercial electronic mail messages from the sender; and

(C) a valid physical postal address of the sender.

(b) NO EFFECT ON POLICIES OF PROVIDERS OF INTERNET ACCESS SERVICE.—Nothing in this Act shall be construed to have any effect on the lawfulness or unlawfulness, under any other provision of law, of the adoption, implementation, or enforcement by a provider of Internet access service of a policy of declining to transmit, route, relay, handle, or store certain types of electronic mail messages.

SEC. 6. ENFORCEMENT.

(a) ENFORCEMENT BY COMMISSION.—

(1) IN GENERAL.—Section 5 of this Act shall be enforced by the Commission under the FTC Act. For purposes of such Commission enforcement, a violation of section 5 of this Act shall be treated as a violation of a rule under section 18 (15 U.S.C. 57a) of the FTC Act regarding unfair or deceptive acts or practices.

(2) SCOPE OF COMMISSION ENFORCEMENT AUTHORITY.—

(A) The Commission shall prevent any person from violating section 5 of this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the FTC Act were incorporated into and made a part of this section. Any person who violates section 5 of this Act shall be subject to the penalties and entitled the privileges and immunities provided in the FTC Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the FTC Act were incorporated into and made a part of this section.

(B) Nothing in this Act shall be construed to give the Commission authority over activities that are otherwise outside the jurisdiction of the FTC Act.

(b) ENFORCEMENT BY CERTAIN OTHER AGENCIES.—

(1) IN GENERAL.—Compliance with section 5 of this Act shall be enforced under—

(A) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(i) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(ii) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.), by the Federal Reserve Board; and

(iii) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(B) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(C) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(D) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(E) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act;

(F) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association; and

(G) the Communications Act of 1934 (47 U.S.C. 151 et seq.) by the Federal Communications Commission with respect to any person subject to the provisions of that Act.

(2) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in paragraph (1) of its powers under any Act referred to in that paragraph, a violation of section 5 of this Act is deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in paragraph (1), each of the agencies referred to in that paragraph may exercise, for the purpose of enforcing compliance with any requirement imposed under section 5 of this Act, any other authority conferred on it by law.

(c) ENFORCEMENT BY STATES.—

(1) CIVIL ACTION.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by any person engaging in a practice that violates section 5 of this Act, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction or in any other court of competent jurisdiction—

(A) to enjoin that practice, or

(B) to obtain damages on behalf of residents of the State, in an amount equal to the greater of—

(i) the actual monetary loss suffered by such residents; or

(ii) the amount determined under paragraph (2).

(2) STATUTORY DAMAGES.—For purposes of paragraph (1)(B)(ii), the amount determined under this paragraph is the smaller of—

(A) the amount determined by multiplying the number of willful, knowing, or negligent violations by an amount, in the discretion of the court, of up to $10 (with each separately addressed unlawful message received by such residents treated as a separate violation); or

(B) $500,000.

In determining the per-violation penalty under this paragraph, the court shall take

into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(3) TREBLE DAMAGES.—If the court finds that the defendant committed the violation willfully and knowingly, the court may increase the amount recoverable under paragraph (2) up to threefold.

(4) ATTORNEY FEES.—In the case of any successful action under subparagraph (1), the State shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

(5) NOTICE.—

(A) PRE-FILING.—Before filing an action under paragraph (1), an attorney general shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) CONTEMPORANEOUS.—If an attorney general determines that it is not feasible to provide the notice required by subparagraph (A) before filing the action, the notice and a copy of the complaint shall be provided to the Commission when the action is filed.

(6) INTERVENTION.—If the Commission receives notice under paragraph (4), it—

(A) may intervene in the action that is the subject of the notice; and

(B) shall have the right—

(i) to be heard with respect to any matter that arises in that action; and

(ii) to file a petition for appeal.

(7) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths or affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(8) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) maintains a physical place of business.

(9) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission or other appropriate Federal agency under subsection (b) has instituted a civil action or an administrative action for violation of this Act, no State attorney general may bring an action under this subsection during the pendency of that action against any defendant named in the complaint of the Commission or the other agency for any violation of this Act alleged in the complaint.

(d) ACTION BY PROVIDER OF INTERNET ACCESS SERVICE.—

(1) ACTION AUTHORIZED.—A provider of Internet access service adversely affected by a violation of section 5 may bring a civil action in any district court of the United States with jurisdiction over the defendant, or in any other court of competent jurisdiction, to—

(A) enjoin further violation by the defendant; or

(B) recover damages in any amount equal to the greater of—

(i) actual monetary loss incurred by the provider of Internet access service as a result of such violation; or

(ii) the amount determined under paragraph (2).

(2) STATUTORY DAMAGES.—For purposes of paragraph (1)(B)(ii), the amount determined under this paragraph is the smaller of—

(A) the amount determined by multiplying the number of willful, knowing, or negligent violations by an amount, in the discretion of the court, of up to $10 (with each separately addressed unlawful message carried over the facilities of the provider of Internet access service treated as a separate violation); or

(B) $500,000.

In determining the per-violation penalty under this paragraph, the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(3) TREBLE DAMAGES.—If the court finds that the defendant committed the violation willfully and knowingly, the court may increase the amount recoverable under paragraph (2) up to threefold.

(4) ATTORNEY FEES.—In any action brought pursuant to paragraph (1), the court may, in its discretion, require an undertaking for the payment of the costs of such action, and assess reasonable costs, including reasonable attorneys' fees, against any party.

(5) EVIDENTIARY PRESUMPTION.—For purposes of an action alleging a violation of section 5(a)(4) or 5(a)(5), a showing that a recipient has submitted a complaint about a commercial electronic mail message to an electronic mail address maintained and publicized by the provider of Internet access service for the purpose of receiving complaints about unsolicited commercial electronic mail messages shall create a rebuttable presumption that the message in question was unsolicited within the meaning of this Act.

(e) AFFIRMATIVE DEFENSE.—A person shall not be liable for damages under subsection (c)(2) or (d)(2) if—

(1) such person has established and implemented, with due care, reasonable practices and procedures to effectively prevent violations of section 5; and

(2) any violation occurred despite good faith efforts to maintain compliance with such practices and procedures.

SEC. 7. EFFECT ON OTHER LAWS.

(a) FEDERAL LAW.—Nothing in this Act shall be construed to impair the enforcement of section 223 or 231 of the Communications Act of 1934, chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, United States Code, or any other Federal criminal statute.

(b) STATE LAW.—No State or local government may impose any civil liability for commercial activities or actions in interstate or foreign commerce in connection with an activity or action described in section 5 of this Act that is inconsistent with or more restrictive than the treatment of such activities or actions under this Act, except that this Act shall not preempt any civil action under—

(1) State trespass, contract, or tort law; or

(2) any provision of Federal, State, or local criminal law or any civil remedy available under such law that relates to acts of computer fraud perpetrated by means of the unauthorized transmission of unsolicited commercial electronic mail messages, provided that the mere sending of unsolicited commercial electronic mail in a manner that complies with this Act shall not constitute an act of computer fraud for purposes of this subparagraph.

SEC. 8. STUDY OF EFFECTS OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

Not later than 18 months after the date of the enactment of this Act, the Commission, in consultation with the Department of Justice and other appropriate agencies, shall submit a report to the Congress that provides a detailed analysis of the effectiveness and enforcement of the provisions of this Act and the need (if any) for the Congress to modify such provisions.

SEC. 9. SEPARABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

SEC. 10. EFFECTIVE DATE.

The provisions of this Act shall take effect 120 days after the date of the enactment of this Act.

Mr. WYDEN. Mr. President, Internet communications are increasingly important to Americans' daily lives and business. However, as the public's reliance on online and Internet services continues to grow, so do the burdens and frustrations stemming from unwanted junk e-mail.

This type of e-mail is commonly known as ''spam,'' and it isn't hard to see why. Getting spam e-mail in your in-box is a lot like getting its namesake lunchmeat in your lunchbox: You didn't order it, and you really can't tell where the stuff comes from.

Until now, you also have been virtually powerless to stop it. The recipient has no opportunity to refuse to accept the message, and thus is forced to take the time and bear the costs of storing, accessing, reviewing, and deleting such unwanted e-mail. In short, spammers have all the power. A spammer can send a recipient whatever messages it wants, and the recipient has no choice but to deal with them.

Technology is on the side of the spammer. E-mail technology enables spammers to send huge quantities of messages quickly and cheaply. With the stroke of a key, a spammer can let fly a torrent of tens or hundreds of thousands of identical e-mails at minimal cost. Such bulk spam can clog up the network, impairing Internet service for everyone. For example, back in December, an influx of millions of junk e-mails slowed Verizon's network to a crawl, causing delays of several hours for customers trying to send and receive messages.

Spam affects Internet companies as well as end users. Internet service providers are the ones who have to deal directly with the traffic jams caused when bulk spam floods their networks. And when consumers become frustrated by the receipt of spam, the first place they turn to complain will be the Internet companies from whom they purchase service. Left unchecked, spam could have a significant impact on how consumers perceive and use Internet services and e-commerce.

Because of this, Internet service providers have often played a major role in trying to shield their customers from spam. But the bottom line is that existing laws do not provide the tools to deal with the mounting problem of junk e-mail.

That is why I am teaming up again today with my good friend Senator BURNS to introduce the ''Controlling the Assault of Non-Solicited Pornography And Marketing Act,'' the CAN

SPAM Act, for short. This bipartisan legislation says that if you want to send unsolicited marketing e-mail, you've got to play by a set of rules, rules that allow consumers to see where the messages are coming from, and to tell the sender stop. The basic goal is simple: give the consumer more control.

Specifically, our bill would require a sender of any marketing e-mail to include a working return address, so that the recipient can send a reply e-mail demanding not to receive any further messages. A spammer would be prohibited from sending further messages to a consumer that has told it to stop.

The bill also would prohibit spammers from using falsified or deceptive headers or subject lines, so that consumers will be able to tell where their marketing e-mails are coming from.

The bill includes strong enforcement provisions to ensure compliance. Spammers that intentionally disguise their identities would be subject to misdemeanor criminal penalties. The Federal Trade Commission would have authority to impose civil fines. State attorneys general would be able to bring suit on behalf of the citizens of their states. And Internet service providers would be able to bring suit to keep unlawful spam off of their networks. In all cases, particularly high penalties would be available for true ''bad actors''—the shady, high-volume spammers who have no intention of behaving in a lawful and responsible manner.

Our goal here is not to discourage legitimate online communications with consumers. Senator BURNS and I have no intention of interfering with a company's ability to use e-mail to inform customers of warranty information, provide account holders with monthly account statements, and so forth. Rather, we want to go after those unscrupulous individuals who use e-mail to annoy and mislead. I believe this bill strikes that important balance.

Senator BURNS and I have worked with a number of different groups in shaping this legislation, and we believe we have made real progress in addressing some concerns that were raised about the spam bill we proposed last year. We feel that the version of the bill we introduce today is a workable, common-sense approach. I am pleased that Senators LIEBERMAN, LANDRIEU, TORRICELLI, BREAUX, and MURKOWSKI are cosponsoring this bill today, and I look forward to working with them and the rest of my Senate colleagues to see that the bill moves forward as quickly as possible.

By Mr. VOINOVICH:

S. 631. A bill to provide for pension reform, and for other purposes; to the Committee on Finance.

Mr. VOINOVICH. Mr. President, I rise today to introduce legislation that I believe will provide for the financial future of millions of Americans, help boost this nation's savings rate, and bolster long-term economic growth. My bill, the Comprehensive Retirement Security and Pension Reform Act, mirrors H.R. 10, legislation introduced earlier this year by my friend and fellow Ohioan, Representative ROB PORTMAN.

It is estimated that right now, an astounding 75 million American workers have no pension plan. In other words, roughly half of America's workers lack a key mechanism they will need in order to achieve a comfortable retirement. This situation is intolerable and must change.

In my view, we must do more to encourage more citizens to ensure their financial independence in their golden years. That's why I strongly believe we need to enact the Comprehensive Retirement Security and Pension Reform Act. The increased personal savings and investment that would result from expanding pensions would reinvigorate our savings ethic, which has been eroding over recent years. Something needs to be done quickly to encourage more Americans to save and plan for their retirement and I believe the legislation I am introducing today is an important step in the right direction.

Among the important things the bill I am introducing today does is raise the maximum annual contribution to an Individual Retirement Accounts, IRAs, from $2,000 per individual to $5,000. The contribution limits for, IRAs, has remained unchanged since 1981. Since sixty-nine percent of all IRA participants contribute the maximum, the $2,000 limit has been a barrier to encouraging Americans to save for their own retirement. If the original IRA contribution limit in 1975, of $1,500, been indexed for inflation, it would have reached $5,353 in the year 2000. Clearly, today's working men and women want to, and are ready to, invest more for their retirement if Congress would only let them. The time has come to raise the contribution limit.

In addition, the Comprehensive Retirement Security and Pension Reform Act includes provisions to encourage employers to offer pensions, increase participation by eligible employees, raise limits on benefits and contributions, improve asset portability, strengthen legal protections for plan participants, and reduce regulatory burdens on plan sponsors.

When the baby boomers start to retire in a few short years, this country will begin to experience a retirement tsunami unlike anything it has ever experienced. This 20-year event will put great strain on the economy and the federal budget, especially on government programs that provide services to senior citizens. One of the best ways to help prepare for this is to encourage private saving. The Comprehensive Retirement Security and Pension Reform Act is an important step in this direction and I urge my colleagues to join in co-sponsoring this legislation.

By Mr. NELSON of Florida:

S. 632. A bill to reinstate a final rule promulgated by the Administrator of the Environmental Protection Agency, and for other purposes; to the Committee on Environment and Public Works.

Mr. NELSON of Florida. Mr. President, I rise today to express my grave concern about the Bush administration's latest decision to roll back measures designed to safeguard public health. Last Tuesday, the administration announced it would revoke the new, safer arsenic standard for drinking water and revert to the standard we have had in effect since 1942. The administration stated that the lower standard for drinking water should not go into effect because there was ''no consensus on a particular safe level'' of arsenic in drinking water. The administration also claims it would cost industry too much money to comply with the lower standard.

The old standard of 50 parts per billion was established almost 60 years ago—before research linked arsenic to some forms of cancer. A 1999 study by the National Academy of Sciences, a study mandated by Congress for drinking water, concluded that the current arsenic standard for drinking water could result in one additional case of cancer for every 100 people consuming such drinking water. Moreover, the study determined that long-term exposure to low concentrations of arsenic in drinking water can lead to skin, bladder, lung, and prostate cancer. Noncancer effects of ingesting arsenic at these levels can include cardiovascular disease, diabetes and anemia as well as reproductive, developmental, immunological, and neurological effects. In response, the Environmental Protection Agency adopted a rule that set a new standard of 10 parts per billion which the EPA deemed safe for drinking water.

This standard also has been adopted by the European Union and the World Health Organization.

Is cost a sufficient reason for reversal? No. That's because Congress consistently has made clear that it will help states and municipalities with the funds necessary to provide their citizens with safe drinking water.

Even the Governor of Florida recognizes the health risks of arsenic. Arsenic was discovered recently in the soil in playgrounds in Tarpan Springs, Miami and Crystal River. It leached into the soil from pressure-treated wood used for park boardwalks and other outdoor structures. Last week, Gov. Jeb Bush ordered the state's wood-treatment plant to stop using arsenic to treat wood. I commend him for that decision.

If arsenic in the soil is dangerous for children, it only stands to reason that the danger is even greater when it is found in drinking water. The Administration should join the State of Florida in recognizing the danger of arsenic and restore the 10 parts per billion

standard. In the meantime, I am introducing legislation to restore the federal rule containing the new, safer drinking-water standard. The American people deserve clean, safe drinking water. If the Administration won't act, Congress must.

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. 632

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 ''Arsenic Reduction in Drinking Water Act of 2001''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) PUBLIC WATER SYSTEM.—The term ''public water system'' has the meaning given the term in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f).

(3) STATE.—The term ''State'' has the meaning given the term in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f).

SEC. 3. REINSTATEMENT OF FINAL RULE.

On and after the date of enactment of this Act, the final rule promulgated by the Administrator entitled ''Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring'' (66 Fed. Reg. 6976 (January 22, 2001)), and the amendments to parts 9, 141, and 142 of title 40, Code of Federal Regulations, made by that rule, shall have full force and effect.

SEC. 4. ASSISTANCE FOR COMPLIANCE WITH ARSENIC STANDARD.

(a) IN GENERAL.—For each fiscal year for which funds are made available to carry out this section, the Administrator, using data obtained from the most recent available needs survey conducted by the Administrator under section 1452(h) of the Safe Drinking Water Act (42 U.S.C. 300j–12(h)), shall allocate the funds to States for use in carrying out treatment projects to comply with the final rule reinstated by section 3.

(b) RATIO.—The Administrator shall allocate funds to a State under subsection (a) in the ratio that—

(1) the financial need associated with treatment projects for compliance with the final rule reinstated by section 3 for public water systems in the State; bears to

(2) the total financial need associated with treatment projects for compliance with the final rule reinstated by section 3 for all public water systems in all States.

By Mrs. HUTCHISON (for herself and Mr. ROCKEFELLER):

S. 633. A bill to provide for the review and management of airport congestion, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. HUTCHISON. Mr. President, I rise today, with my colleague Senator ROCKEFELLER, to introduce legislation that will bring real relief to the hundreds of millions of passengers that have been suffering through the dramatic increase in the number of flight delays and cancellations in our passenger aviation system.

I know that most of my colleagues are, by necessity, frequent fliers. So you know how bad it is out there and you have heard the statistics. More than twenty-five percent of the scheduled flights last year were delayed or canceled. The length of the average delay has also increased, despite the extra ''fudge time'' built into eighty-three percent of flights by the airlines to compensate for delays they know are going to occur.

Not coincidentally, the number of annual air travelers is also rising. Between 1995 and 1999, the number of air travelers increased nearly sixteen percent, from about 582 million to 674 million. The Federal Aviation Administration estimates that this number will increase to more than 1 billion by the end of this decade. To meet this increased demand, the number of scheduled flights has also increased.

However, there has not been a commensurate increase in the number of new aviation facilities. Only one major airport has opened in the last decade, in Denver, and only a handful of new runways and terminals have been completed to deal with the new demand. Unfortunately, the process for making capital improvements to existing airports is often painfully slow and easily derailed by well-organized groups who use every possible impediment to delay a new runway until it becomes impossibly expensive and difficult to build.

Unless we significantly expand the capacity of our aviation system, we will not be able to meet the growing demand for air travel. Air fares will skyrocket and delays will continue to spread across the system. The loss of American productivity, from millions of hours lost while sitting on an airport tarmac, will be incalculable.

Fixing the problem will call for more infrastructure and better air traffic control facilities. But we must meet the challenge now so these new runways and terminals can be ready before we have a real crisis on our hands.

Until now, most of the focus here in Congress has been on passenger service. The Commerce Committee recently reported a bill, which I cosponsored, to force airlines to live up to their promises to provide improved customer service, especially during delays and cancellations. Passenger service is critical, but the real cause of consumers' frustration is the explosive growth in the number and length of flight delays. This bill gets to the heart of that issue.

The bill instructs the Secretary to develop a procedure to ensure that the approval process for runways, terminals and airports is streamlined. Federal, state, regional and local reviews would take place simultaneously, not one after the other.

In no way would this mean that environmental laws would be ignored or broken. The bill does not limit the grounds on which a lawsuit may be filed. It simply provides the community with a reasonable time line to get an answer. If that answer is ''no,'' then the community is free to explore other transportation options.

The bill also addresses the unfortunate practice of the airlines to overschedule at peak hours. At many airports, these schedules are so densely packed that, even in perfect weather conditions throughout the country, there is no way the airlines could possibly meet them. The result is chronically late flights.

The legislation directs the Secretary to study the options to ease congestion at crowded airports. The legislation also grants the airlines a limited antitrust exemption, so that they may consult with one another, subject to the Secretary's approval, to re-schedule flights from the most congested hours to off-peak times.

We have all experienced flights that push away from the gate only to languish for hours on the tarmac waiting to take off. The current system logs these flights as on-time departures. This legislation would change the definition of ''on-time departure'' to mean that the flight is airborne within 20 minutes of its scheduled departure time.

Our national economic health depends upon the reliability of our aviation system. If we fail to act now, that reliability will be placed in serious jeopardy.

Mr. ROCKEFELLER. Mr. President, I join today with the chairwoman of the Aviation Subcommittee in introducing the Aviation Delay Prevention Act. The bill is intended to start a dialogue about some of the solutions for reducing congestion, specifically ways to expedite airport construction, and provide a mechanism for air carriers to talk about changing flight schedules to reduce delays. This is a tough issue with no easy, simple solutions. Senator HUTCHISON and I know this. I also know that this specific piece of legislation is intended to provide a framework for a debate on how to provide a better air transportation system for travelers. We must, though, continue our efforts to work through every issue in our efforts to enable the FAA, airports and air carriers to provide a more efficient air transportation system.

Senator HUTCHISON and I want to provide our colleagues with constructive and feasible legislative provisions that are well thought out and considered. We will hold a hearing on this bill on Thursday, eliciting testimony from the Department of Transportation, DOT, the Federal Aviation Administration, FAA, airports and airlines, as well as general aviation.

We do know we are facing an aviation system that today is overcrowded and cannot keep up with demand. Tomorrow's demand forecasts are also daunting, with an increase in passenger traffic from about 670 million passengers to more than a billion. As we review the problems of our aviation system, I am constantly thinking and envisioning a system with twice the number of planes, and twice the number of people traveling within the next 10 years. Today, right now, we have airports that cannot accommodate all of

the planes. We have terminals that need to be expanded, and runways that must be built. One thing all of us know is that without adequate runways and terminals, no one is well served.

We see it first hand as we fly around the country, as our planes are delayed, as we talk with constituents at home and here in Washington, that our aviation system is running on empty. Last year, we had to fight and claw our way to getting bills that finally provides sufficient money for the FAA to be able to build new runways and buy new equipment. We must be vigorous in ensuring that the Administration does not make cuts to these key programs, as was initially proposed by the Bush Administration. Knowing that it takes years to build a runway and years to develop new air traffic control systems, we cannot shortchange the system.

Last year, as part of the Wendell H. Ford Aviation Investment and Reform Act, FAIR–21, P.L. 106–181, we set out a road map for a more businesslike Federal Aviation Administration, FAA, creating a corporate-type Board with people from non-aviation related businesses to oversee air traffic control. We created a Chief Operating Officer, COO, to run air traffic, with specific authority to focus on operations, the budget and establishing a goal-oriented ATC. In addition, we made sure that the money was provided to buy new ATC equipment to expand ATC capacity.

With respect to airports, we authorized significant increases in Airport Improvement Program monies, increases of $1.25, $1.35 and $1.45 billion over 1999 funds, $1.95 billion. We also gave airports the ability to increase their passenger facility fees from $3 to $4.50 per person. The money is there to build and expand capacity. But, nothing happens overnight and we all know it.

With the reforms of the FAA and the funding, we are on a path to change. Yet, even with that path, we are not able to keep up with demand, particularly in the short term. Secretary Mineta has already stated he wants to use the reforms of FAIR–21, and not get bogged down in an age-old debate over FAA privatization/corporatization. The Air Transport Association, ATA, has echoed this sentiment. Nonetheless, we must look at ways particularly in the near term, to provide relief to travelers, and in the longer term figure out better ways to build runways, while being cognizant of the need to be environmentally conscious.

Right now we have runway construction underway at Denver, Detroit-Metro, Minneapolis-St. Paul, Houston, and Orlando. Miami is set to begin construction within the next month or two as is St. Louis. Charlotte is awaiting the United-US Airways merger decision before it begins construction since the carriers will help finance the project. At other airports, runway planning is ongoing. Chip Barclay, the President of the American Association of Airport Executives, in testimony before a House Committee recently noted that if we could build 50 more miles of additional runways we could solve our airport capacity problem. Fifty miles. Each of us wants them built more quickly, but changes in the laws may not expedite the current construction. Yet, we can ensure, as this bill does, that the FAA and other Federal, State and local agencies do a better job of coordinating the various environmental and planning reviews necessary before a runway is built. It is a starting point for the discussion, but by no means an end point. We want to expedite construction, without intruding upon the necessary environmental reviews.

AAAE has put out a proposal to expedite runway construction, and we will carefully evaluate it too. I have been developing my own legislation which will build upon the bill we introduced today and want to work with Senator HUTCHISON and other members on that bill. I have learned that this is a complicated problem, with no easy, or quick, solutions. As the legislation we introduce today is considered by the Committee, changes will be made to reflect many concerns and issues. Senator HUTCHISON and I want to work with the entire aviation community in addressing and solving this issue.

By Ms. COLLINS:

S. 634. A bill to amend section 2007 of the Social Security Act to provide grant funding for additional Enterprise Communities, and for other purposes; to the Committee on Finance.

Ms. COLLINS. Mr. President, in 1993, Congress created the Community Empowerment Program to provide communities with real opportunities for growth and revitalization. The program challenged local jurisdictions to develop strategic plans for the future and rewarded the communities that have developed the best plans with a ten-year designation as an Empowerment Zone or Enterprise Community. Once a designation is awarded, communities receive Federal support to assist local efforts to promote economic opportunity and implement strategies designed to help communities obtain their development goals. When it authorized the program, Congress also provided, in one appropriation, the funding necessary to support the communities for the full life of the ten-year designations.

In response to the initial success of the Community Empowerment Program, Congress authorized a second round of the Enterprise Community designations in 1998, creating an additional 20 Enterprise Communities. These designations were awarded to deserving communities shortly thereafter by the Department of Agriculture.

When Congress authorized a second round of Enterprise Communities, it only appropriated funding for the program in Fiscal Year 1999. Consequently, communities have had to rely on funding added in conference to the VA–HUD appropriations bill in each of the subsequent fiscal years.

This last minute approach to funding these communities is not at all conducive to the strategic planning that the Community Empowerment Program is supposed to encourage. We cannot expect local leaders to effectively implement their plans if the Federal support they have been promised is still in question. I believe it is time for Congress to demonstrate its support for the Round II Enterprise Communities by setting aside, as it did in Round I, the funding necessary to sustain this important program.

Today, I am introducing legislation that would ensure that Congress keeps its commitment to the Round II Enterprise Communities by authorizing a one time appropriation to the States through the Social Service Block Grant program to support the remaining years of the designations. My bill, the Enterprise Communities Enhancement Act of 2001, also authorizes the States to make annual grants for each of the seven remaining years of the program of $500,000 for each of the 20 Round II Enterprise Communities. By guaranteeing funding, Congress would demonstrate its support for the work being done by these communities and provide local leaders with the assurance that Federal dollars will be available as they make their plans for the future.

The Enterprise Communities Enhancement Act will also allow for more local control over how the annual funding is used. My bill allows communities to use funds to capitalize local revolving loan accounts should community leaders deem such accounts as an important part of their economic development efforts.

I have long been a strong supporter of Empower Lewiston—the local effort that secured and is implementing the Enterprise Community designation for the city of Lewiston, Maine. Thousands of local people and dozens of organizations worked together for a year to develop a strategic plan for the city as a whole and those neighborhoods most affected by poverty. The plan includes proposals to enhance lifelong learning and employment opportunities, improve the community's housing, and revitalize the city's downtown.

Empower Lewiston has been able to leverage its funding by more than 50 to 1, generating more than $11 million in public and private investment in the community. Included among the projects that have been funded are investments in a local employment firm that created 60 new jobs and in the Seeds of Change program that enhances outreach among community residents. Looking ahead, Empower Lewiston will be developing a community resource center, working to develop safe and affordable housing, and expanding education programs that target the needs of local residents.

Empower Lewiston provides a wonderful example of what the new Enterprise Communities are able to accomplish. By passing the Enterprise Communities Enhancement Act, Congress

can ensure that communities such as Lewiston will have the resources they need to complete their missions and create a brighter future.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 29—CONGRATULATING THE CITY OF DETROIT AND ITS RESIDENTS ON THE OCCASION OF THE TERCENTENNIAL OF ITS FOUNDING

Mr. LEVIN (for himself and Ms. STABENOW) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 29

Whereas Detroit is the 10th most populous city in the United States and the most populous city in Michigan;

Whereas Detroit is the oldest major city in the Midwest, and 2001 is the 300th anniversary of Detroit's founding;

Whereas Detroit began as a French community on the Detroit River when Antoine de la Mothe Cadillac founded a strategic garrison and fur trading post on the site in 1701;

Whereas Detroit was named Fort Pontchartrain de' Etroit (meaning ''strait'') at the time of its founding and became known as Detroit because of its position along the Detroit River;

Whereas the Detroit region served as a strategic staging area during the French and Indian War, became a British possession in 1760, and was transferred to the British by the peace treaty of 1763;

Whereas the Ottawa Native American Chieftain Pontiac attempted a historic but unsuccessful campaign to wrest control of the garrison at Detroit from British hands in 1763;

Whereas in the nineteenth century, Detroit was a vocal center of antislavery advocacy and, for more than 40,000 individuals seeking freedom in Canada, an important stop on the Underground Railroad;

Whereas Detroit entrepreneurs, including Henry Ford, perfected the process of mass production and made automobiles affordable for people from all walks of life;

Whereas Detroit is the automotive capital of the Nation and an international leader in automobile manufacturing and trade;

Whereas the contributions of Detroit residents to civilian and military production have astounded the Nation, contributed to United States victory in World War II, and resulted in Detroit being called the Arsenal of Democracy;

Whereas residents of Detroit played a central role in the development of the organized labor movement and contributed to protections for workers' rights;

Whereas Detroit is home to the United Auto Workers Union and many other building and service trades and industrial unions;

Whereas Detroit has a rich sports tradition and has produced many sports legends, including: Ty Cobb, Al Kaline, Willie Horton, Hank Greenberg, Mickey Cochrane, and Sparky Anderson of the Detroit Tigers; Dick ''Night Train'' Lane, Joe Schmidt, Billy Sims, Dutch Clark, and Barry Sanders of the Detroit Lions; Dave Bing, Bob Lanier, Isaiah Thomas, and Joe Dumars of the Detroit Pistons; Gordie Howe, Terry Sawchuk, Ted Lindsay, and Steve Yzerman of the Detroit Red Wings; boxing greats Joe Louis, Sugar Ray Robinson, and Thomas Hearns; and Olympic speed skaters Jeanne Omelenchuk and Sheila Young-Ochowicz;

Whereas the cultural attractions in Detroit include the Detroit Institute of Arts, the Charles H. Wright Museum of African-American History (the largest museum devoted exclusively to African-American art and culture), the Detroit Historical Museum, the Detroit Symphony, the Michigan Opera Theater, the Detroit Science Center, and the Dossin Great Lakes Museum;

Whereas several centers of educational excellence are located in Detroit, including Wayne State University, the University of Detroit Mercy, Marygrove College, Sacred Heart Seminary College, the Center for Creative Studies—College of Art and Design, and the Lewis College of Business (the only institution in Michigan designated as a ''Historically Black College'');

Whereas residents of Detroit played an integral role in developing the distinctly American sounds of jazz, rhythm and blues, rock 'n roll, and techno; and

Whereas Detroit has been the home of Berry Gordy, Jr., who created the musical genre that has been called the Motown Sound, and many great musical artists, including Aretha Franklin, Anita Baker, and the Winans family: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION. 1. CONGRATULATING DETROIT AND ITS RESIDENTS.

The Congress, on the occasion of the tricentennial of the founding of the city of Detroit, salutes Detroit and its residents, and congratulates them for their important contributions to the economic, social, and cultural development of the United States.

SEC. 2. TRANSMITTAL.

The Secretary of the Senate shall transmit copies of this resolution to the Mayor of Detroit and the City Council of Detroit.

AMENDMENTS SUBMITTED AND PROPOSED

SA 148. Mr. KERRY (for himself, Mr. BIDEN, Mr. WELLSTONE, Ms. CANTWELL, and Mr. DODD) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

SA 149. Mr. THOMPSON (for himself, Mr. TORRICELLI, and Mr. NICKLES) proposed an amendment to the bill S. 27, supra.

SA 150. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 27, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 148. Mr. KERRY (for himself, Mr. BIDEN, Mr. WELLSTONE, Ms. CANTWELL, and Mr. DODD) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. 305. VOLUNTARY SPENDING LIMITS AND PUBLIC FINANCING FOR SENATE CANDIDATES.

(a) IN GENERAL.—The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"TITLE V—VOLUNTARY SPENDING LIMITS AND PUBLIC FINANCING OF SENATE ELECTION CAMPAIGNS

"SEC. 501. DEFINITIONS.

''(a) ELIGIBLE SENATE CANDIDATE.—The term 'eligible Senate candidate' means a candidate for the Senate who is certified under section 502 as eligible to receive benefits under this title.

''(b) GENERAL ELECTION PERIOD.—The term 'general election period' means, with respect to a candidate, the period beginning on the day after the date of the primary or primary runoff election for the specific office that the candidate is seeking, whichever is later, and ending on the earlier of—

''(1) the date of the general election; or

''(2) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

"SEC. 502. ELIGIBILITY FOR PUBLIC FINANCING.

''(a) IN GENERAL.—A Senate candidate qualifies as an eligible Senate candidate during the general election period if the candidate files with the Commission a declaration, signed by the candidate, that the candidate—

''(1) will comply with the election expenditure limit under section 503; and

''(2) has met the qualifying contribution requirement under subsection (d).

''(b) TIME TO FILE DECLARATION.—A declaration under paragraph (1) shall be filed by a candidate not later than the date that is 30 days before the date of the general election.

''(c) CERTIFICATION OF ELIGIBLE SENATE CANDIDATE.—

''(1) IN GENERAL.—Not later than 5 days after a candidate files a declaration under subsection (b), the Commission shall certify whether or not the candidate is an eligible Senate candidate.

''(2) REVOCATION OF CERTIFICATION.—The Commission may revoke a certification under paragraph (1) if a candidate fails to comply with this title.

''(3) REPAYMENT OF BENEFITS.—If certification is revoked under paragraph (2), the candidate shall repay to the Senate Election Fund an amount equal to the value of benefits received under this title.

''(d) QUALIFYING CONTRIBUTION REQUIREMENT.—

''(1) IN GENERAL.—The qualifying contribution requirement under this subsection is met if the Senate candidate accepts an aggregate number of qualifying contributions equal to or greater than 0.25 percent of the voting age population of the State in which the candidate is running for office.

''(2) QUALIFYING CONTRIBUTIONS.—For purposes of paragraph (1), the term 'qualifying contributions' means a contribution in connection with the general election for which the candidate is seeking funding—

''(A) from an individual who is a resident of the State for which the candidate is seeking office; and

''(B) in an aggregate amount of—

''(i) not less than $20; and

''(ii) not more than $200.

"SEC. 503. GENERAL ELECTION EXPENDITURE LIMIT.

''(a) IN GENERAL.—The aggregate amount of expenditures that may be made by an eligible Senate candidate and the candidate's authorized committee in connection with the general election of the candidate shall not exceed an amount equal to the sum of—

''(1) $1,000,000, plus

''(2) 50 cents multiplied by the voting age population for the State in which the candidate is running for office.

''(b) NOTICE OF FAILURE TO COMPLY.—A candidate who files a declaration under section 502 and subsequently acts in a manner that is inconsistent with such declaration shall, not later than 24 hours after the first such act—

''(1) file with the Commission a notice describing such act; and

''(2) notify all other candidates for the same office by certified mail.

''(c) INCREASE.—